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Dear Leaders

### **Evidence of ongoing federal government corruption**

We write on behalf of our client Keith Mahar, to draw your attention to potentially illegal activities involving a federal agency and presently costing Canadians over a hundred million dollars annually. The activities serve to improperly enrich cable television companies.

The purpose of this letter is to:

- a. draw your attention to the issues and refer you to documentary sources of information about them, and
- b. ask for your assistance to inform Canadians about the issues.

Our client also requests you to:

- a. hold the Liberal government accountable for its refusal to act on these issues,
- b. act to stop this activity,
- c. ensure the corporations enriched by the activities compensate Canadians, and
- d. take reasonable steps to ensure it does not occur again.

Mr Mahar is prepared to offer the assistance outlined at the end of this letter to you or your party in order to achieve these objectives.

## **Background**

Our client is a Canadian citizen residing in Australia. Mr Mahar is a former insider in the Canadian broadcasting industry. He was last employed in that industry by CHUM Limited in a management position for his specialist knowledge and expertise relating to the cable television industry and its regulation by the Canadian Radio-television and Telecommunications Commission (CRTC).

Our client has extensively lobbied the federal government to initiate an investigation of improper accounting of consumer fees by the CRTC. As documented, the Chrétien government repeatedly refused to initiate an independent review of the related legal, policy and governance issues. (Please refer to Attachment A to this letter for more details.)

Mr Mahar made the decision to re-address the outstanding issues in 2004 after the release of the report by Auditor General Sheila Fraser into the federal sponsorship program.

## **Approach to the Martin Government**

On 6 September 2004 Mr Mahar submitted documented evidence of ongoing CRTC corruption to Prime Minister Paul Martin. The documentation shows inappropriate action and corruption by the federal agency, designed by cabinet appointees to unjustly enrich influential corporations. A copy of the submission to the Prime Minister is available on [www.crtcscandal.com](http://www.crtcscandal.com).

Key aspects included:

- The CRTC adopting apparently illegal regulations to enable corporations to overcharge several million Canadians for basic cable television service since 1 January 1995,
- The CRTC permitting cable television companies to misrepresent the purpose of fees to consumers. This action has resulted in cable television companies collecting more than \$1.2 billion dollars from Canadian citizens under false pretence,
- False and misleading testimony by senior CRTC officials to the Standing Committee on Canadian Heritage, for example see Record of Evidence for the Standing Committee on Canadian Heritage on 16 May 1995 and 25 April 1996,
- The CRTC distributing false and misleading information to journalists, for example see CRTC news release (CRTC Statement on Allegations of Hidden Tax) 29 March 1995, available on [www.crtcscandal.com](http://www.crtcscandal.com),
- Evidence that millions of consumers are legally entitled to rate reductions, and retroactive rate refunds (totaling more than \$1.2 billion, plus provincial sales tax, GST and interest), and

- Canadian Heritage participating in the distribution of funds to production companies that were obtained from consumers under false pretence.

Further, bureaucrats at the federal agency cannot account for several hundred million dollars of revenue obtained from consumers under false pretence. This revenue has been retained by cable television companies without any requirement to provide services or other work in return for the provision of this money, similar to dynamics of the sponsorship program.

In addition, because the corruption is financed through the artificial inflation of basic cable television rates, consumers have been forced to pay provincial sales tax and GST on top of the cost of the scheme, a total additional cost to Canadians of approximately \$200 million.

The improper CRTC accounting systems employed from 1 January 1995 to the present have also violated stated Government policy (Order in Council P.C. 1994-1689), by facilitating cross-subsidization and fostering unfair competition in the delivery of communications services to the home.

### **Purported response by Office of the Prime Minister**

In response to Mr Mahar's submission, B Funes, Executive Correspondence Officer in the Office of the Prime Minister, notified our client on 16 September 2004 that his documents were being forwarded to the Ministers of Heritage, Industry and Finance. (Please refer to Attachment B to this letter.) This material, which evidenced inappropriate or unlawful activity was not forwarded by the Prime Minister's Office to the Minister of Justice.

On 23 September 2004, Mr Patrick Tobin, Chief of Staff at the Office of the Minister of Finance, sent a letter acknowledging receipt of the material to Mr Mahar, assuring him that his correspondence would be "brought to the Minister's attention as soon as possible". (Please refer to Attachment C to this letter.) The Hon. Ralph Goodale, his office or his department have not subsequently contacted Mr Mahar.

On 2 November 2004, Mr Luc Rouleau, Director of Ministerial Correspondence Secretariat at Canadian Heritage, replied to our client on behalf of the Hon. Liza Frulla, Minister of Canadian Heritage. Mr Rouleau notified Mr. Mahar that the CRTC is an "independent body" and suggested that my client "share [his] concerns with the Secretary General of the Commission." (Please refer to Attachment D to this letter.)

To date, the Hon. David Emerson, Minister of Industry, has not contacted Mr Mahar in response to the evidence of government corruption provided on 6 September 2004.

### **Objections to the purported response**

Mr. Mahar is not satisfied with the general lack of response to these important issues and specifically with the response on behalf of Hon Liza Frulla which evades the serious issues raised. Mr Mahar's reasons for concern include the following:

- These are very serious legal, policy and governance issues with a long history and they have independent and public verification, see for example, the material contained in Attachment A to this letter and the material at [www.crtcscandal.com](http://www.crtcscandal.com).

