

February 12, 2021

Mme Aimée Belmore
Clerk, Standing Committee on Canadian Heritage
6th Floor, 131 Queen Street
House of Commons
Ottawa Ontario
K1A 0A6
chpc@parl.gc.ca

Dear Mme Belmore,

The Board of Directors of the Broadcasting Participation Fund (BPF) has been following with great interest the review by the Standing Committee on Canadian Heritage of the proposed Bill C-10 to amend the Broadcasting Act. In this respect, please find attached the submission from the Broadcasting Participation Fund which describes the mandate of the Fund, its revenue sources, financial demands on it and fund exhaust calculations as of January 18, 2021. The calculations point to the imminent termination of the BPF which is the principal support to the CRTC public participation process for intervenors in matters relating the Broadcasting Act.

By the end of 2022 (or if claims are higher than expected, the latter half of 2021), the BPF will be unable to fulfill its mandate which will result in the probable termination of it. This means that public interest and consumer groups representing non-commercial user interests will no longer have the needed financial support to intervene before the CRTC in broadcasting matters under the Broadcasting Act.

Bill C-10 (section 11.1 (1) of the proposed new Broadcasting Act states that: The Commission may make regulations respecting expenditures to be made by persons carrying on broadcasting undertakings for the purposes of (c) - supporting participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under this Act.

The actions to be carried out further to Section 11.1(1) (c) of Bill C-10 to amend the Broadcasting Act will take time to implement. If a new funding mechanism to support public interest participation is to be introduced, it will likely take at least three years to hold the CRTC hearings, undertake consultations, and make the programs operational. Given that the BPF will run out of money in 2022 (or possibly this year), there will be a period when there will be no funding available for public interest intervenors in matters under the Broadcasting Act. In light of this, it is suggested that the Committee recommend bridge financing of \$1.5 million for the BPF to operate until such time as the new public participation framework is in place.

It is essential to the democratic process that public interest and consumer groups representing non-commercial user interests have the needed financial support to intervene before the CRTC in

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Broadcasting Participation Fund
Le Fonds de Participation à la Radiodiffusion

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broadcasting matters under the Broadcasting Act. To this end, we hope that during its review of Bill C-10, the Committee will take this matter into consideration.

Members of the BPF would greatly appreciate the opportunity to appear during the Committee's review of Bill C-10.

Yours sincerely,

A handwritten signature in black ink, reading "Robin Jackson". The signature is written in a cursive, flowing style.

Robin Jackson
Chair, Broadcasting Participation Fund

Submission to the Standing Committee on Canadian Heritage re: Bill C-10

The Broadcasting Participation Fund: An Important Support to Public Participation in CRTC Broadcasting Proceedings January, 2021

The CRTC and the Public Interest

The Canadian Radio-television and Telecommunications Commission (CRTC) was established to sustain and promote Canadian culture and to achieve key social and economic objectives. It fulfills this mandate by regulating and supervising Canadian broadcasting and telecommunications in the public interest. The broadcast spectrum is a public resource. In order for the CRTC to fulfill its mandate, it must understand the needs and interests of Canadians who make use of broadcasting and telecommunications services. To this end, the Commission holds public hearings designed to gather Canadians' views about broadcasting and telecommunications services—information that the CRTC can act on to serve the public interest. This is an intrinsic part of the democratic process in Canada. The Broadcasting Participation Fund (BPF) assists the CRTC in providing financial support to persons, groups of persons or organizations representing the public interest in proceedings before the Commission under the Broadcasting Act.

The Broadcasting Participation Fund: Enabling Public Participation

The Broadcasting Participation Fund (BPF) was set up by CRTC Decision 2011-163 to provide financial assistance to public interest and consumer groups representing non-commercial user interests and the public interest in proceedings before the CRTC in broadcasting matters under the Broadcasting Act. It is the mechanism which is in place to support public participation in the democratic process of CRTC hearings on broadcasting.

BPF Revenue Sources

In order to provide the BPF with funding with which to operate and deliver financial support to claimants, the BPF is eligible to receive contributions from other sources, including annual contributions by broadcasting distribution undertakings (BDUs) to the broadcasting system and tangible benefits resulting from transfers of ownership or control of broadcasting undertakings. To date, the BPF has been funded through significant tangible benefits from BCE and Sirius XM. BCE's funding commitments to the BPF finished in 2020. The sole source of funding that remains for the BPF is Sirius XM. Their commitment to the BPF is \$119,333 for 2021 to 2023 which is a total of \$357,999. In addition, Sirius has short paid their December 2020 payment by \$29,834 as a result of the negative effect that the pandemic has had on the auto industry. Instead, they paid \$89,449 which is 25% less than the required amount. It is unknown at this point in time if Sirius will be able to recover from the pandemic next year and make their full contribution to the BPF and make up the shortfall on the 2020 payment.

Financial Demands on the BPF

Since its establishment, the Fund has provided \$3,674,553 for 193 claims from public interest and consumer groups representing non-commercial user interest groups. In December 2020, the BPF received \$732,204 in claims which are currently in the review process. We have been made aware of two claims which will be coming from the CBC hearings which will be in the range of \$250,000 in aggregate. It is estimated that claims from the CBC hearings may total approximately \$500,000.

