



On Screen Manitoba

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Submitted electronically

Mr. Robert Morin,
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON K1A 0N2

July 5, 2011

**Re: Broadcasting Notice of Consultation CRTC 2011-344, 2011-344-1, 2011-344-2
Fact-finding exercise on the over-the-top programming services in the
Canadian Broadcasting System**

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1. On Screen Manitoba wishes to take this opportunity to provide the following comments regarding the fact-finding exercise on the over-the-top (OTT) programming services in the Canadian Broadcasting System (Notices 2011-344, 2011-344-1, 2011-344-2).
 2. On Screen Manitoba strongly believes that the CRTC should hold a public audience in the coming months to fully explore the impact of both foreign-owned and Canadian-owned OTT programming services on the Canadian Broadcasting System. Should the CRTC call a public hearing on this matter, we request the opportunity to appear.
 3. On Screen Manitoba is an innovative membership-driven association that leads, builds and represents the Manitoba screen-based media industry. On Screen Manitoba's membership represents a cross section of individuals and industry organizations (production companies, creators, labour groups, distributors, broadcasters, suppliers and exhibitors) totaling more than 1,500 individuals representing Anglophone, multi-cultural, Francophone and Aboriginal communities.
 4. On Screen Manitoba has reviewed the Broadcasting and Telecom Notice of consultation along with related documents and we believe that OTT programming services are essentially acting as traditional Broadcaster Undertakings (BU) and should share in the responsibilities and benefits generally accorded traditional BUs as key components of the Canadian Broadcasting System.
 5. In past examinations of broadcasting in new media (CRTC 2009-329) the CRTC noted the "growing importance to Canadians of broadcasting in new media and the challenges and opportunities in defining appropriate business model to capitalize on this new platform" and that no successful business model had emerged. Netflix as an OTT program service does demonstrate a successful business model. Netflix expects to attain one million

subscribers within the next couple of months, less than one year into its Canadian launch. The Canadian Media Producers Association (CMPA) submission regarding OTT program services indicates that Netflix, after just one year of operation, is catching up to projected annual revenues of Canada's lead specialty channels that have been operating for some 30 years.

6. OTT programming services are carrying out functions typical to traditional BUs: they are providing content and using systems to prioritize and /or organize it for the viewer. While traditional BUs make schedule-based programming suggestions; the advent of VCRs, PVRs and online streaming services has already disrupted schedule-based programming and created a set of consumers who are used to organizing their own programming schedules and who are likely to move towards OTT programming services subscriptions. The basic intent of BUs and OTT programming services is to provide consumers with an appealing programming package of high quality. While the shift from "schedule-based" to "choice-based" programming services is significant from a consumer behaviour perspective, it does not represent a shift in the intent to provide quality program distribution services.
7. In the age of convergent media, *when* and *how* programming is delivered and watched, has been transformed; but the basic nature of programming distribution services remains unchanged: promotion of entertaining and informative programs. On Screen Manitoba believes that OTT programming services should assume the responsibilities of their de facto role within the Canadian Broadcasting System.
8. In light of the existing practice of OTT programming services to organize programs based on similar topics, themes, styles, etc, On Screen Manitoba notes that this may represent a potential opportunity to promote Canadian independent productions to audiences across Canada and elsewhere through some mechanism that would require OTT Programming services provide a high level of visibility for Canadian programming options. This cannot be realized without measurement and regulation of OTT practices.
9. At least one OTT programming distribution service has moved into the realm of commissioning original programming. Netflix will soon release its first original program titled *House of Cards*. This represents a further duplication of functions typical to BUs. On Screen Manitoba contends that OTT program services are, for all intents and purposes, taking on the role of traditional BUs in acquiring, commissioning and distributing programs and so should be required to contribute to the Canadian Broadcasting system using means similar to that of traditional BUs.
10. Canadians have long been early adopters of communications technology and the Canadian Broadcasting System reflects Canada's understanding of the importance of communications as a nation-building tool. Digital technology represents a new and exciting opportunity for Canadians to continue to share their stories with one another and the world. In light of the exponential rate of technological change in the digital era, and Canadians' tendency to adapt rapidly to communications technologies, On Screen Manitoba believes that Canadians are posed to continue to rapidly shift their communications spending from traditional cable subscription services to OTT program services. A recent article in the Globe and Mail notes that Canadians are world leaders in on-line video consumption (*Online video surging in Canada*, Globe and Mail, Michael

