

17 September 1993

By fax – four pages in all

Mr. Allan J. Darling
Secretary General
CRTC
Hull, Quebec
K1A 0N2

Dear Mr. Darling:

In response to Public Notice CRTC 1993 – 105, Friends submits the following three page brief. A paper version follows by mail.

Yours sincerely,

Ian Morrison
Spokesperson

enc.

“Program Fund for Canadian Programming”

CRTC Public Notice 1993-105

The Commission has proposed to permit cable television monopolies to retain a soon-to-expire capital expenditure charge upon that industry’s captive consumers provided these monopolies contribute half that amount into a Canadian production fund.

Friends of Canadian Broadcasting considers the Commission’s proposal a breach of faith with seven million Canadian households. ¹ If properly understood by consumers, the proposed action will fan general public mistrust of an important public institution, and thereby threaten public support for broadcast regulation in general, and the public good which that regulator has been designed to contribute.

Along with many other public interest groups, Friends asked the Commission in March 1993 to ensure a contribution from the cable industry’s very substantial profits for such a purpose. Instead the Commission chose to impose a ‘tax’ upon cable subscribers to promote Canadian programming – with the cable monopolies appointed as tax collectors. We have publicly described this stance as one whereby the

¹ Friends supports the dissenting views of Commissioners Colville, Gordon and Oda that denying consumers relief by eliminating the promised CAPEX sunset provisions is unprincipled. The proposal amounts to “breaking a commitment made to subscribers that the capital expenditure component of their rates would decrease after five years.”

CRTC is “enabling the industry to pick the pockets of its captive subscribers for this purpose”.

We doubt the Commission’s authority to impose such a tax. We also doubt the Commission’s authority to establish arms-length agencies to collect and dispense cable subscribers’ funds for production purposes.

When this proposal is considered in the context of the Commission’s expressed intention to deregulate cable licensees with fewer than 6,000 subscribers – thereby substantially reducing their incentive to participate in the proposed scheme – Friends projects that contributions to the proposed fund will be haphazard – some systems will collect the funds, some subscribers will pay – others will not. Overall the proposed collection of money would be neither public nor private, neither universal nor equitable. Consumers’ contributions would be idiosyncratic, based on the historical capital investment and allowable write-offs of the cable monopoly which ‘serves’ their home.

Friends also wishes to table the following comments in response to the present public notice:

1. Under no circumstances should the Commission permit cable monopolies – or their club – to exercise any direct or indirect influence or control over any form of production fund – unless they make a substantial contribution from their earnings for this purpose. Their collection of subscribers’ money for subsequent allocation into a production fund in no way qualifies them for any participation or direction in the management or control of whatever fund might emerge. ²

² Cable operators already play an inappropriate gatekeeper role with respect to access by programming services to Canadian homes. See Friends’ 5 February submission to the second round of the Structural Hearings for evidence of the inadequacy of cable’s “access guidelines” – as well as the ludicrous nature of claims that cable-sponsored groups are allowed to operate at arms-length from dominant cable interests.

2. Friends of Canadian Broadcasting has confidence in Telefilm, through its Broadcast Fund, as the Canada-wide, publicly-mandated agency with the best experience and track record to invest funds into Canadian entertainment programming production for television.³
3. To avoid costly inefficiency in the use of cable subscribers' funds, the Commission should enter into discussions with Telefilm to the end that Telefilm, through its Broadcast Fund, assume responsibility for the allocation of any resources which the Commission's proposed policy might generate.
4. Additional Canadian production will not serve the goals of the Broadcasting Act unless the resulting programs are distributed in such a fashion as to be widely available to Canadian viewers. Therefore, only Canadian projects which can guarantee a significant audience reach should be eligible for funding.
5. Consideration of the regional distribution of funds under the proposed scheme is complicated by the idiosyncratic and unpredictable nature of the geographic distribution of the forced cable subscriber contributions.
6. Canadian program production money should be invested on a current basis. Friends would oppose any proposal to reserve or retain capital in a production fund as a technique to, in the Commission's words, "ensure a future revenue stream".

³ Telefilm's Broadcast Fund [the Broadcast Program Production Development Fund] is described in detail in two Friends' research publications: *Networking* [1991] and *Split Screen* [1992]. A key advantage of Telefilm's experience is its proven capacity to get funds into the hands of productions which can achieve a substantial, Canada-wide audience. As *Networking* confirmed, Telefilm is popular with virtually all interested parties, despite occasional skirmishes over funding criteria, regional distribution and administrative overhead. This industry-wide support was underlined by an independent audit by The Nordicity Group [March 1991].

For additional information: [416] 964-0559