DOCUMENTARY ORGANIZATION OF CANADA
DOCUMENTARISTES DU CANADA

Submitted Electronically

January 20, 2025

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

Dear Mr. Morin:

Re: Intervention of the Documentary Organization of Canada - Broadcasting Notice of Consultation CRTC 2024-288: The Path Forward – Defining "Canadian program" and supporting the creation and distribution of Canadian programming in the audio-visual sector

Executive Summary

This public proceeding is critical for the future of Canadian and Indigenous programming, and in particular for long-form documentaries (category 2(b)) made in regions across the country. Canada has a long history of outstanding documentaries that have defined and redefined the genre, that consistently receive international acclaim, and have a powerful impact on social and political discourse. The documentary genre is where many creators begin and grow their careers, providing an important gateway into the sector. Documentaries are also an important genre for Indigenous creators, and a diversity of creators whose perspectives are prioritized within the *Broadcasting Act* as being of critical importance to Canadians.

For decades, the Commission has affirmed that these long-form documentaries are an important genre of Canadian and Indigenous content within our broadcasting system. While the Commission's Programs of National Interest (PNI) rules can be modernized, clear and enforceable Canadian Programming Expenditure obligations with a particular focus on independent, original programs and at-risk content such as documentaries are essential for maintaining a strong, vibrant audiovisual sector.

DOC submits that in order to meet the objectives of the current *Broadcasting Act*, the Policy Direction to the CRTC of November 2023 and the objectives of this public proceeding, the new framework must include mandatory expenditures that provides a net benefit to the independent production sector through a focus on Canadian-owned IP and a modernized approach to prioritizing at-risk genres such as documentaries.

Introduction

1. This submission is the intervention of the Documentary Organization of Canada in relation to Broadcasting Notice of Consultation CRTC 2024-288 (BNC 2024-288). The Documentary Organization

of Canada (DOC) is the collective voice of Canada's independent documentary creators. Founded in 1983, DOC has grown to 1,400 members across six chapters from coast to coast. DOC's mandate is to advocate for an equitable, sustainable environment for documentary production and to strengthen the sector within the broader cultural industry. In light of the critical issues discussed in this proceeding, DOC respectfully requests the opportunity to appear at the public hearing scheduled to start March 31, 2025 in Gatineau, Quebec to elaborate upon our written submissions.

2. This is a historic moment in our sector. While documentary content continues to be extremely popular with audiences[1], documentaries are highly vulnerable within our broadcasting sector. The production of Canadian and Indigenous long-form Category 2(b) documentary programs is decreasing every year.[2] There have been great strides in Canada's audiovisual production sector in support of equity, inclusion, diversity and accessibility. However, because communities prioritized within the *Online Streaming Act*[3] are largely represented in the documentary genre, decreased investment for documentaries negatively impacts these objectives of both the Act and the Policy Direction[4]. DOC is compelled to participate in these proceedings in order to speak for one of the most socio-economically, culturally and racially diverse creative communities in Canada, that produces content that is key to Canada's cultural autonomy and the spirit and intent of the *Online Streaming Act*.

3. As part of DOC's participation in this public proceeding, DOC is undertaking several overviews of the documentary sector in Canada. Firstly, DOC is conducting consultations with independent documentary creators across Canada. To date, DOC has consulted with documentary creators in Alberta, Manitoba, the NorthWest (Yukon, NWT, British Colombia) region and Quebec. By the March hearings, DOC will have produced a *What We Heard* report that includes the Atlantic region and Ontario as well. Please see **Appendix A** for take-aways from the consultations to date that are relevant to this proceeding. Secondly, DOC has commissioned a report from Nordicity on documentary production in Canada from 2013 – 2023. Nordicity's Preliminary Research can be found in **Appendix B**. The final report will be submitted as evidence in the March hearings. DOC has collected letters from Canadian documentary creators about their experiences producing documentary films, that demonstrate that this genre is still very much at-risk and in need of regulatory support (**Appendix C**). Lastly, DOC is submitting research into the definition of a documentary across the country by Federal and Provincial institutions, in order to nourish a discussion about how we define the genre in light of proposed actions to remove obligations for at-risk content **(Appendix D).**

4. In this submission, DOC addresses notable key issues raised in BNC 2024-288, primarily relating to the following areas:

[1] According to Parrot Analytics, the number of original streaming documentaries has increased about 77 percent between January 2019 and July 2022 https://www.hollywoodreporter.com/movies/movie-features/documentary-streaming-age-filmmaker-debate-ethics-payments-1235221541/
[2] *Getting Real 2025: Preliminary Research* (**Appendix B**)
[3] "Canadians from Black or other racialized communities and Canadians of diverse ethnocultural backgrounds, socio-economic statuses, abilities and disabilities, sexual orientations, gender identities and expressions" Online Streaming Act 3.1(d)(iii)
[4] Order Issuing Directions to the CRTC, 12 (g)(i) & (ii)

A. The Importance of Documentaries to Canada and our Broadcasting System

5. Documentaries are a critical cultural medium that help shape and preserve Canadian identity by capturing and reflecting the nation's diverse cultural, social, and political narratives. Documentaries offer a means to share and document unique experiences, histories, and perspectives that are often overlooked or misrepresented in mainstream media. Just a few notable examples from 2024 alone include *Wilfred Buck*, Lisa Jackson's portrait of a Cree Elder that brings to life ancient teachings of Indigenous astronomy and cosmology; *Any Other Way: the Jackie Shane Story* about the trailblazing Canadian transgender performer; *Intercepted* in which the devastating impacts of Russia's full-scale war in Ukraine are brought into intimate focus through intercepted calls home by Russian soldiers; *The Movie Man* about a tiny community in the backwoods of Ontario whose five-screen cinema palace welcomes upwards of 50,000 visitors every summer; and *Plastic People* about the growing threat of microplastics on human health.