Oliviera, April 28, 2011). Netflix subscribers are expected to exceed one million in Canada within months. According to Statistics Canada (The Daily, May 25, 2011) 93% of Canadian households of three or more people have Internet service. The submission made by the CMPA regarding OTT programming services points to additional data. While there is limited hard evidence for measuring the above trends, there is enough evidence at the very least to indicate that Canadians are interested in experimenting with communications technology.

11. Canadian communications consumers are interested in quality, affordability and ease of use as are consumers everywhere. With the advent of mobile devices adapted to viewing video online, we are truly in the age of viewing anytime, anyplace. The CMPA submission points to research that suggests we are in the midst of a transitional period where consumers still appear to be using OTT services as a complimentary service to their cable subscription and early adapters are migrating towards OTT services. Should consumers continue to migrate towards OTT services and abandon cable-based services this will have a significant impact on the revenue of Canadian BUs, in turn this will affect the amount of money available to fund Canadian independent productions. Fewer Canadian productions and/or productions of lower value could reduce the volume of Canadian Content available to Canadians.
12. On Screen Manitoba recognizes that digital technology has significantly modified all aspects of the Canadian Broadcasting System including production, marketing, distribution, financial models and consumer behaviour. Section 3 (d) (iv) of the BA states that the Canadian Broadcasting System should be "readily adaptable to scientific and technological change". We believe that the arrival of OTT programming services represents a moment of significant technological change to the Broadcasting System and that in consequence the CRTC must hold a public hearing to further examine the impact of these changes and to ensure that new technological advances do not weaken the core mandate of the Broadcasting Act to reflect the diversity of Canada and its citizens and to ensure that "the Canadian Broadcasting System is effectively owned and controlled by Canadians" and that it continues to maintain and enhance "national identity and cultural sovereignty"
13. Our members - the creators, crews, suppliers of Canadian independent screen-based media in Manitoba - play a vital role in the fulfillment the Broadcasting Act's core mandate, as stated on the CRTC web site, to ensure that "all Canadians have access to a wide variety of high-quality Canadian programming as well as access to employment opportunities in the broadcasting system." And that "Programming in Canadian Broadcasting System reflects Canadian creativity and talent, our bilingual nature, our multicultural diversity and the special place of aboriginal peoples in our society."
14. Further the Broadcasting Act requires that that programming in the Canadian Broadcasting System be "varied and comprehensive", "be drawn from local, regional, national and international sources" and include a significant contribution from the Canadian independent production sector". There are currently no measurements, nor incentives, nor obligations for OTT services to provide Canadians with Canadian content options. On Screen Manitoba believes that this situation has the potential to result in less choice for Canadians.

15. The Canadian Broadcasting Act recognizes that the distribution technology (radio frequencies) are a public property and that the programming distributed through the Broadcasting System is a public service essential "to national identity and cultural sovereignty". This suggests that market forces alone are insufficient to protect the interests of public in terms of diversity of voice and language, programming and employment opportunities within the Canadian Broadcasting System. On Screen Manitoba firmly believes that a broad public procedure is required to examine the full impact of OTT program services on the Canadian Broadcasting system

On Screen Manitoba appreciates the opportunity to provide its comments to the Commission. A copy of this intervention has been provided to the applicants in accordance with the Commission's directives on procedure.

Sincerely,

[Original signed by]

Nicole Matiation Executive Director On Screen Manitoba

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