



Broadcasting Public Notice CRTC 2004-38

Ottawa, 8 June 2004

Proposed measures to ensure that French-language Canadian drama remains a key component of peak time viewing – Call for comments

The Commission seeks comments on proposed incentives to ensure that quality, original, French-language Canadian drama remains a key component of peak time broadcasting by French-language television licensees.

In Proposed incentives for English-language Canadian television drama – Call for comments, Broadcasting Public Notice CRTC 2004-32, 6 May 2004, the Commission sought comment on a proposed package of incentives designed to increase the expenditures on, and the production of, high quality, original, Canadian drama broadcast by English-language television licensees, and to encourage increased viewing to such programming.

Background

1. In *Support for Canadian television drama – Call for comments*, Broadcasting Public Notice CRTC 2003-54, 26 September 2003 (Public Notice 2003-54), the Commission sought comment on the steps it might take to encourage the production and broadcast of more high quality, original, English-language Canadian drama capable of attracting larger audiences. The Commission also sought comment on possible measures to ensure that high quality, original, French-language Canadian drama remains a key component of peak time viewing. Specifically, the Commission asked the following questions:
 1. What are the most important elements necessary to ensure an appropriate quantity of original Canadian drama on English-language television, and to attract larger audiences to such programming?
 2. How effective are regulatory requirements, or regulatory incentives, in achieving the objectives of increasing the amount of original, English-language drama programming and attracting larger audiences to that programming?
 3. If regulatory requirements, or incentives, can be effective tools in fulfilling the Commission's objectives, what specific proposals should the Commission adopt?
 4. While it is generally considered that the most pressing problems concern English-language drama, there are concerns that French-language drama may not remain as healthy in the future. How can the Commission help to ensure the continued production of popular, original, French-language drama? What

specific requirements, or incentives, designed to support English-language drama, may affect French-language drama? Should the Commission develop separate and distinct regulatory regimes, or incentive programs, for the two linguistic markets?

2. In addition to the above questions, the Commission indicated in the public notice that it was prepared to consider the following specific matters:

- possible changes to the CRTC definition of drama where such changes could further the objectives of this proceeding;
- measures that may encourage specialty services to play a greater role in the creation and presentation of Canadian drama;
- the Nordicity Report's¹ analysis of certain incentives; and
- the choice of the fairest and most effective audience measurement tools that might be used to determine the success of individual Canadian drama programs.

3. In that public notice, the Commission further sought:

- details concerning the financing of Canadian drama that would assist the Commission better understand what can reasonably be expected of Canadian broadcasters, given their own resources and the resources available in the rest of the system; and
- data and comments on the problems related to the future of French-language Canadian drama.

4. In Public Notice 2003-54, the Commission noted that it might call for further submissions if it considered that additional information was necessary.

5. In the present public notice, the Commission reviews the comments that it received in response to Public Notice 2003-54 addressing French-language Canadian drama and seeks comment on the incentives designed to fulfil the following objective:

to maintain, within the programming broadcast during peak time by French-language television licensees, a proper balance of original French-language drama, including a minimum number of high-cost programs or series.

6. The proposals set out in this public notice apply only to French-language Canadian drama. The Commission issued another public notice, *Proposed incentives for English-language Canadian television drama – Call for comments*, Broadcasting Public Notice

¹ *Evaluation of the 'Dramatic Choices' Report: Economic Considerations of Certain Audience-based Incentives*, Nordicity Group Ltd., September 2003.

CRTC 2004-32, 6 May 2004 (Public Notice 2004-32) to examine the submissions addressed to the first three questions contained in Public Notice 2003-54, announcing a set of proposed incentives specifically designed to fulfil its objectives with respect to English-language Canadian television drama.

Review of the comments received in response to Public Notice 2003-54

7. The Commission received a total of 301 submissions in response to Public Notice 2003-54. The majority of these addressed issues related to English-language drama and expressed agreement with the importance the Commission places on Canadian drama. Many suggested specific actions that could be taken to support the production and broadcast of such programming. A few comments argued that market forces should be permitted to play a greater role in broadcasting policy.
8. A dozen submissions focused mainly or exclusively on issues related to French-language drama. These submissions were filed mainly by broadcasters, producers, associations and unions. Their comments are examined in the following sections.