6. Canada is a recognized leader in the documentary genre, and our films often receive international acclaim and awards. In 2023, Canadian documentary filmmaker Daniel Roher won the Oscar for best documentary for *Navalny* about the deceased Russian dissident, and two of the five nominated documentaries that year were made by Canadians. Last year, Canadian documentary filmmaker Nisha Pahuja was nominated for the Academy Award for best documentary for *Kill a Tiger*. This year, two of the most buzzed about documentaries on the Oscar-shortlist are made by Canadians: *Union* and *Sugarcane*. Canadian documentaries are consistently celebrated at the world's top festivals such as Sundance and Berlin. These incredible films bring Canadian perspectives to the world, and amplify our cultural content onto the international stage.

7. Canadian documentary filmmakers who are now succeeding at the highest levels have been nurtured by our country's broadcasting sector, within existing regulatory policies that provide support to this important genre. Before taking home the 2023 Academy Award for *Navalny* and directing the 2024

documentary *Blink* for National Geographic films, Daniel Roher honed his craft within Canada's regulatory system making documentaries for broadcast. Before receiving an Oscar nomination for her international hit *To Kill A Tiger*, Nisha Pahuja spent twenty years building up her documentary career in Canada. The team behind *Yintah*, the first Indigenous Netflix Original, spent a decade making this risky and important story of Indigenous land defenders before Netflix picked it up this past Fall. Netflix is also a partner on the comedy series *North of North* along with CBC and APTN. This highly anticipated show is led by producers Arnaquq-Baril and Stacey Aglok MacDonald, who began their careers in documentary.

8. Many documentary films produced within Canada's broadcasting sector continue to resonate for years after their release. During DOC's 2024-2025 consultations, filmmakers spoke about some of these long-lasting, impactful documentaries from their region. Films such as *Foster Child*, the seminal 1987 documentary made in Alberta by Gil Cardinal, cited by Jesse Wente as having "made it possible for us to think about putting our own stories on the screen"[5]. Or Guy Maddin's internationally celebrated 2007 documentary *My Winnipeg* that the Criterion Collection describes as a "hypnotic, expertly conceived paean to that wonderful and terrifying place"[6]. Or Baljit Sangra's 2019 BC-based documentary *Because We Are Girls*, that produced 18 million viewing minutes on Amazon Prime.[7]

9. Documentaries also fulfill an important role in public discourse. In an increasingly polarized Canada, seeing the daily struggles of a Canadian on the other side of the country has never been more important. Documentary filmmaker Barri Cohen states that "When my last film received 11 million engagements, it also included thousands of comments because the film – about children institutionalized with intellectual disability and harmed -- touched nearly everyone in Canada. I received comments from people sharing stories about their family members or themselves, and how they suffered in one institution or another in Canada – being locked up for being different."[8] Vancouver-based Story, Money Impact (SMI) connects films with audiences in order to bring Canadians together through documentaries and dialogue. In 2024, SMI hosted 412 screenings in 137 cities and towns, bringing films to 11,825 Canadians for whom these important, in-person events resulted in 96% of viewers planning to take action in support of the issues addressed in the film.[9] Topics from this year included food insecurity, infertility and reproductive rights, and accessibility. These in-depth stories help us understand critical topics while also introducing us to people and stories we would otherwise never know.

[5] https://collection.nfb.ca/film/foster_child
[6] https://www.criterion.com/films/27969-my-winnipeg?srsltid=AfmBOorLRfAxn8MbVR9tEnwMynV_ATUAz4Uud0NPtRzG31pfoJ-OhXLX
[7] https://povmagazine.com/nfb-strategic-plan-interview-joli-coeur-roy-dufour/
[8] Appendix C
[9] Story, Money Impact 2024 Annual Report

B. Documentaries as a Gateway into Independent Production for all Creators, Especially for Creators from Underrepresented Communities

10. Documentary is an accessible platform to develop one's craft and share meaningful stories, and is often the first entry point into the independent production sector. Documentaries often begin with the simple act of picking up a camera and documenting a story unfolding in one's own community. Documentaries are less expensive to produce than fiction, and this enables emerging creators to build a foundation for their careers. Some of Canada's most celebrated filmmakers began in documentary: before Sarah Polley's *Women Talking* came the documentary *Stories We Tell*, and Denis Villeneuve, now one of the world's most celebrated directors, began his career with the documentary program *La Course destination monde* on Radio-Canada. On CBC's list of the 50 greatest films directed by Canadians, notable names whose early films were documentaries include Denys Arcand (*The Barbarian Invasions*), Zacharias Kunuk (*Atanarjuat: The Fast Runner*), Claude Jutra (*Mon Oncle Antoine*), Elle-Máijá Tailfeathers (*The Body Remembers When the World Broke Open*) and Alanis Obomsawin.[10]

11. Canada's broadcasting policy objectives under the updated *Broadcasting Act* recognize the importance of supporting communities who have been historically under-represented within our broadcasting sector.[11] The *Broadcasting Act* also includes provisions giving the Commission the authority to make orders imposing conditions on broadcasting undertakings related to the proportion of programs to be broadcast that shall be devoted to specific genres, in order to ensure diversity of programming.[12]

12. Documentary programming plays a vital role in ensuring diversity and amplifying underrepresented voices and is a gateway into the sector for those who face historic barriers rooted in systemic racism, colonialism, and other forms of oppression. A survey conducted by the Canada Media Fund reveals that at 93%, respondents were definitive on the importance of the documentary genre to preserve language and reflect cultural identity and on the importance of the documentary genre as an entry point for new and underrepresented filmmakers.[13] In 2021, DOC created a free, introductory membership category for documentary creators who are Indigenous, Black or racialized. This led to a 100% increase in our membership and today, documentary filmmakers from these communities make up half of DOC's 1,400 members across the country while being consistently under-represented within the broader production sector.