Bill C-10 to amend the Broadcasting Act is a major milestone as the Act has not been reformed since 1991. Of great importance is the fact that the new Act will allow the CRTC to regulate online services and have the power to require online platforms to make financial contributions towards Canadian content. The allocation of these additional contributions will draw interventions from not only from the usual public interest and consumer groups who intervene regularly but also from the film and television sectors, the music industry and groups such as the CNIB and the Canadian Federation of Library Associations. In view of the fact that the Bill proposes that the Broadcasting Act be updated to better reflect Indigenous peoples and programming, persons with disabilities, racialized communities and Canadians of diverse ethno-cultural and sexual orientations, there will be additional public interest groups who will wish their views to be heard by the CRTC.

As of December 31st, 2020, the net assets of the BPF are \$1,790,390 (see Appendix A for the financial summary). Included in this amount is \$387,832 which are scheduled to be received over the next three years from SiriusXM. Therefore, the funds available at December 31st, 2020 was \$1,402,558. Taking into account the claims that the BPF is currently processing and the two claims that we know of for the CBC Hearings, the Fund will be left with a total of \$420,358 with which to respond to the enormous demand anticipated from the CBC and Bill C-10 hearings (this does not take into account administration costs).

Based on these demands and without any future funding allocations in place, BPF funds could be depleted by the end of 2022. This means that public interest and consumer groups representing non-commercial user interests will no longer have the needed financial support to intervene before the CRTC in broadcasting matters under the Broadcasting Act.

Proposal for Bridge Financing of the BPF

Bill C-10 (section 11.1 (1)) states: The Commission may make regulations respecting expenditures to be made by persons carrying on broadcasting undertakings for the purposes of (c) - supporting participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under this Act).

The recommendations contained in Section 11.1(1) (c) of Bill C-10 to amend the Broadcasting Act will take time to implement. If a new funding mechanism to support public interest participation is to be introduced, it will take at least three years to hold the CRTC hearings, undertake consultations, and to make the programs operational. Given that the BPF will run out of money in 2022, there will be a period when there will be no funding available for public interest intervenors

in matters under the Broadcasting Act. In light of this, it is suggested that bridge financing of \$1.5 million for the BPF be provided until such time as the new public participation framework is in place.

Broadcasting Participation Fund
Fund Exhaust Calculations as at January 18, 2021

| | Note | <u>Estimated Cash Balance (Shortfall)</u> | | |
|------------------------------------------------------------------------|------|-------------------------------------------|---------------------|----------------------|
| | | <u>"Best Case "</u> | <u>"Worst Case"</u> | <u>"Most Likely"</u> |
| Net Assets (unaudited) as at December 31, 2020 as per previous summary | 1 | \$ 1,790,390 | \$ 1,790,390 | \$ 1,790,390 |
| Reduction for net asset value not yet received from Sirius XM Canada | 2 | 387,832 | 387,832 | 387,832 |
| Cash available at December 31, 2020 for future expenditures | | 1,402,558 | 1,402,558 | 1,402,558 |
| Estimated administrative expenditures for 2021 | | (120,000) | (120,000) | (120,000) |
| Sirius XM Payments in 2021 | 2 | | | |
| Sirius makes "catch up" payment for 2020 payment shortfall | | 29,833 | | |
| Sirius does not make up "catch up" payment for 2020 payment shortfall | | | - | - |
| December 2020 Claims Submission Payments | 3 | | | |
| Approved and paid at full claim amount | | | (732,203) | |
| Claims approved at reduced amount | | (318,000) | | (318,000) |
| Claims expected related to CBC hearing | 4 | | | |
| Based on our experience with previous large hearings | | | (500,000) | (500,000) |
| Claims are much lower than expected | | (350,000) | | |
| Other claims for smaller hearings | | | | |
| Range of estimate | | (100,000) | (200,000) | (150,000) |
| Projected cash available (cash shortfall) December 31, 2021 | | 544,391 | (149,645) | 314,558 |
| Sirius XM Payments in 2022 | 2 | | | |
| Sirius makes regular annual payment in early January | | 119,333 | | |
| Sirius unable to make regular annual payment in 2022 | | | - | 89,500 |
| Estimated administrative expenditures for 2022 | | (120,000) | (120,000) | (120,000) |
| Claims expected based on historical average as per previous summary | | (459,319) | (459,319) | (250,000) |
| Projected cash available (cash shortfall) December 31, 2022 | | 84,405 | (728,964) | 34,058 |
| | Note | 5 | 6 | 7 |

Notes:

- 1 There are no additional funding sources known to the BPF at this time.
- 2 The Sirius XM contribution has not all been paid yet, although the full amount has been recognized in revenue. Because of the impact of COVID on Sirius' business, they have short paid the 2020 payment and we have concerns that future payments may not be received. Total remaining receivable from Sirius at Dec 31, 2020 is \$387,832 payable in annual increments of \$119,333. Uncertainty exists as to the impact of COVID on Sirius' ability to make future payments.
- 3 In late December 2020, 7 new claims were submitted for \$732,203. Determination as to the amounts payable has not yet been made. It is possible that the claims amounts may not be approved and paid in full.
- 4 The CBC licence renewal hearing is likely to generate significant claims in 2022. To date, we know that BPF will be receiving \$250,000 of claims early in the year and we expect significantly more by mid-year.

Observations:

- 5 Even under the "Best Case" scenario, there is a strong likelihood that the fund will essentially be depleted by the end of December 2022.
- 6 Under the "Worst Case" scenario the Fund will run out of money in the later half of 2021.
- 7 Under the "Most Likely" scenario, the fund will essentially be depleted by the end of December 2022

Conclusion:

Without guaranteed future funding, the Broadcasting Participation Fund will not be able to operate beyond 2022 and if claims are higher than expected, the fund could be exhausted in 2021.