Summary of interventions – French-language Canadian drama

9. The Commission notes that there was a broad consensus in the interventions addressing Canadian French-language drama. These interveners submitted that a different approach is required for the French- and English-language markets, given the differences in their respective dynamics.
10. Some interveners asked the Commission to be prudent and ensure that any potential incentive directed at French-language drama not disrupt the overall balance (diversity in programming categories) of Canadian programming offered by the French-language broadcasting system.
11. A summary of the other key elements of the submissions to the Commission is set out below:

Groupe TVA inc.

- Conventional private French-language broadcasters already make an exceptional contribution to the success of Canadian programs. As a result, rather than increasing their regulatory burden, they should be given greater flexibility.
- The definition of prime time should be revised by expanding the peak viewing period in order to offer a broader range of quality Canadian programs in the evening.
- The Canadian government should pay the Canadian Broadcasting Corporation (CBC) the appropriate monies directly, and the Canadian Television Fund (CTF) should support the efforts of private broadcasters in fulfilling their obligations and achieving the objectives set by the Commission with regard to the creation, broadcasting and promotion of priority Canadian programs.

TQS inc.

- The definition of drama programming in Category 7 should be reviewed and made more flexible to include new television genres, particularly hybrid genres.
- The 150% credit system for dramas, which applies only to the larger groups, should be reviewed and corrected to ensure that the time credit for dramas applies equally to all television broadcasters.
- The peak viewing period, which is currently between 7:00 p.m. and 11:00 p.m., should be extended to start sooner and end later.

CBC

- The CBC may no longer be able to produce so-called high-cost dramas. Private broadcasters will think twice before taking a financial risk, and Francophone viewers could therefore be deprived of this type of production. Maintaining a competitive funding environment that will continue to be available within the industry poses a long-term problem.
- New funding sources should be identified for high-cost productions by reviewing private production funds that would support the production of distinctive programs.
- The distinctive role of the CBC should be recognized by granting it a separate budget allocation with its own set of specific rules.
- Reality programming should not receive public funding. Granting public funding to reality programming would deprive drama productions of that funding, which would only make matters worse for authentic Canadian drama that is already short of funding.

Télé-Québec

- In order to ensure that reality programming does not take up too much of the program schedule, it should not be categorized as priority programming.

TVOntario (TFO)

- The Commission should implement mechanisms and incentives that would encourage the production and broadcasting of high quality drama programs.
- The CTF should amend its funding procedure to reflect the regional distribution of Canada's Francophone population. Since 15% of Francophone Canadians live outside Quebec, not less than 15% of the French-language funding envelope should be allocated to Francophone producers and broadcasters in minority markets.

Astral Media inc. (Astral)

- Astral is not convinced that the Commission needs to amend its definitions and policies to solve a “problem,” the existence of which has yet to be proven.
- If incentives for creating and broadcasting French-language drama are introduced, they should be designed to apply fairly to all programming services. It would be inappropriate to immediately allow all specialty services to air dramas in the peak viewing period, because that could increase pressure on the various funds and public support programs and dilute resources.

The Association des producteurs de films et de télévision du Québec (APFTQ) requested that the Commission:

- introduce incentives for creating and broadcasting Canadian drama aimed at youth, in order to create conditions that will induce tomorrow’s Canadian adult viewers to develop a taste for made-in-Canada drama programming;
- require that conventional private French-language networks comply with the policy regarding weekly prime time broadcasting of Canadian priority programming and ensure that at least 60% of priority programming is drama programming;
- publish each year data on Canadian drama expenditures by the CBC’s French- and English-language networks. The CBC French-language network should be required to meet the objectives it set in the financial forecasts submitted at its last licence renewal;
- ensure that specialty services that operate within a fiction/drama niche be required to devote to original Canadian drama a percentage of their total spending on Canadian programming that is proportional to the percentage of drama in their programming;
- explore the question of theatrical feature films and the role that pay and pay-per-view television, as well as general interest television, should play to encourage their creation and broadcast; and
- encourage the growth co-productions within Canada, the use of “double shooting of programs,” participation in the funding, and the acquisition of rights by conventional broadcasters in both language markets, such as sharing windows among services.