13. Many of the Indigenous, Black and racialized creators who are accessing new production funds targeted to their communities are making documentary films. In 2021, the Canada Media Fund created the Pilot Program for Racialized Communities (PPRC) to fund content by Black and racialized creators. Sixteen of the 37 projects that received PPRC production funding in fiscal 2021-2022 and fiscal 2022-2023 were documentaries, as were twenty-five of the 34 productions financed through the CMF's Indigenous program during the same period. The CMF's 2024 demographic report shows that diverse

[10] https://www.cbc.ca/artsprojects/50greatestfilms.
[11] *Broadcasting Act*, Section 3(1) (iii.11) provide opportunities to Black and other racialized persons in Canada by taking into account their specific needs and interests, namely, by supporting the production and broadcasting of original programs by and for Black and other racialized communities.
[12] *Broadcasting Act*, Section 9.1(1)(d).
[13] *CMF Genre Report: Children & Youth and One-Off Documentary*

communities[14] are highly represented within the documentary genre with 46% representation in key roles.[15]

C. Documentaries and Canada's reconciliation with Indigenous peoples

14. Documentaries are key to Canada's reconciliation with our history of genocide against Indigenous peoples. Documentaries by filmmakers such as Tasha Hubbard, Alethea Arnaquq-Baril, Lisa Jackson, Kim O'Bomsawin, Neil Diamond, Loretta Todd, and Alanis O'Bomsawin - whose documentaries have inspired multiple generations of Indigenous filmmakers - are transforming the narrative of Canadian history and the documentary genre. In spite of living with the generational trauma of residential schools, the sixties scoop, the epidemic of missing and murdered Indigenous women and girls, and systemic racism against Indigenous peoples that continues to this day, Indigenous filmmakers have made seminal documentaries that are fundamental to our collective process of reconciliation.

15. Before making the 2022 film *Bones of Crows*, the largest-scale Indigenous-led production in Canada at that time[16], Marie Clements directed *The Road Forward*, a documentary connecting the beginnings of Indigenous Nationalism in the 1930s with the powerful momentum of First Nations activism today. And as noted above, the 2025 hit comedy *North of North* that is currently the largest Indigenous led-production in this country was initiated by documentary filmmakers. In the Canada Media Fund's Demographic Report, Indigenous key creatives are represented at 66% of English documentary production.[17] And of the ninety-one submitted applications for production funding to the Indigenous Screen Office in 2024-25, almost half (47%) of the submissions were for documentaries.[18]

D. CRTC's ongoing Recognition of the Importance of Documentary Programming

16. Documentaries have been recognized by the Commission as a nationally important genre for Canadian and Indigenous content within our broadcasting system for many years. In Public Notice CRTC 1999-97 the Commission acknowledged documentaries as culturally valuable, stating, "Canada has a rich and successful tradition of documentary production for which there is an increasing demand. This type of programming is popular around the world, and highly exportable. In addition, Canadian producers have a world-class reputation in this field. The inclusion of long-form documentaries as priority programs will ensure the continuation of this success."[19]

17. In 2010, the Commission introduced a more formal definition for long-form documentaries as part of its regulatory framework, that distinguished documentaries from reality television and reinforced their cultural importance. The Commission stated, "though this type of programming ["docusoaps" and

[14] Self-identified to at least 1 Diverse Community (Indigenous People to Canada, Racialized, 2SLGBTQ+, Person living with one or more Disabilities)
[15] Canada Media Fund 2023-2024 Demographic Report, p.28
[16] https://playbackonline.ca/2022/10/19/mipcom-22-building-bones-of-crows-hybrid-model/
[17] Canada Media Fund 2023-2024 Demographic Report p.33
[18] Data provided by the Indigenous Screen Office
[19] CRTC 1999-97 at para 34.

"docudramas"] may be factual, it lacks or has very minimal amounts of in-depth critical analysis of a specific subject or point of view that is the key defining element of category 2(*b*) Long-form documentary programming.[20]" In 2015, as part of Let's Talk TV, the Commission upheld the importance of documentary programming by continuing to include it in its definition of programs of national interest (PNI), labelling this type of programming as "generally expensive to produce and carrying a greater risk of unprofitability" as well as programming that "in the absence of regulatory support would not otherwise be available to Canadians."[21] The Commission's 2017 decision sought to ensure access to a world-class communications system through "…continued support for compelling, diverse Canadian programming … that reflects Canadian attitudes, opinions, ideas, values and artistic creativity. This includes supporting the production of dramas [and] long-form documentaries…"[22]

18. In addition to the Commission historically recognizing documentaries as a nationally important genre, Canadians have also consistently expressed interest in the availability of documentary programming. In the CRTC's 2018 *Harnessing Change: The Future of Programming Distribution in Canada* Report, documentary programming was considered to be important programming for three in five (61%) of Canadians.[23]

E. Documentaries are At-Risk Content

19. Despite their importance to Canadians, broadcasters have been consistently reducing their support for documentary programs. The most recent CMPA Profile report shows that production on 2b documentaries decreased by 17.9% in 2023-24[24] and the drift away from specifically at-risk documentary programming has been keenly felt by filmmakers across the country for many years.

20. During DOC's recent Community Consultations, an Alberta filmmaker said that "a big hurdle we have here in Alberta is that we don't have a broadcaster, unlike in in Toronto ... We don't have the access." They described how even when filmmakers can raise the money to travel to key markets, it is very difficult to convince a Toronto-based broadcaster that these local stories have value.

21. In Manitoba, filmmakers spoke about the importance of the local documentary series *MTS: Stories from Home,* that not only nourished the local production sector for many years but continues to be a reference point for the community. Filmmakers spoke about the long-term impacts of the 2016 sale of the MTS network to Bell, a fear also expressed at the time by intervenors in the Commission's BNC 2016-847.[25] At DOC's Manitoba consultation, a filmmaker said that with the sale of MTS, "for a number of the projects that people are talking about [as significant to the region] the path to funding that project no longer exists." Another documentary filmmaker noted that "not only did [MTS Stories from Home]

[20] Broadcasting Regulatory Policy CRTC 2010-808 at para 7.
[21] Broadcasting Regulatory Policy CRTC 2015-86 at para 276.
[22] Broadcasting Decision CRTC 2017-148 https://crtc.gc.ca/eng/archive/2017/2017-148.htm
[23] https://crtc.gc.ca/eng/publications/s15/eval.htm#r1.
[24] CMPA Profile 2024, p.24
[25] https://crtc.gc.ca/eng/archive/2016/2016-487.htm

create all kinds of voices, all kinds of stories about Manitoba that would never otherwise exist, but [MTS] also created entire production companies that are now employing dozens and dozens of people. It was a huge economic driver."

