June 25, 2026

Ambassador Jamieson Greer
United States Trade Representative
Office of the United States Trade Office
600 17th Street NW
Washington, DC 20508

Dear Ambassador Greer:

Open Letter to U.S. Trade Representative re: The File 1000-121 Affair and Discrimination Against American Companies by the CRTC

I am writing this open letter to publicly address that American online streaming companies are being discriminated against by the Canadian Radio-television and Telecommunications Commission (CRTC).

In short, the American companies are being discriminated against by the CRTC, as they are being required to start subsidizing Canadian program production companies under less favourable terms than the CRTC provided to several prominent domestic companies, including Rogers Communications Inc. (Rogers).

Newspaper articles available on Factiva, the Dow Jones & Company's global news and business database, identify that I am a former Canadian broadcasting industry insider.

In addition, it is matter of public record that I have long advocated for an investigation into systemic corruption and regulatory capture at the CRTC, connected to cable TV companies and funding for 'Canadian programming' through the Canada Media Fund, and that my advocacy has resulted in questions in Parliament under two different administrations.[1]

Furthermore, I am currently a shareholder of Apple Inc., Comcast Corp., Netflix Inc., Paramount Skydance Corp., and Warner Bros. Discovery Inc. Consequently, I am a direct stakeholder in the case of discrimination by the CRTC.

At issue is how Canadians have been forced — without their knowledge — to unjustly enrich cable TV companies and subsidize Canadian program production companies. I refer to this case of systemic corruption and regulatory capture as "the File 1000-121 Affair".

For the sake of transparency, I am only providing this information to you due to the failure of Canadian politicians to initiate a public investigation into the File 1000-121 Affair, including Justin Trudeau while he was prime minister.

I am including a number of hyperlinks in this correspondence, including to copies of primary source documents that were formerly stored in CRTC File 1000-121, which I have uploaded to a document archive on keithmahar.com.

[1] Questions on March 30, 1995 by MP Jan Brown (Reform) and February 8, 2008 by MP Libby Davies (NDP).

Destruction of File 1000-121 and documents by CRTC

On January 5, 2006, lawyer Paul Armarego, on my behalf, notified Canadian political leaders about my allegations of corruption at the CRTC.

As documented, Mr. Armarego specifically identified the existence of CRTC File 1000-121, and an unpublished decision made by the CRTC, in connection to my allegations of corruption: (Notice, January 5, 2006) and attachments (A), (B), (C) and (D).

The CRTC destroyed its File 1000-121, and all of the documents that were stored in this file, on March 27, 2006 (CRTC, October 11, 2007).

However, I have copies of the File 1000-121 documents destroyed by the CRTC, including the original signed decision by the CRTC, which was not published.

File 1000-121 was opened by the CRTC in response to an official complaint to the CRTC, alleging unlawful activities by the Commission and cable TV companies, filed by lawyer Christopher K. Leafloor, on behalf of Cable Watch Citizens' Association (Cable Watch).

Mr. Leafloor, Neil Milton and J. Blair Drummie provided me with pro bono legal services in a strategic legal case that I initiated to challenge the case of CRTC corruption, trying to expose it to proper public scrutiny (Mahar v Rogers Cablesystems Ltd.).

I established Cable Watch following the legal case, given the precedent-setting decisions by Justice Robert J. Sharpe on jurisdiction and costs.

The File 1000-121 Affair and Justin Trudeau

On February 17, 2016, I sent an open letter to then Prime Minister Justin Trudeau, along with a research report into the governance matter, and copies of three key File 1000-121 documents, including the unpublished CRTC decision: (Open Letter, February 17, 2016); (One Media Law, August 17, 2015); (Cable Watch, November 28, 1995); (Cable Watch, May 20, 1996); and (Unpublished CRTC File 1000-121 decision, June 25, 1996).

Mr. Trudeau did not initiate an investigation into the matter.

To the contrary, Mr. Trudeau's government increased the authority of the CRTC, by enacting the *Online Streaming Act*.

In turn, officials at the CRTC ordered American online streaming companies to start to subsidize the operations of Canadian program production companies, resulting in legal challenges before Canada's Federal Court of Appeal, as well as the recent introduction of the Protecting American Streaming and Innovation Act by Representative Lloyd Smucker.

Open Letter to U.S. Trade Representative Robert Lighthizer

By mid-2018, Mr. Trudeau's failure to initiate an investigation into the well-documented case of corruption and regulatory capture at the CRTC was the final straw for me; he was the fourth prime minister to turn a blind eye to facts related to the File 1000-121 Affair.

As a result, I adopted a strategy to try to have Canadians informed about the matter by the U.S. government, in the interest of American companies and their shareholders. To that end, I provided information about the File 1000-121 Affair to the attention of then U.S. Trade Representative Robert Lighthizer: (Submission, August 30, 2018), with a press release distributed the next day (PR Newswire, August 31, 2018).[2]

Although Mr. Lighthizer did not address the issues I raised in the submission, one element of it was published in the *Hollywood Reporter*.