The Société des auteurs de radio, télévision et cinéma (SARTEC) requested that the Commission:

- require that all larger television groups be treated equitably;
- ensure that reality programs be excluded from priority programming;
- focus efforts on the small number that specialize in Canadian drama, even if the obligation to present original drama continues to fall almost exclusively on conventional television;

- create specific drama-related requirements for conventional television and specialty services by requiring that conventional television services air a minimum of five hours of drama per week and by imposing specific conditions on specialty services;
- consider TQS as a larger group within the meaning of the television policy. This new requirement should be imposed by regulation. However, the Commission could reach an agreement with TQS requiring it to broadcast an increasing volume of Canadian drama up to 1 September 2008; and
- ensure that CBC stations comply with the commitment to broadcast 7 hours of drama programming each week, including 5.5 hours in the peak viewing period.

The Union des artistes (UDA) requested that the Commission:

- impose the same requirements on TQS as are imposed on TVA. TQS should be required to broadcast an increasing volume of Canadian drama up to 1 September 2008;
- require TVA to return to broadcasting an average of 5 hours of drama programming each week, 80% of which should be original programming;
- ensure that the CBC complies with its existing requirement to broadcast 7 hours of drama each week, including 5.5 hours in the peak viewing period, taking into account the level of drama drawn from category 7(a);
- exclude reality programming from the definition of long-form documentary and ensure that it does not benefit from financial incentives;
- provide assistance for the creation of drama programs aimed at youth; and
- require the CBC to maintain its presence in the production of quality drama programming and further re-balance its offerings, in view of the fact that the decline in public television viewing threatens to disrupt the balance of the broadcasting system.

The Mouvement des artistes de la scène de la Capitale (MASC).

- MASC stated that, in order to create more drama, drama production must be decentralized and diversified, and must be particularly encouraged in the city of Québec.

Commission's preliminary view

12. The Commission recognizes the need for an approach for the French-language market that takes into account the particular realities of this market by developing measures aimed at maintaining a proper balance of original Canadian French-language drama. Such an approach need not preclude consistency between the measures proposed to meet the needs and objectives of the French-language market and those proposed to meet the needs of the English-language market.

13. The Commission also recognizes the important role of public funding in the production of Canadian drama. Public support, whether in the form of tax credits, equity investment or grants from federal and provincial governments, makes possible the production and broadcast of drama programs that the market simply cannot support on its own. Consequently, the Commission is in favour of the new approach taken by the CTF and Telefilm Canada, which establishes the budget envelopes for French-language broadcasters based on their past performance. The Commission encourages the CTF and Telefilm Canada to maintain the necessary distinctions among programming genres and thus maintain a proper balance of peak time original drama broadcasts by Canadian French-language broadcasters. In the Commission's view, a public policy supporting Canadian television programs must also, wherever possible, seek to attract the maximum number of viewers.
14. Although the government, not the Commission, determines the level of public funding that is set aside for Canadian drama, the Commission is cognizant of the role it plays in the creation of private production funds and of the important contribution that broadcast distribution undertakings make to the CTF as a result of the Commission's regulatory requirements.
15. The Commission appreciates the comments submitted during the first phase of this proceeding. The submissions have been helpful in assisting the Commission in the development of the policy proposals that it now sets out for further public comment. In the following sections, the Commission announces its preliminary determinations on those issues that were central to the Commission's analysis, including:
 - the importance of drama programming
 - defining Canadian drama
 - defining "original" hours
 - drama directed to children
 - drama earning less than 10 Canadian content points
 - the effectiveness of regulatory requirements
 - the effectiveness of regulatory incentives
16. The Commission has reviewed the following incentives aimed at maintaining a proper balance of original French-language drama programming during peak time, including a minimum of high-cost programs or series:
 - extending the peak viewing period
 - granting time credits for Canadian content
 - permitting additional advertising minutes