22. The drift away from documentary programs is not only felt in the regions, but also in our major urban centres. Toronto-based DOC member Robert Lang states that "While I continue to produce highly successful documentaries for broadcast, the number of commissions we get has seriously declined and certainly the advent of streaming services has not increased the possibilities as we anticipated."[26]

23. These experiences on the ground are reflected in the CRTC's PNI expenditure data, which shows that spending on documentary programs has been consistently decreasing. Across every large private ownership group, spending on long-form documentary in 2023 is well below 2015 levels.

Title: PNI expenditures by CBC/SRC and large private ownership groups, by program category ($ millions), 2015-2023

Ownership Group	Program Category	2015	2016	2017	2018	2019	2020	2021	2022	2023
CBC/SRC	Long-form documentary	38.2	44.7	48.1	34.2	33.8	36.8	29.6	30.6	28.7
BCE	Long-form documentary	54.9	38.8	43	43.5	44.8	45.1	42.8	43.2	47.5
Corus*	Long-form documentary	6.4	20.8	16.9	18.5	11.1	9.85	12.9	15.6	23.2
Rogers	Long-form documentary	4.1	6.5	6.3	5.5	1.6	0.5	3	3.3	3.6
Shaw*	Long-form documentary	23.4								
Total	Long-form documentary	148.9	139.2	146.8	128.1	117.9	92.6	88.3	93	103

Source: Source: Public disclosure of aggregate annual returns for large ownership groups, CRTC data TV-T35[27]

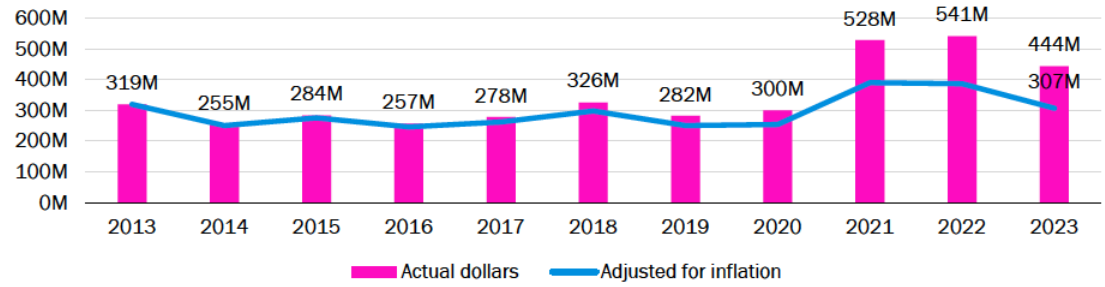
24. DOC commissioned Nordicity to research the levels of documentary production in Canada over the ten-year period between 2013 and 2023, included in this intervention as **Appendix B**. In real 2013 dollars, spending on long-form documentary decreased by 38% during the 2013-2023 period. When comparing 2013 and 2023, this decline represents a loss of $60 million in real dollars of long-form documentary

[26] Appendix C
[27] Following Corus's acquisition of Shaw Media, many specialty services are now listed under Corus Entertainment.

contributions.[28]

25. According to Nordicity's research, when adjusted for inflation, documentary production volume in Canada is 4% lower than the annual average in 2013.

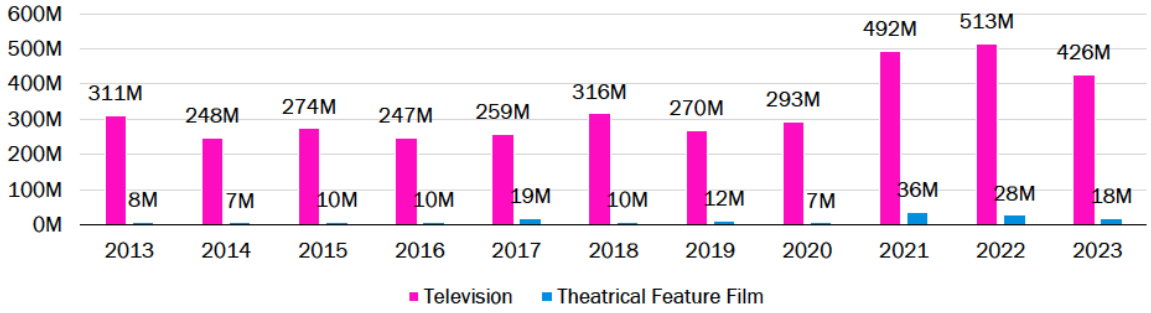
Figure 1 - Volume of Canadian documentary production



Source: Estimates based on data collected from CAVCO.

26. Within these decreasing numbers, broadcast has remained incredibly important for documentary production in Canada, representing an annual average of 96% of documentary productions during this ten-year period. The impacts of absolving broadcasters of any obligations towards documentary programs would be disastrous for the genre's production in Canada.

Figure 2 – Volume of Canadian documentary production by release medium



Source: Estimates based on data collected from CAVCO.

[28] Getting Real 2025, p.8

F. Canadian Expenditure Obligations: Supporting Category 2(b) Documentary Programming and Independent, Original content

27. The Commission's preliminary view in BNC 2024-288 states that both online and traditional audio-visual undertakings that have $25 million dollars (or more) in annual Canadian gross broadcasting revenues should be required to make expenditures on Canadian programming.[29] DOC agrees with this preliminary approach that online and traditional audio-visual undertakings should have obligations to make expenditures to support Canadian programming, including long-form documentary productions.