> But Keith Mahar, a public interest advocate with One Media Law, is backing the American negotiating stance as he argues Canada has unfairly exploited the cultural industries exemption in NAFTA to protect private media interests at home.
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> "Canadians have been required, without their knowledge, to subsidize private companies to produce television programming, including television programs without any cultural benefit to Canada that have competed unfairly against American companies in the U.S. and international markets," Mahar argued in an Aug. 30 letter sent to U.S. Trade Representative Robert Lighthizer and obtained by *THR*.[3]

By contrast, no Canadian news organization reported about my submission, or the issues I raised. However, the silence by Canadian journalists did not surprise me.

To the best of my knowledge, no mainstream Canadian news organization has ever reported the questions raised in Parliament about the File 1000-121 Affair that I formerly generated.

CRTC notified of its discrimination against American companies

On June 4, 2024, the CRTC announced its decision to require American online streaming companies to start to contribute 5% of their annual Canadian revenues in order to subsidize the operations of Canadian media companies.

I subsequently notified officials at the CRTC that its requirement discriminates against the American companies (Submission, January 20, 2025), due to its preferential financial treatment of Canadian cable TV companies.

In that submission, I quoted Steven Globerman, Hudson N. Janisch and W.T. Stanbury — three Canadian content (Cancon) experts — regarding their assertion that most economists consider that Cancon regulations are a means by which Canadian media companies use the power of the state to redistribute income to themselves.

> It must be emphasized that *none* of the many regulations to which broadcasters (or other "distribution undertakings") are subject seek to specify the themes, subject matter or *substantive* content of program material. "Canadian" programs are simply those that are produced by persons who are Canadian citizens. It is for this reason that most economists think of Cancon regulations as "boiling down" to yet another case of a small, well-organized group using the power of the state to redistribute income to themselves.[4]

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[2] PR Newswire. (August 31, 2018). One Media Law's Keith Mahar alleges to US Trade Representative that Canada has unfairly exploited the cultural industries exemption in NAFTA.

[3] Vlessing, E. (September 9, 2018). Canada Won't Deal on Media in NAFTA Talks, Says Justin Trudeau, *The Hollywood Reporter*.

[4] Steven Globerman, Hudson N. Janisch and W.T. Stanbury. (1996). Convergence, Competition and Canadian Content in *Perspectives on the New Economics and Regulation of Telecommunications*, p. 217. Institute for Research on Public Policy, Montreal.

The three professors address that CRTC regulations do not require that a 'Canadian program' has anything to do with Canada, or to promote Canadian culture in any way.

> "Canadian" programs are those produced by Canadian citizens in the sense that certain positions must be held by Canadians, and 75 percent of the total remuneration for post-production work must go to Canadians. In other words, "Cancon" is not – legally speaking – about thematic content at all. It is about the *citizenship* of the persons who made the program. Anything produced by a group of Canadian citizens is "Cancon" regardless of its substance. In other words, if a group of Canadians made a program about South American iguanas, the history of the Albanian labour movement, Pathet Lao folk songs, the arms of Teutonic knights, medieval Spanish poetry, moon rocks, the works of a 14th-century Chinese author, the voting laws of South Australia or Pol Pot's political philosophy – all would be classified as "Canadian" in terms of the regulatory requirements.
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> On the other hand, if a group of former Canadian citizens made a program dealing with the political philosophy of Sir John A. Macdonald, the ranching culture of southern Alberta, the spiritual life of Mackenzie King, the rise of the PQ, any of Pierre Burton's books about Canada, the history of the CBC and CRTC, the growth of minor league hockey on the Prairies, the life of professional nationalist Melville Watkins, the League for Social Reconstruction, the hobbies of John Diefenbaker or the childhood of Jean Chrétien – none would qualify as "Canadian programs." Therefore, it is not "Cancon" that is being subsidized, it is those Canadian *persons* who chose to make their living producing (using the term broadly) material that is broadcast on radio and TV stations or distributed on cable-TV operations in Canada.[5]

Clearly, the term 'Canadian program' is misleading.

- **Preferential treatment of cable TV companies in Canada**

The CRTC requirement for the American companies to start contributing 5% of their annual broadcasting revenues earned in Canada to subsidize the operations of Canadian media companies is discriminatory, because the American companies are not being unjustly enriched by the CRTC in the process, a profit incentive that the CRTC provided to large Canadian cable TV companies.

The origin of the existing 5% contribution requirement for Canadian cable TV companies is central to the File 1000-121 Affair, starting with the CRTC enacting a regulation that is totally unique in all democratic nations around the world,[6] hereinafter referred to simply as "Regulation 18(6.3)".

Regulation 18(6.3) reinforces the assertion by Nobel laureate Joseph Stiglitz that: "Those at the top have learned how to suck out money from the rest in ways that the rest are hardly aware of – that is their true innovation."

Regulation 18(6.3): Unjust enrichment and "government-regulated fraud"

Regulation 18(6.3) was enacted by CRTC officials while Canadian cable TV companies were still monopolies, controlled by some of the wealthiest citizens in the country, including Edward Samuel (Ted) Rogers, James Robert (JR) Shaw, André Chagnon and Henri Audet.