The importance of Canadian drama programming

17. As noted in Public Notice 2003-54, drama is the most popular programming on television. Peak time French-language drama programs regularly attract a million viewers, and the top shows often attract two to three million viewers. English-language producers and broadcasters rarely reach these numbers, despite their access to a much larger audience.
18. As indicated in Table 4 set out in Appendix A, according to Fall 2002 Bureau of Broadcast Measurement (BBM) data, viewing to Canadian drama accounted for 52% of all viewing to drama on French-language services. In contrast, in the fall of 2002, viewing to Canadian drama accounted for only 11% of all viewing to drama broadcast by English-language services.
19. The production of quality drama programs requires more creative, technical and financial resources than any other genre of television programming. Drama production trains, develops and employs Canadian writers, actors, directors, editors, technicians and other key creative individuals. In 2003, the total value of Canadian drama production exceeded one billion dollars.
20. The Commission notes that, as indicated in Table 1 set out in Appendix A, the percentage of total revenues spent on French-language drama programming increased by 7.8% between 1998 and 2002, and increased significantly in 2003. Contributing to the significant increase in 2003 was \$10 million that came from the CBC and \$5 million in tangible benefits flowing from the transfers of ownership of TVA and TQS. An examination of the increase in expenditures on drama in relation to total revenues reveals an increase of 3.2% in drama expenditures between 1998 and 2003. Given these figures and the viewer data for French-language drama, the Commission's objective is not to solve a problem, but to ensure that conventional French-language broadcasters continue to make a significant contribution to the production of original drama.
21. In the last two years, with the introduction of new types of television programming that, like drama, are capable of attracting large audiences, the peak time programming schedules of conventional private broadcasters have changed. In his May 2003 report to the Commission, Guy Fournier stated [translation] "Though reality TV is nothing new, in recent years, it has begun to take off, and since the start of the 2002-2003 season, it has become a shattering reality in Quebec."
22. Despite this phenomenon, Canadian drama programs are still one of the key scheduling drivers for conventional French-language broadcasters. However, an analysis of commitments by conventional French-language broadcasters for the production of original Canadian French-language drama, as indicated in Tables 2 and 3 set out in Appendix A, reveals that the number of series and number of hours produced has been declining since 2000. As indicated in Public Notice 2003-54, in the four years following 1998-1999, and despite high audience numbers, Canadian drama broadcast by the CBC French-language services (CBFT-TV Montréal) and by TVA (CFTM-TV Montréal) has

decreased by approximately 51 hours. This downward trend in production could result in a decrease in the broadcast of original peak time television drama during upcoming seasons.

Defining Canadian drama

23. In Public Notice 2003-54, the Commission set out its definition of drama (Category 7) and indicated that it would consider proposals to change the current definition if such changes could further the objectives of the proceeding.
24. Almost all of those who commented on the current definition said that it should be retained. The CFTPA, however, considered that the definition has become too broad and recommended the elimination of subcategories 7(f) Comedy sketches, improvisation, unscripted works, stand-up comedy, and 7(g) Other drama. In the CFTPA's view, these subcategories lack certain essential components of traditional drama programming, "...such as scripted storyline, characterization, dialogue and action, gesture, costume and scenery." In addition, the CBC submitted that the definition of a drama program must "explicitly exclude programs such as reality television productions."
25. TQS proposed that the definition of drama provided in Category 7 should be reviewed in order to allow for more flexibility, particularly for new genres of television programs such as hybrid genres.

Commission's preliminary view

26. Based upon the widespread support in the comments received for retention of the current definition of drama, the Commission does not propose to make any change. With respect to the CFTPA's comments, however, the Commission notes that subcategories 7(f) and 7(g) do not qualify for the dramatic time credit incentive set out in *Implementation of TV Policy*, Public Notice CRTC 1999-206, 23 December 1999 (Public Notice 1999-206). In the Commission's view, any other incentives designed to support Canadian drama should continue to apply only to those programs in subcategories 7(a) to 7(e).
27. The CBC and several other interveners that addressed French-language drama recommended that "reality television productions" should be excluded from the definition of drama. In this regard, the Commission notes that reality TV is included in the description for Category 11 General entertainment and human interest. While reality television may raise questions of overlap with other program categories, it has never been considered as Category 7 Drama.
28. With respect to the TQS proposal, the Commission is of the view that it does not have sufficient information on these new television genres and hybrid genres, in particular, to analyse this issue.

Defining “original hours”

29. One of the Commission’s objectives identified in Public Notice 2003-54 is to increase the amount of original hours of English-language Canadian drama. The Commission also sought comments on measures for ensuring that original, quality Canadian French-language drama remains a key component of peak time viewing. The Commission tracks original programs and repeats through its logging requirements. Licensees must identify whether a given program is:
- a live program;
 - a recording of a live program (first play);
 - other recorded program (first play); or
 - a repeat broadcast of one of the three types of programs noted above.
30. For the last decade, most licensees have not been required, either by regulation or by condition of licence, to broadcast specific quantities of “original” or “first run” programming. The regulatory requirements for Canadian content and current conditions of licence with respect to priority programming make no distinction between original and repeat hours. With respect to Canadian drama, the Commission has taken the view in recent years that broadcasters are best positioned to determine the appropriate balance between original and repeat programs.
31. A number of comments, addressed to both linguistic markets, proposed that the Commission return to the practice of regulating original hours. One request by the UDA asked the Commission to review specific requirements regarding the number of hours of drama broadcast by TVA. The UDA stated that 80% of those hours should be original.