28. The Commission should ensure that as a minimum requirement, Canadian Programming Expenditure (CPE) obligations result in a net benefit to Canada's broadcasting system. CPE obligations for both traditional broadcasting and online undertakings are consistent with section 3(1)(e) of the *Broadcasting Act* which says that "each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming." These measures are also consistent with section 3(1)(i)(v) of the *Broadcasting Act* which states, "the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector."

29. CPE Contributions should include significant obligations for independent, original programming. In addition, if the Commission chooses to implement minimum French- and English-language expenditure requirements as it did within the base contribution allocations in BRP CRTC 2024-121-1, it must include safeguards regarding the original language of production. Without such measures, it could be possible for undertakings to meet a minimum French-language expenditure requirement by allocating funds to dubbing English-language content into French, rather than investing in original French-language productions. This result would undermine the policy objectives of the *Broadcasting Act* by diverting resources away from French-language creators and reducing the amount of original French-language productions available to Canadian audiences.

30. Within obligations to Canadian programming, DOC agrees with the Commission's position that control over the creative and financial aspects of a production are important elements of what makes a program Canadian and that Canadian ownership and control of Intellectual Property are central to ensuring Canadian-led content.

31. Programs of National Interest (PNI) are a subset of Canadian Programming Expenditures that support the production of high-value, culturally significant content, such as dramas, long-form documentaries, and Indigenous programming, which are central to communicating Canadian stories and values but are typically costly to produce and challenging to monetize without regulatory support. Such requirements are also vital to a strong, rich and diverse broadcasting system for Canada.

32. DOC is very concerned about the Commission's preliminary view set out at paragraph 46 of BNC 2024-288, which suggests that Programs of National Interest, including documentary productions, are no

[29] CRTC BNC 2024-288 at para 43.

longer at-risk genres of content and do not require regulatory support in the current media environment. Indeed, the Commission has expressed its preliminary view relating to existing PNI stating that, "in an 'on-demand' system driven by online undertakings whose business models are based on the programs that underscore the current definition of PNI, such as drama and documentaries, the current approach to PNI is no longer needed."[30]

33. DOC respectfully submits that long-form documentaries continue to be highly at-risk and require CRTC supportive regulatory requirements to ensure that they are developed, produced and distributed to audiences across the country. **Appendix C** to this submission includes statements by documentary filmmakers that speak unanimously of the risks of making documentary content, and the lack of support by streamers for independently made Canadian documentaries. These important stories take many years to create. Broadcast licenses are harder and harder to come by, especially for local stories.

34. Online undertakings tend not to support Canadian and Indigenous long-form documentaries, and the types of documentaries that are linked to streamers' business models are have little in common with those identified by the Commission as being important to the broadcasting sector. Despite an initial interest in high quality documentary content, the era of streaming services investing in premium documentaries is now largely considered to be over. The "Golden Age" of documentaries has been replaced by the current "Corporate Age", defined by an appetite for low-cost documentary content led by true crime stories[31] or celebrity-driven vehicles.[32] Canadian platforms that must compete with American platforms are obligated to mirror this type of content.

35. Veteran film executive Keri Putnam (HBO, Disney/Miramax, Sundance) researched the current drift by streamers away from premium documentary films as part of her Harvard Kennedy School research. Putnam explains the drift as being a very deliberate business decision:

> Six major companies capture 80% of our subscription streaming time and analysts expect further consolidation in the coming year. … mandates [are] to focus on mass-appeal hits that will attract and retain to the widest possible audience (and advertisers for new ad-supported options), while avoiding risk or controversy.
>
> According to a document prepared by the agency WME for its clients and reviewed by Business Insider, Netflix is looking for crime, celeb, sports, and history-themed stories when it comes to unscripted fare, but "nothing too political."[33]

[30] CRTC BNC 2024-288 para 46.
[31] https://www.vulture.com/article/tv-documentaries-ethical-standards.html
[32] https://www.newstatesman.com/culture/tv/2023/07/golden-age-documentary-myth
[33] https://shorensteincenter.org/commentary/whats-risk-streaming-media-age/

36. Canadian documentary filmmaker Brett Story's latest film "Union" premiered at the 2024 Sundance Film Festival and has been a high-profile presence across the International festival circuit over the last year. *Union* is an Oscar contender, having made the official Shortlist. But due to its subject matter, the unionization by Amazon workers, the documentary cannot find a home on a major streaming platform[34] and has been called a film that "Hollywood and Corporate America don't want you to see" by the New Yorker.[35]

37. The lack of interest from streaming platforms in Canadian documentaries is evident, with 2024 marking the first time a Canadian documentary, the Indigenous production *Yintah*, was picked up as a Netflix Original. DOC Atlantic member Millefiore Clarkes states that "Being a filmmaker from a small and rural province means that I am one of a small group of voices that are able to reflect this community's collective experiences to the community itself, and the world at large. If we do not tell the stories of smaller communities, what we are left with is a homogeneity of perspectives and a watering down of national identity… despite how impactful and important my films are to Canadians and to international audiences, I don't often see the types of documentaries I make reflected on major streaming platforms"[36]

38. Beyond a lack of interest in these local Canadian stories, the streamers' preference for documentaries that align with their specific business models is having a detrimental impact on the genre, thereby limiting the diversity and scope of stories that are supported and distributed.

> A genre that had always existed in part to inform and enlighten was now primarily a commercial product.… A decade after journalism suffered through its own period of disruption, its onscreen cousin entered a kind of clickbait era of its own: Make it fast, see what works, repeat.[37]

39. There is also a clear shift in strategy for online streaming services. Platforms are increasingly investing in live event programming, particularly sports, which diverts resources away from supporting at-risk PNI programming. Netflix reportedly paid $150 million to stream two NFL games on Christmas Day 2024 and Apple has committed to a 10-year partnership with Major League Soccer worth $2.5 billion.[38] In July 2024, the NBA signed an 11-year deal with Disney, NBC Universal and Amazon estimated at $76 billion[39].