- In any event, it is not good democratic practice for a government to entrust an agency (or any other person or body) to investigate allegations of its own corruption, and
- Mr Rouleau apparently did not read our client's submission to the Prime Minister before directing Mr Mahar to "share [his] concerns with the Secretary General of the Commission."

### **CRTC file 1000-121**

As outlined above<sup>1</sup>, Mr Mahar has already 'shared his concerns' with the CRTC in relation to the inappropriate actions and corrupt nature of the federal agency. He filed an official complaint against the CRTC on 28 November 1995, under the name Cable Watch Citizens' Association (Cable Watch). The complaint, pursuant to section 12 of the *Broadcasting Act*, was addressed by MP Dan McTeague and Mr Mahar at a Parliament Hill press conference on the same day. The Cable Watch complaint requested the CRTC to order consumer refunds totaling approximately \$100 million as well as monthly rate reductions for cable television service.

Included in the Cable Watch complaint was evidence from *Mahar v. Rogers Cablesystems Ltd*, facts and legal argument submitted to the Ontario Court (General Division) by Mr Mahar's pro bono legal team, consisting of Christopher K Leafloor, Neil Milton and J Blair Drummie. None of the facts presented to the court by Mr Mahar were disputed by the corporation in the legal case.

*Mahar v Rogers Cablesystems Ltd* resulted in two precedent-setting legal decisions:

- Rogers Cablesystems Ltd won a precedent-setting procedural decision by Mr Justice Sharpe on jurisdiction on 4 October 1995, protecting the authority of the CRTC to rule on the legal issue, subject to review by the Federal Court of Appeal. As a result, the case was dismissed purely on procedural grounds without a ruling by Justice Sharpe on the legality of the actions of the corporation and Mr Mahar's legal entitlement to a retroactive rate refund of \$2.52 per month, and a corresponding reduction in his monthly cost of his government-regulated service.
- On 30 October 1995 Justice Sharpe made a precedent-setting decision on costs in favor of Mr Mahar, a ruling that cost the monopoly cable television company \$55,485. In the view of Justice Sharpe, Mr Mahar's case was "brought on a bona fide basis and... raised a genuine issue of law of significance to the public at large."<sup>2</sup>

Due to the jurisdictional motion initiated by Rogers, Mr Mahar was forced to request the CRTC to investigate his allegations of its own unlawful activity. In response, the quasi-judicial agency adopted an unbalanced and non-transparent process to review itself. The CRTC's undue process involved the exclusion of public participation and the inclusion the Canadian Cable Television Association (CCTA) and Rogers. The federal agency

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<sup>1</sup> See Attachment A to this letter and the material at [www.crtcscandal.com](http://www.crtcscandal.com)

<sup>2</sup> *Mahar v Rogers Cablesystems Limited* (1995) 25 O.R. (3<sup>rd</sup>) 690 (General Division) Sharpe J. p705.

operated behind-closed-doors for 7 months before making its decision. Unsurprisingly, the CRTC ruled itself and the corporations involved innocent of illegal activity.

Contrary to usual principles of administrative law and democratic practice, the CRTC decision in which the agency ruled itself and corporations innocent of unlawful activity was not published. Mr Mahar has a copy of the unpublished 25 June 1996 CRTC decision (file 1000-121). A copy of the decision was provided to the Prime Minister by our client on 6 September 2004 and is available to interested parties on [www.crtcscandal.com](http://www.crtcscandal.com).

According to the CRTC's unpublished decision:

- Parliament has granted the federal agency the legal right to use basic cable television rates as a lever to raise revenues for other purposes, in this case, to raise revenue from consumers to pay for non-repayable grants to production companies, and to provide a source of revenue to monopolies for an unspecified purpose and without any requirement to provide any service or work for the revenue,
  - Citizens being required to pay the surcharge are not entitled to notice of the surcharge, its monthly cost, or its beneficiaries, and
  - It is reasonable to charge consumers grossly inequitable rates for the same purpose just because they reside in different cable television systems.

### **Cost of corruption**

At the time of Mr Mahar's first Parliament Hill press conference, cable television companies had obtained less than \$30 million from consumers under false pretence. As a result of Liberal governments' inaction, the cost of the corruption has been permitted to increase to more than \$1.3 billion, plus provincial sales tax and GST.

The total cost of the improper conduct or corruption to citizens varies by cable system and the length of time they have been cable television subscribers. The potential refund is up to \$900 per subscriber.<sup>3</sup> A document by Allan J Darling, the former Secretary General of the Commission, identifies the exact monthly cost of the improper conduct or corruption to citizens as at January 1995, on a system by system basis. A copy of the document is available upon request.

### **System reform**

Mr Mahar intends to use the information to lobby Parliament to reform the CRTC and introduce Citizen Utility Board legislation. He is also considering other courses of action available to him as a Canadian citizen.

As a result of the information provided in this letter, you are now aware of the ongoing government corruption and respectfully requested to take the steps suggested earlier in this letter to resolve this matter in the public interest.

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<sup>3</sup> Not all cable companies obtained revenue from consumers under false pretence and the amount obtained by participating corporations varies significantly between Canadian cable systems.

Given the volume of material and the specialized nature of some of it, Mr Mahar is prepared to assist you to navigate the material and provide additional information and documentation, particularly if this will assist in the upcoming election debates.

Please contact us if you are interested in more information.

Yours sincerely

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