Commission’s preliminary view

32. The Commission is of the view that there should be an increased emphasis on original hours of Canadian drama. However, it considers that there is a need for greater clarity in the definition of “original.” In “*First Run*” *Television Programming*, Public Notice CRTC 1988-197, 30 November 1988, an original, first run program was defined as a “program which has never before been distributed by any licensee of a broadcasting undertaking and which will be distributed for the first time by the licensee.”
33. The Commission seeks comment on whether the above definition is appropriate in the context of regulatory action to support the production of more original, English-language drama, and to maintain the level of original French-language drama productions. Parties may wish to propose alternative definitions and should provide reasons for any different approach.

Drama directed to children

34. A number of comments focused on the need for the Commission to provide support for Canadian drama that is directed to children (i.e., those aged 2 to 12). Some noted that, prior to the publication of *Building on Success – A Policy Framework for Canadian*

Television, Public Notice CRTC 1999-97, 11 June 1999 (the 1999 TV Policy), children's drama broadcast during children's viewing hours could claim a 150% time credit. In 1999, the policy changed so that only qualifying drama programs broadcast between 7:00 p.m. and 11:00 p.m. were entitled to the new credit. As a result, most children's drama programs were no longer eligible for the time credit.

35. For the French-language market, the APFTQ and UDA suggested that the Commission consider incentives for creating and broadcasting Canadian drama programming for youth.

Commission's preliminary view

36. The Commission recognizes that drama directed towards children continues to be an important and successful genre of Canadian programming. High quality children's drama contributes as much to the fulfilment of the Act's objectives as any other type of drama. If children are exposed to attractive television drama programs that reflect their own values and realities, it is reasonable to expect that they will be more likely to continue as viewers of adult Canadian drama. The Commission also recognizes that animation, an area in which Canadians have excelled, is a sub-genre of drama with particular appeal to children.
37. In light of the above, the Commission proposes to include, as part of any incentive to support Canadian drama overall, original Canadian drama directed towards children in subcategories 7(a) to 7(e) when such programs are broadcast at times appropriate for children.

Drama earning less than 10 Canadian content points

38. In *Certification for Canadian Programs – A revised approach*, Public Notice CRTC 2000-42, 17 March 2000, the Commission announced that it had revised the point system it uses for the certification of Canadian programs. Conditions of licence with respect to Canadian drama programs are not limited to programs that achieve the full 10 Canadian content points. Licensees are able to fulfil conditions of licence by broadcasting Canadian drama programs that earn a minimum of 6 points. The 150% time credit for Canadian drama, however, is limited to 10-point drama programs.
39. Most of those who commented on this subject, and particularly those who addressed English-language Canadian drama, proposed that incentives should apply only to 10-point drama programs. Global proposed that, if an incentive based upon extra advertising minutes were to be considered, dramas earning a lower number of points should be included, although with a reduced benefit, such as 30 seconds of additional advertising rather than a full minute. Global noted that these dramas, "... provide valuable experience and international track records for Canadian creative and craftspeople without creating additional pressure on public funding mechanisms."

40. This issue was not specifically covered by the interveners addressing the French-language market.

Commission's preliminary view

41. In the Commission's view, the primary focus of any action to support Canadian drama should be on those programs achieving 10 points. It is these programs that are most likely to tell Canadian stories and reflect Canadian values and realities. Nevertheless, the Commission recognizes that there is merit in supporting the production of some lower point count dramas. Further, the Commission considers that any regulatory incentives should minimize pressure on public funding mechanisms. Accordingly, in Public Notice 2004-32, which addresses English-language drama, the Commission proposes providing modest support for 8- and 9-point dramas, as a means of offering producers an alternative to CTF funding.
42. With respect to 8- or 9-point Canadian French-language dramas, the Commission does not have enough information to conclude that incentives for these programs would be appropriate.