40. DOC maintains that both traditional and online expenditure obligations are necessary to support at-risk, culturally significant documentary programs and to ensure a diversity of genres. A modernized

[34] https://www.thestar.com/entertainment/movies/this-controversial-new-film-depicts-a-david-vs--goliath-fight-against-amazon-heres-whats/article_d614669e-a38f-11ef-b5f5-8ba623128c37.html
[35] https://www.newyorker.com/culture/critics-notebook/documentaries-of-dissent
[36] Appendix C
[37] https://www.vulture.com/article/tv-documentaries-ethical-standards.html
[38] https://www.forbes.com/sites/dereksaul/2024/12/25/netflix-set-for-150-million-nfl-christmas-test-as-stock-heads-to-best-year-since-2015/#; https://www.apple.com/ca/newsroom/2022/06/apple-and-mls-to-present-all-mls-matches-for-10-years-beginning-in-2023/; https://www.nytimes.com/athletic/3490012/2022/06/14/mls-agrees-to-10-year-broadcast-deal-with-apple-worth-2-5-billion-sources/
[39] https://www.npr.org/2024/07/24/nx-s1-5050991/nba-tv-deal-disney-nbc-amazon-tnt

regulatory framework that includes minimum requirements for these important long-form documentary productions is consistent with key public policy objectives of the Broadcasting Act and in particular: section 9.1(1)(d), which reads as follows:

> "The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting d) the proportion of programs to be broadcast that shall be devoted to specific genres, in order to ensure the diversity of programming;"[40]

41. Minimum expenditure requirements by traditional and online broadcasting undertakings for the most at-risk and culturally significant Programs of National Interest are highly relevant in the digital age. DOC notes that in BRP CRTC 2024-121, the Commission ordered online undertakings to make contributions to production funds to advance key policy objectives, such as supporting the creation, production and distribution of Canadian and Indigenous content in Canada's two official languages, as well as in Indigenous languages. Imposing CPE obligations and requirements to support long-form documentary programming on both traditional and online audio-visual undertakings similarly aligns with these broadcasting policy objectives. These types of obligations will ensure consistent and meaningful support for Canadian and Indigenous storytelling across all platforms by maintaining adequate investment in programming that is of National importance to Canadians.

G. Definition of Canadian Program: Modernized and Updated Key Creative Scale for Long-form Documentaries

42. The Commission has presented its preliminary view that additional points be permitted to contribute to the definition of a Canadian program, and that a program meet nine of the potential fifteen points in order to qualify as a Canadian program. The Commission has further proposed that when productions (such as documentaries) do not use certain key creative positions, the Commission will grant Canadian certification provided that Canadians fill all key creative positions and the production therefore earns a perfect score.

43. Documentary film productions are often led by small teams, and do not use many of the points listed by the Commission as contributing to the definition of a Canadian program. It is rare for a documentary program to use the positions of showrunner, lead performer, art director, head of costume design, make-up/hair, or visual effects director. Of the points listed, most documentaries use:

[40] *Broadcasting Act*

- Director (2 points)
- Screenwriter, often the same individual as the director (2 points)
- Director of Photography (1 point)
- Editor (1 point)
- Music Composer (1 point)

44. This means that an average documentary program will attain 7 points, rather than the nine points minimum proposed by the Commission.

45. Some DOC members travel internationally to bring their Canadian perspective to an international story. For many of our members whose films are shot outside of Canada, these stories are rooted in their own diasporic communities, and intrinsically linked to Canada's evolving national identity. In accordance with current ethical standards of documentary filmmaking, Canadian broadcasters, funders and institutions ask documentary creators to adhere to principles of narrative positioning and accountability, whereby the community being represented on-screen is also represented among the key creative team. This means that where a production is being filmed internationally, a Canadian documentary value is to hire a local key creative to be a part of the creative team.

46. From a financial and sustainability perspective, hiring one crew member locally such as a cinematographer reduces the production's carbon footprint, while saving the production a significant amount of money on airfare and accommodations. Having a local crew member also means that important story elements can be filmed as they unfold, rather than scrambling to book a Canadian on an expensive last-minute shoot. This is especially important on documentary films, that are typically shot over a period of many years with key story elements often emerging at unexpected moments.

47. Within the documentary sector, the important roles of cinematographer or editor can also increase the project's ability to attract the attention of international funders, festivals, and distribution, much like the use of certain well-known actors in a live-action drama production. Star editors or cinematographers are regularly interviewed in prestigious industry publications, invited to be jurors at festivals, and asked to appear on panel discussions, all of which amplify the project's status.

48. DOC proposes that for documentary programs, the Commission set up seven possible points, and obligate meeting six of the seven points rather than all of the available positions.

H. Modernizing the Definition for Category 2(b) Documentary

49. In addition to modernizing the scale, the Commission might consider updating the definition of long-form documentaries to reflect the diverse formats currently being produced in this genre. This approach would align with the Commission's existing practice for drama, which encompasses a variety of sub-genres under category 7. Similarly, revising the definition of long-form documentary categories and

sub-genres could enable the Commission to focus on challenging, long-form, and at-risk documentaries that hold particular importance for Canadian audiences.

50. DOC notes the Canada Media Fund's (CMF) definition of Point-of-View (POV) documentaries, where the director's perspective and intent—along with the depth of research—determine whether a project qualifies as a POV documentary. Notably, the CMF's definition excludes certain types of content, such as factual programming and projects based on light informational formats. [41]

51. DOC is including **Appendix D** that outlines the variety of definitions being used across Canada by Federal and Provincial agencies. DOC also notes that the question of defining a documentary led to a rich and dynamic discussion at DOC's Quebec consultations, the results of which will be presented within our What We Heard report and submitted as evidence at the hearings into this Consultation.

I. Data Collection

52. BNC 2024-288 outlines various questions about the collection and publication of data from broadcasting undertakings. The Commission's preliminary view states that the revenues and the programming expenditures of Canadian and foreign broadcasting undertakings should be made public to provide transparency and ensure the Commission's ability to monitor the broadcasting system.[42]

53. DOC agrees with the Commission's preliminary view. In particular, this data should include annual revenues, both in aggregate and broken down by individual undertakings, to provide insight into the financial scale and contributions of each broadcaster and streamer. It should also capture annual expenditures on public-interest, long-form documentaries, specifying support for original documentary productions and expenditures on other types of documentary content. This information is critical for understanding the financial commitment of these entities to culturally significant programming and for evaluating their compliance with regulatory obligations.

