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March 1st, 2011

Mr. Robert A. Morin
Secretary General
Canadian Radio-Television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

RE: 2011-52 Call for comments on proposed amendments to certain Regulations made under the Broadcasting Act to add a new program category

Dear Mr. Morin,

1. The DOCUMENTARY ORGANIZATION OF CANADA | L'ASSOCIATION DES DOCUMENTARISTES DU CANADA (DOC) would like to thank the Commission for the opportunity to provide these comments regarding the creation of its new reality television program category: 11b.

2. DOC is the collective voice of independent documentary filmmakers across Canada. DOC is a national non-profit arts service association representing over 800 directors, producers and craftspeople in the documentary community, from all provinces and regions of the country. DOC advocates on behalf of its members to foster an environment conducive to documentary production and strives to strengthen the sector within the broader film production industry.

3. We believe that the creation of category 11b will give broadcasters clearer definitions when categorizing their programming; prevent the misapplication of the documentary category; and create more reliable, accurate and useful data for the Canadian programming regulation policy environment.

4. In our comments, DOC addresses how the misapplication of the definition of documentary has negatively impacted documentary production, and content regulation in general. Second, we argue that the proposed definition of the reality television program category exacerbates the problem it was meant to solve. Finally, we propose an alternative definition for the reality television program category.

5. Without the proper application of program categories, the Commission's data on the Canadian programming environment will continue to be inaccurate, and policies based on that data will not reflect the broadcasting environment. The creation of the reality television category is another essential step in towards a clear, transparent, and accountable programming regulatory environment.

The Misapplication of the Documentary Definition

6. Over the last 10 years, all broadcasters subject to the priority programming regulations have mislabeled reality television programs as documentaries. In 2010, DOC undertook a research project to track the frequency and tendency of the misapplication of the 2b category. Using seasonal samples of the program logs of the last ten years, the analysis yielded the following results:

- Every broadcaster subject to the priority programming regime misapplied category 2b.
- The misapplication of the category happened during and outside of prime time hours.
- Reality programming, lifestyle programming, and news magazine programming were being labeled long form documentaries.

7. All private conventional broadcasters labeled some of their reality programming as 2bs. The following reality programs were labeled as documentaries: *10 Marias: 1 Year Later*, *Canada's Worst Driver*, *Canadian Idol*, *Family Restaurant*, *Hockeyville*, *How Do You Solve a Problem like Maria*, *Kitchen Nightmares*, *Making the Cut (I and II)*, *Party Mamas*, *Pop Stars*, *Star Academie*, and *Survivorman*.

8. During this period, the misapplication of the category masked the declining number of actual documentaries being broadcast during prime time on conventional television services. In addition, the accuracy of program logs has deteriorated. Consequently, the erroneous data makes it increasingly difficult for stakeholders and the Commission to evaluate the performance of broadcasters in the regulatory environment. Given that documentaries are one of the qualifying genres of the programs of national interest system, the Commission should take necessary steps to ensure the accuracy of its data about the documentary genre.

9. In Nov 2010, the Commission updated the definition of documentary and announced that it would create a reality television program category. DOC applauded this first step towards a more rigorous application of the definition of documentary. The definition of reality television is the next

step: broadcasters must have an appropriate category to label their reality television programming. With a robust, substantive, comprehensive and clear definition of reality television programming, the misapplication of the definition of documentary should cease.

Criticism of the proposed definition

10. The reality television program category was introduced so that program categories reflect the current television environment. The reality television program category was also created to give broadcasters clear instruction on how to label their programs. As a result, the Commission's policies and regulation would be based on data that actually reflects the industry. It is our opinion that the proposed definition does not fulfill these purposes.

11. The definition of reality television proposed in BRP 2010-808 has several flaws that hinder the correct application of both the reality television category and the documentary category. First, the definition is not robust enough to apply to a large proportion of reality television. Second, it does not properly describe many of the common elements of reality television programming. Third, its lack of clarity makes it difficult to apply, and use, which could lead to the continuation of the misapplication of the documentary definition.

12. First, the proposed definition does not cover the vast majority of reality television programming. Reality television has evolved from contests and competitions to fly on the wall programming about interesting jobs over the last decade. In its current form, the reality television program category would only cover docudramas and docusoaps. The category excludes obvious examples of reality television such as: *Canadian Idol*, *Star Academie*, and *Popstars*. The category should cover all formats reality television programming of the past, present, and future.