Effectiveness of regulatory requirements

43. In Public Notice 2003-54, the Commission asked interested parties to comment on the effectiveness of regulatory requirements, such as regulations or conditions of licence, and on regulatory incentives, in achieving the Commission's objectives with respect to Canadian drama.
44. Broadcasters opposed any return to the regulation of drama hours or expenditures. The CAB noted that the 1999 TV policy, which removed requirements for drama hours and expenditures, was established following an extensive public process. In the CAB's words, "... this policy framework is still relatively new, and should therefore be given more time to have an impact before substantive evaluation is undertaken." With respect to the effectiveness of regulatory requirements, the CAB noted that a volume-centred approach is "unlikely to succeed in building audiences for English Canadian drama."

Commission's preliminary view

45. The Commission notes that regulatory measures are effective in ensuring minimum performance levels by licensees. The Commission's Canadian content regulation is an example of a necessary and effective quantitative requirement. These measures work best when the regulatory requirement is clear, measurable and within the direct control of the licensee. Prior to the 1999 TV policy, conditions of licence have been used to require major conventional television licensees to broadcast minimum hours of Canadian drama during peak time and to spend minimum amounts on Canadian programs.
46. The Commission has reviewed its past experience regulating both hours and expenditures on Canadian programming, including drama, through conditions of licence. While this approach provided a minimum "floor" that licensees must achieve, it did not

necessarily motivate licensees to invest in the success of that programming. However, the implementation of the 1999 TV policy has not resulted in any significant change in viewing to Canadian drama, in expenditures on Canadian drama, or in the total hours of Canadian drama broadcast in peak time.

47. The Commission recently issued licences, which will expire in 2008, to French-language private conventional broadcasters. Under the *Broadcasting Act* (the Act), the Commission could not, on its own initiative, amend their conditions of licence before 2006. While the Commission could introduce amendments to the *Television Regulations, 1987* (the Regulations) in order to require minimum hours of drama, the Commission is of the view that imposing regulatory requirements at this time would be inappropriate and would not necessarily be the best means to achieve the objective of increasing the quantity of and viewing to Canadian drama programs. In the Commission's view, it would be appropriate to consider alternative mechanisms.
48. The Commission is of the view that interest in Canadian drama could be stimulated more effectively and efficiently by creating an environment based on commitment, collaboration and the belief that Canadian French-language drama can remain financially and culturally viable. Although certain regulatory requirements are needed, another type of mechanism may be required to maintain the production of high-quality Canadian drama that will appeal to a wider audience. The Commission therefore considers that imposing regulatory requirements at this time would be inappropriate or unlikely to fulfil the objective of increasing viewing to Canadian drama.

Effectiveness of regulatory incentives

49. Public Notice 2003-54 sought comments on the effectiveness of regulatory incentives in general, and in the case of English-language drama, on the specific incentive proposed by Trina McQueen in her report, *Dramatic Choices* (the McQueen report). The Commission also made public the Nordicity Report, which set out a model to assess the financial impact of Trina McQueen's major proposals. These proposals were to reinstate the 150% time credit against Canadian content requirements, to permit an additional minute of advertising time for qualifying drama hours, and to introduce a 200% credit for drama programs that achieve "hit" audience levels.
50. With respect to French-language broadcasters, TQS and TVA, in their interventions, proposed an incentive that would extend the peak viewing period in order to encourage a broader range of quality Canadian programs in the evening.

Commission's preliminary view

51. Incentives, by definition, act as an encouragement for licensees to take specific action. They are flexible regulatory tools that permit an individual broadcaster first to determine whether to utilize the incentives proposed and, second, to do so in a manner tailored to the broadcaster's own programming strategy. Incentives, if properly calibrated, would

encourage broadcasters to work cooperatively with producers in order to ensure the production of high quality programming that is promoted and scheduled in a manner that attracts and retains the largest possible audience. The Commission considers that existing regulatory requirements, coupled with new regulatory incentives, adapted to the realities of the two linguistic markets should fulfil the Commission's objective. It has therefore determined that additional regulatory requirements would be inappropriate at this time.

52. With respect to extending the peak viewing period, the Commission has analyzed broadcasters' priority programming responsibilities and their historical performance, and is of the view that the peak viewing period does not have to be extended to enable licensees to offer a wider range of priority programs in the evening. The Commission is not convinced that this proposal would result in more diversity of priority programs, as suggested by TVA and TQS. Rather, the Commission considers that extending the peak viewing period could have a negative impact on the established objective. Based on the analysis of viewing, broadcasters could decide to move certain drama programs into these extended time slots rather than new program genres, which are not recognized as priority programming. The Commission is therefore of the view that it would not be appropriate at this time to consider extending the peak viewing period to achieve the drama programming objective.