54. Additionally, the CRTC should require detailed reporting on contributions to various production funds under the framework established in BRP 2024-121-1. This includes the total amounts directed by streamers to each fund, as well as how they spent the up to 1.5% of contributions that they are not required to allocate to the CMF. Furthermore, the CRTC should collect data on support for content created by individuals from underrepresented groups, enabling an assessment of the effectiveness of current policies in promoting diversity and inclusion within the industry. Making this data public would enhance transparency, encourage compliance, and support informed decision-making to strengthen Canada's broadcasting sector.

[41] https://cmf-fmc.ca/document/appendix-a-definitions-and-essential-requirements/
[42] BNC CRTC 2024-288 at para 53.

55. DOC notes the Racial Equity Media Collective's (REMC) recommendations for implementing a National Data System within its 2023 Report: *A National Data System & Benchmarking For Racial Equity*[43] and supports the Commission aligning with the REMC's recommendations as to how to effectively approach our sector's transformation using data collection, among other tools.

J. CRTC should not approve Applications from Broadcasters Seeking Relief from Expenditure Requirements

56. Over the past two years, several broadcasters operating under the group-based licensing approach have sought relief from their CPE and/or PNI obligations and/or Satellite Relay Distribution Undertaking (SRDU) Contributions. DOC does not support any reduction in PNI obligations for broadcasters at this time, and maintains that these requests should be evaluated within the context of a fully established policy framework. Premature reductions could undermine the effectiveness of the new framework and jeopardize support for culturally significant programming. Moreover, DOC is opposed to Rogers proposal to include popular genres of programs in the Commission's PNI definition other than long-form documentaries and dramatic productions.

Questions and Answers Section: Answers Only

A1: The Commission should create a distinct points system for documentary productions, similar to the framework it already has in place for animation. DOC proposes a 7-points framework for documentary, with a minimum of 6 points required in order to be certified as Canadian. Implementing a distinct point system for documentary productions will allow the Commission and the broader sector to more effectively administer and support the creation and production of Canadian documentaries.

A4: Documentaries do not typically use the position of "showrunner".

A13: DOC supports an IP ownership model in which IP is fully owned by the independent Canadian production company, and supports a model in which a significant percent of Canadian Programming Expenditures support independent, original Canadian programming.

A14: DOC supports ensuring that the producer position is filled by a Canadian.

A18: As noted above, the Commission's view regarding PNI does not align with current business models. Where flexible regulations do exist currently for broadcasters, investment in long-form documentary content decreases. Furthermore, as noted above, long-form documentary content produced in the public interest is not

43 https://static1.squarespace.com/static/5da5e203aca5a576a25ef17f/t/654278c7ecff72509c65c5af/1698855112184/REMC+Data+System+and+Benchmarking+Report_EN.pdf p.33

part of the business models of online platforms. As outlined in this submission, streaming platforms are gravitating toward lighter, more commercially viable content and live event programming such as sports, rather than PNI programming. The increasing focus on event-based content demonstrates that these platforms prioritize high-revenue, broad-appeal programming over culturally significant PNI content. Without regulatory safeguards, the availability of long-form documentary and other PNI programming will continue to erode, leaving a gap in Canadian storytelling and reducing the diversity of content available to audiences.

A19: No. CPE obligations without obligations to at-risk programs, such as documentaries, would result in the sharp decline, and eventual extinction of important genres across the broadcasting sector. The types of high-quality documentary programs that are able to be exported internationally take years to develop and produce and require a significant amount of financing. Without targeted CPE obligations that include protections for at-risk content like documentaries, there would be a significant reduction in the production of high-quality exportable Canadian documentary content. This result would not only limit Canadian audiences' access to domestically produced, culturally significant documentaries, but would also diminish Canada's ability to contribute to the global documentary landscape, weakening the country's presence in international markets.

A20: Equitable CPE and PNI requirements should be established to ensure that all major players in Canada's broadcasting ecosystem contribute fairly to the development, production, and distribution of Canadian and Indigenous programming.

A21: DOC agrees with the Commission's preliminary approach that online and traditional audio-visual broadcasting undertakings should have obligations to make expenditures to support Canadian programming, including long-form documentary productions. In particular, undertakings should be required to allocate expenditures to support original, independent Canadian programming, including obligations for at-risk PNI programming such as long-form documentaries.

A23: A modernized expenditure framework must include obligations or incentives within CPE obligations in order to ensure that content created by and for equity-deserving groups, OLMCs, and Canadians of diverse backgrounds is meaningfully supported. These frameworks must be set up through meaningful engagement.

DOC notes the Racial Equity Media Collective's (REMC) submission to the Commission regarding "A modernized CRTC regulatory framework on diversity and inclusion" and specifically its point that "it would be greatly beneficial to the causes of diversity and inclusion for the CRTC to convene a standing Engagement Group for representatives of equity-deserving communities. We also believe such a group would help the CRTC to fulfil the community engagement mandate set out in the government's policy directions under SOR/2023-239… it is important that members of those communities have access to a space where they can directly relay their own experiences of those consultations, and of their experiences with broadcasters more broadly. It is our view that the proposed Engagement Group could be an effective mechanism to address this asymmetry, along with many additional issues relating to diversity and inclusion."[44]

[44] REMC comments on *A modernized CRTC regulatory framework on diversity and inclusion*, para.32 - 34

As a pillar of the audiovisual sector alongside English and French content, ensuring that a portion of CPE is directed towards funding Indigenous programming would help support a robust Indigenous screen sector. This support should include direct funding to the ISO, Canada's only Indigenous-led independent funding body for the screen sector, which plays a critical role in fostering Indigenous storytelling that is key to Canada's reconciliation with Indigenous peoples.