13. Second, the proposed definition does not include many of the essential conventions of reality television programming, such as: its common plot devices, its inclusion of celebrities, and its formulaic nature. By failing to include several standard conventions of reality television, the definition will exclude many programs that are in fact reality television programs. The current definition lacks the substance to make it meaningful and applicable in today's television programming environment.

14. Third, the current definition is so vague that its existence could jeopardize the effective application of the definition of documentary. The

end result will be a continuance of the practice of labeling heavily contrived reality programming as documentaries -- an exacerbation of the very problem the new category was designed to solve. Broadcasters will be able to spend their PNI allocations on reality programming rather than long-form documentaries.

15. Now, it is more important than ever that the broadcasters label and report their programming accurately. A misapplication would result in the PNI allocation being spent on the wrong genre, and under-represented programming will suffer. The PNI system will not be functional. The misapplication of the documentary definition will continue if the reality television category is not comprehensive, substantive or clear enough to be used effectively for the aforementioned purposes. In order for the new television regulations to succeed, DOC recommends that the proposed program category definition be discarded and consider a new one.

DOC's Proposed Definition

16. DOC recommends that the Commission use the CMF's documentary definition exclusions as the foundation for its definition of category 11b. Throughout its history, the CMF/CTF have evaluated funding applications for four genres: children's and youth, documentaries, drama, and variety and performing arts. As broadcasters commissioned more reality television programming, the CMF/CTF modified their genre guidelines to exclude reality television to ensure the integrity of the documentary genre.

17. Within the genre guidelines, the CMF/CTF lists a number of exclusions for documentary genre that define the core elements of reality television. DOC recommends that the Commission use the CMF/CTF exclusions for guidance when rewording their definition of the reality television program category.

18. DOC proposes that the following characteristics of reality television be part of the new definition:

- plot devices: competition, teams, set-up devices, prizes and conceits;
- inclusion of celebrities: celebrity-focused, where entertainment value and sensationalism are at the forefront;
- formula: program formula is imported from abroad and applied to new context.

19. Each of these elements highlights a particular aspect of reality television absent in the definition proposed in 2010-808. Without the inclusion of these elements, the reality television program category definition will not be specific enough to apply to many of the reality television programs that have been mislabeled as documentaries over the last 10 years. Indeed, the proposed reality television program category will not be applicable to the majority of reality television on air today. DOC strongly recommends that the Commission redesign its definition of reality programming, so that it includes the elements outlined above.

20. DOC proposes the following draft definition for consideration by the Commission. Our proposed definition for reality television programming covers the range of reality television programming, as well as many of the missing elements absent from the Commission's proposed definition.

Programs that deliberately blur the line between fact and fiction through contrived and set-up situations. The program's primary intent is voyeurism, entertainment and sensationalism, rather than being critical and educational. This programming presents little or light exploration of the immediate events. The program does not establish the greater context or story, or provide critical analysis of the subject matter. This programming interferes with the regular flow of the narrative using set-up devices, competitions, prizes, conceits, and other contrivances. This program's format may be imported from another country and applied in a Canadian context.


21. Our definition is also in line with current CMF genre guidelines. Given that the Commission wants broadcasters to make maximum use of the Canadian content funds, aligning the genres and categories will increase CMF contributions to PNI programming, and synchronize the two support systems of Canadian media content.

Conclusion:

22. The misapplication of the documentary definition has far-reaching consequences for viewing choices of the Canadian public, the documentary community, and effective content regulation. As the Canadian programming support system shifts from one that is founded on exhibition requirements to expenditure requirements, it is essential that the program categories be applied accurately. Otherwise, the PNI system will be used to support reality programming, which is not one of the qualifying genres. The end result would be fewer documentaries about Canadian issues for Canadians to view on multiple platforms.

23. DOC would like to thank the Commission for this opportunity to comment on this proceeding. We hope that the Commission takes into consideration our proposals in the development of the reality television program category definition.

Sincerely,

A handwritten signature in black ink, consisting of a horizontal line followed by a stylized, cursive signature that appears to read 'J. Christou'.

John Christou

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