Incentive rewards

53. In the interventions addressing English-language drama, two main incentive rewards were proposed in the submissions of interested parties. The first of these, time credits, would permit licensees to air an additional amount of non-Canadian programming. The second, extra advertising minutes, would permit licensees to broadcast more than 12 minutes of advertising in a given hour. In addition, a few parties proposed that another reward could be a reduction in the Part II licence fees payable pursuant to the *Broadcasting Licence Fee Regulations, 1997*. The Commission has analyzed each of these potential incentive rewards.

Time credits against Canadian content

54. The 150% drama time credit noted above effectively permitted licensees to replace Canadian programs with more profitable non-Canadian programs. As part of the 1999 TV Policy, the Commission removed the application of the 150% time credit from all programming other than the eight hours per week of priority programming required by condition of licence. Accordingly, since 1999, while licensees have been able to reduce the minimum amount of priority programming they broadcast through the use of dramatic time credits, they have not been able to use such time credits to reduce their Canadian content below the minimum levels set out in the Regulations.

Commission's preliminary view

55. In the Commission's view, an incentive that would permit the use of drama time credits to reduce required Canadian content levels raises a number of serious concerns. First, there is the fundamental contradiction that, by granting a time credit to encourage more

Canadian drama, the Commission would be permitting licensees to broadcast less Canadian programming overall. Second, the Commission considers that the likely result of a time credit for drama would be to encourage licensees to broadcast Canadian programs at off-peak times or in low viewing periods of the year.

Additional advertising minutes

56. The proposal to use additional advertising minutes as an incentive was first raised in the McQueen report. As noted above, the concept received broad support from those who submitted comments, with only a few parties expressing concern. Section 11 of the Regulations sets a limit of 12 minutes of advertising material in any clock hour in a broadcast day, except as provided in the Regulations or by a condition of licence. Where a program occupies two or more consecutive hours, the minutes may be averaged over the length of the program. Promotions for Canadian programs and for Canadian feature films do not count as advertising material.
57. For the French-language market, the issue of additional advertising minutes in peak time was also raised in TVA's licence renewal. TVA stated in its application at that time that it wished to be exempted from the Regulations prohibiting it from broadcasting more than 12 minutes of advertising material in any clock hour. TVA wanted to benefit from greater flexibility in managing its commercial inventory during peak time, but did not intend to exceed 14 minutes of interruption for advertising, all breaks combined. TVA did not specify the program genres that might benefit from the requested flexibility. The Commission denied TVA's request.²

Commission's preliminary view

58. In contemplating an incentive based upon extra advertising minutes, the Commission's first concern is the impact that this may have on the viewing public. In this regard, the Commission notes that the most valuable advertising time for English-language broadcasters is that placed in popular U.S. programs – particularly those with extraordinarily high ratings such as the Super Bowl, the Academy Awards, great drama programs of yesterday and today, and reality programs. U.S. broadcasters have no regulated limits on advertising. Typically, the U.S. programs that Canadian licensees acquire have between 14 and 16 minutes of commercial breaks in each hour. Canadian broadcasters can only use 12 minutes of these breaks for advertising material and, therefore, fill the remaining two to four minutes with promotions for Canadian programs, public service announcements or newsbreaks. This means that viewers are already experiencing program breaks that cumulatively exceed 12 minutes per hour. If Canadian broadcasters were permitted to sell a limited amount of additional minutes, there would still be time available for the promotion of Canadian programs without increasing the number of minutes of program interruptions per hour.

² See *Licence renewals for the French-language national television network TVA and for the French-language television programming undertaking CFTM-TV Montréal*, Decision CRTC 2001-385, 5 July 2001.