DOC would like to take this opportunity to express our support for the positions of the ISO with regards to the Co-Development of an Indigenous Broadcasting Policy[45], specifically Appendix A of the ISO's submission including the *Definition of Indigenous Content and Certification requirements* and *Additional Measures and Means for Non-Indigenous Broadcasters and Online Undertakings to Support the Indigenous screen-based Sector*.[46]

It is also important to note that documentary production provides an accessible and vital entry point into the sector, particularly for underrepresented individuals. Documentaries often require lower production budgets than scripted content, making them a more feasible avenue for emerging creators, including those from Indigenous communities, equity-deserving groups, and OLMCs. Additionally, the documentary format allows for authentic storytelling that reflects lived experiences, cultural histories, and social issues that may otherwise be overlooked in mainstream media. By supporting documentary production through targeted CPE obligations, the Commission is not only preserving a critical genre but also fostering a more diverse and inclusive industry where underrepresented voices have the opportunity to create, share, and amplify their stories on a national and international stage.

A24: For the reasons outlined in DOC's submission, a modernized CPE framework should support the production of long-form documentary programs, which are both at-risk and essential to achieving the objectives of the *Broadcasting Act*. These programs are expensive to produce, often requiring years of development and significant financing, yet they are difficult to monetize. Unlike other types of content that benefit from advertising, subscription models, or international sales, long-form documentaries often struggle to secure sustainable funding within the current broadcasting system, making regulatory support critical to their continued production and availability.

A27: Yes, the Commission should set out reporting requirements for all broadcasting undertakings operating in Canada, whether they are Canadian or foreign and whether they operate on traditional platforms or online. The Commission's preliminary view in BNC 2024-288 recognizes the need for public disclosure of revenues and programming expenditures from both Canadian and foreign broadcasting undertakings.

Transparency in revenue generation and programming expenditures is essential to ensuring regulatory oversight and maintaining a balanced and sustainable broadcasting system. In particular, annual revenue data should be reported in both aggregate form and broken down by individual undertakings, offering insight into the financial scale and commitments of each broadcaster and streaming service. Additionally, expenditures on key programming categories, including long-form documentaries and other public-interest content, should be

[45] Broadcasting Notice of Consultation CRTC 2024-67: Call for Comments on the Codevelopment of an Indigenous Broadcasting Policy
[46] BNC 2024-67, ISO submission p. 19

detailed, specifying funding allocated to original documentary productions versus other types of documentary content.

Furthermore, the Commission should require detailed reporting on contributions to production funds under the framework established in BRP 2024-121-1. This includes full disclosure of total amounts directed by streaming platforms to various funds, as well as an accounting of how streamers allocate the up to 1.5% of contributions that they are not required to allocate to the CMF. Data collection should also extend to support for content created by individuals from underrepresented groups, ensuring a more comprehensive assessment of industry efforts to promote diversity and inclusion.

A28: Yes, the Commission should require the public disclosure of revenues and programming expenditures for all broadcasting undertakings subject to CPE requirements. Public transparency is essential for ensuring accountability, enabling stakeholders, including policymakers, industry participants, and the public, to assess whether these entities are fulfilling their regulatory obligations. Given the significant role that both traditional broadcasters and online streaming services play in shaping Canada's media landscape, it is crucial that their financial contributions to Canadian content are clearly documented and accessible.

A29: Published revenue and CPE data should be broken down in as granular a way as possible to ensure transparency and accountability. This would include publishing by ownership group, by platform, by individual "channel", by program category, as well as further segmentation by language and by the self-identification of the key creatives. This type of segmentation of data is necessary in order to provide a clearer picture of how different entities are investing in Canadian and Indigenous content.

A30: The production report should include detailed data such as the programming genre, region, self-identification of the key creative team and production company, language, and other indicators that can track contributions to Canadian content production ever year. Collecting this data will provide valuable insights into contributions to Canadian content creation, ensuring transparency and accountability in meeting diversity and regional representation goals. Additionally, this data will help assess the effectiveness of regulatory measures in supporting Canadian and Indigenous storytelling across the industry.

A33: DOC notes the detailed recommendations by the REMC on Implementing a National Data System, Targets and Quotas in its 2023 Report *A National Data System and Benchmarking for Racial Equity*. The REMC suggests a 7-step phased approach:

> Overall, the Canadian film and television industry needs greater harmonization in data collection and statistical reporting. This research indicates that establishing a national data system would be the most effective way to achieve these aims. … the ultimate goal of any national data system should therefore be to capture data across all of the Canadian creative industries. The phased approach presented here would ensure feedback is collected and incorporated after each step, allow industry stakeholders to adapt to new reporting requirements, and ensure the system is both

effective and robust. Learning would be ongoing, and testing and piloting would be critical to progress.[47]

A36: The success of the new framework for expenditures on Canadian programming should be measured by tracking overall spending on Canadian programming and assessing whether there is sustained or increasing investment in at-risk genres, such as long-form documentaries, which are culturally significant but difficult to create and produce.

A37: The Commission should support the production of granular reporting such as DOC's *Getting Real* reports in order to analyze which formats within PNI are at-risk and which align with current business models. Financing and using such research would allow the Commission to better identify programming that requires regulatory support to ensure continued production and accessibility of at-risk programming within the broadcasting system.

Conclusion

57. Documentarians are an incredibly diverse community of creators, whose highly successful, award-winning content connects Canadians coast to coast with shared stories and values and brings our perspective to the world. Greater support measures are required to support, strengthen and ensure a strong presence of Canadian and Indigenous insightful and engaging long-form documentaries within our broadcasting sector. DOC appreciates the opportunity to speak on behalf of Canada's documentary community in this proceeding and looks forward to engaging with the other intervenors on these and other issues related to the revised *Broadcasting Act* in the reply phase of this proceeding. We look forward to reading the submissions of others and commenting further.

Sincerely,

Sarah Spring
Executive Director, Documentary Organization of Canada

* * * End of Document * * *

[47] *A National Data System and Benchmarking for Racial Equity* p.33 - 35