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[5] Steven Globerman, Hudson N. Janisch and W.T. Stanbury. (1996). Convergence, Competition and Canadian Content in *Perspectives on the New Economics and Regulation of Telecommunications*, pp. 240-241. Institute for Research on Public Policy, Montreal.

[6] Subsection 18(6.3) of the *Cable Television Regulations, 1986*: SOR/94-133. Enacted into law on January 25, 1994, *Canada Gazette*, Part II, Vol. 128, No. 3, p. 995, at pp. 999-1000.

Regulation 18(6.3) allowed cable TV companies to charge millions of Canadians a premium each month for their CRTC-protected monopoly service, on the sole condition that 50% of the artificially inflated rate was *voluntarily transferred* to a fund: a fund providing non-repayable grants — free money — to Canadian companies producing so-called 'Canadian programming', programming sold domestically and internationally.

Furthermore, these CRTC officials did not require that the 50% of the revenue obtained from the Regulation 18(6.3) and retained by the cable TV companies be accounted for by the monopolies to the CRTC, or to be spent on anything to do with cable TV.

As a result, Regulation 18(6.3) served to unjustly enrich Canadian cable TV companies, facilitate the cross-subsidization of other businesses, and foster unfair competition.

Consider the example in January 1996 for the cable TV monopoly in Newmarket, Ontario: owned by Rogers. As reported to me 30 years ago by the then Access to Information and Privacy Co-ordinator at the CRTC, Regulation 18(6.3) granted Rogers the option of choosing between two entirely different monthly rates to charge for its monopoly service that month, either $17.61 or $22.65 — $5.04 more — a 28% premium (CRTC, January 19, 1996).

All Rogers had to do to charge its subscribers the extra $5.04 was *voluntarily donate* $2.52 for all of its basic subscribers in Newmarket to a fund subsidizing the operations of Canadian program production companies.

Not surprisingly, Rogers opted to *donate* to the production fund and charge its subscribers the $22.65 rate, pocketing $2.52 per subscriber without the requirement of doing anything else for the extra revenue: an unjust enrichment provided by the CRTC.

Far more damning, however, CRTC officials permitted Rogers to collect the $5.04 premium under false pretence.

The Canadians paying the premium for their monopoly service were never notified about Regulation 18(6.3) by Rogers.

In fact, Rogers had notified these people that the $5.04 was only being charged to help pay for equipment that was needed to provide their basic cable TV service, a completely different purpose. I have publicly described this deceptive method of collecting the Regulation 18(6.3) premium as "government-regulated fraud."[7]

After I started campaigning for an investigation into the scheme, the CRTC superseded Regulation 18(6.3) in name, but kept the monthly cost of the regulation to Canadians in place. The CRTC simply modified the amount paid each month to a fund subsidizing the Canadian program production companies — adopting the current 5% of the cable TV company's revenue — and changed the voluntary nature of Regulation 18(6.3) to a requirement in its regulations, which continue today.

Since the American online streaming companies are being required to pay 5% of their annual revenues earned in Canada for the same purpose, but are not being unjustly enriched by the CRTC in the process, these companies are being discriminated against by the CRTC.

[7] Mahar, K. (June 13, 2008). Canadian Television Fund: A Convenient Deception, *Canada Free Press*.

Importantly, Canadian companies have also been disadvantaged by the CRTC allowing the cable TV companies to subsidize other business interests through Regulation 18(6.3).

Two days after the Cable Watch complaint was filed to the CRTC — resulting in it creating File 1000-121 — the Public Interest Advocacy Centre (PIAC) sent a letter to the then Minister of Canadian Heritage, stating: "While we advance no position with respect to the merits of the jurisdictional concerns raised, we believe that they are of such importance that the government should swiftly take steps to initiate an independent review of Mr. Mahar's complaints and to take appropriate action if necessary" (PIAC, November 30, 1995).

In addition, PIAC addressed the fact that Regulation 18(6.3) was forcing ordinary cable TV subscribers "to pay for cable investments to facilitate the delivery of services enabled by video compression", despite a government report stating that the cost of broadband interactive communications systems should be paid for by companies willing to bear the financial risk of such investments, before stating: "It is difficult to imagine how the current circumstances, where all cable subscribers are paying for future services capabilities which they may neither want nor need, is in keeping with the principles of this report".

The government did not initiate an independent review into the matter, which may be explained by an earlier submission from Friends of Canadian Broadcasting, when the organization condemned Regulation 18(6.3), before officials at the CRTC turned it into law (Friends, September 17, 1993).

> Friends of Canadian Broadcasting considers the Commission's proposal a breach of faith with seven million Canadian households. 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.
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> 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 anointed as tax collectors. We have publicly described this stance as one whereby the CRTC is "enabling the industry to pick the pockets of its captive subscribers for this purpose."
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> 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.[8]

I hope that you will publicly address the File 1000-121 Affair for America companies and their shareholders, so that Canadians can better understand the Canadian government.

Sincerely,

Keith Mahar
PO BOX 108
Mawson ACT 2607
Australia

cc: The Right Honourable Mark Carney, Prime Minister of Canada

[8] Friends of Canadian Broadcasting. (September 17, 1993). Program Fund for Canadian Programming, pp. 1-2.