59. The context for French-language broadcasters differs from that of English-language broadcasters. French-language broadcasters have the advantage of not being subject to the simulcasts of U.S. programs and, as a result, to the length of advertising breaks for these programs.
60. The sale of advertising time is, of course, the life blood of commercial broadcasters. Advertising minutes, particularly those placed in the most popular programs, have significant value. In the French-language market, one minute of advertising in peak time can generate average revenues in the order of \$10,000, depending on the broadcaster and the anticipated audience size.
61. Unlike the English-language market, where Canadian drama programs rarely achieve commercial success, French-language dramas are still one of the main scheduling drivers for conventional French-language broadcasters, despite the advent of new program genres. The series *Fortier*, *Les Bougons* and *La vie la vie* are current examples of that commercial success, but French-language drama has been successful since the inception of French-language television. As Guy Fournier stated in his report, [translation] “From its earliest days, Quebec television drama has reflected Quebec and its society. Viewers have recognized themselves in these dramas and identified with them... Original French-language drama programs drive the entire program schedule for the major French-language networks and are the means by which they have been able to maintain audience loyalty.”
62. The Commission’s analysis shows that with the arrival of new programming genres, such as reality programs, French-language private broadcasters now have a programming solution that is generally less costly than producing drama and that can attract the same number of or more viewers than drama programs. This new programming genre also generates higher revenues from fees and tie-in products for broadcasters and affiliates, thus contributing to their commercial success.
63. To maximize the profitability of these new programming genres, French-language broadcasters will no doubt need to extend peak time, which is mainly occupied by drama programming.
64. For a number of reasons, additional advertising time may be an effective incentive for maintaining broadcaster interest in committing to original drama production and for maintaining a proper balance of peak time French-language drama programming. In addition, the amount of the reward can easily be adjusted to take into account the nature of the dramas broadcast, the size of the audience attracted or the financing structure and/or licence fees.
65. The Commission acknowledges the concerns raised by certain specialty broadcasters and smaller conventional television licensees. These concerns related to the possible negative effects of increasing advertising inventory, particularly in the most popular programs. In formulating its proposals, the Commission has attempted to balance the concerns expressed by smaller broadcasters against the benefits that it expects would result from

an effective incentive to broadcast more original Canadian drama and to attract larger audiences to these programs. On this basis, the Commission has decided to propose incentives that would permit the broadcast of extra advertising minutes as the reward.

Reduction in Part II Fees

Commission's preliminary view

66. The Commission notes that section 11(2)(b) of the Act gives the Commission the ability to provide for lower fees if, for example, licensees fulfil certain programming objectives set by the Commission. However, any such proposal would require a change to Commission regulations and approval by the Treasury Board of Canada Secretariat. Further, the Commission notes that the Standing Joint Committee on the Scrutiny of Regulations reported on the matter of Part II licence fees on 27 October 2003. This Committee and the Standing Committee on Canadian Heritage both made recommendations with respect to Part II fees.
67. On 25 March 2004, the government provided a preliminary response to the Standing Joint Committee on the Scrutiny of Regulations. The government stated that it was continuing its examination of this issue and noted that, because of ongoing litigation, it was premature to comment further.
68. In the Commission's view, it would be inappropriate to propose an incentive reward based upon a reduction of Part II fees in the absence of an announcement of government policy in this area.

The Commission's Canadian drama programming objectives

69. The Commission, in Public Notice 2003-54, sought comments on measures for ensuring that high quality, original French-language Canadian drama remains a key component of peak time viewing, with the following objective:
 - maintaining, during peak viewing hours, a proper balance of French-language drama programming by broadcasters in this market and a minimum of high-cost programs or series.
70. Tables 2 and 3 set out in Appendix A indicate that the number of dramatic series and the number of hours produced in French have decreased, particularly since 2002. In its intervention, the CBC indicated that it may no longer be able to produce so-called high-cost dramas, that private broadcasters will think twice before taking a financial risk and that, as a result, Francophone viewers could be deprived of this type of production. The Commission is of the view that high-cost dramas are one of the key elements in the television/film dynamics of the Canadian French-language market. The Commission shares the concern raised by the CBC, especially in light of the limited size of the Canadian French-language market and the increasing production costs.

71. In developing the proposed incentives for the French-language market, the Commission has examined production budget types and values and the licence fee percentages used by the CTF. The production budget for a high-cost drama series is \$800,000 per hour or more, plus minimum licence fees set by the CTF.

Incentives for original hours

Commission's preliminary determination

72. As discussed earlier in this notice, the Commission considers that the focus of any drama incentive program should be on the broadcast of original hours only. Encouraging licensees to broadcast more original hours of Canadian drama on English-language television, and maintaining a proper balance of peak time drama programming on French-language television, would have a direct and positive impact on the independent production sector and the employment of Canadian creative talent and crafts persons.

High-cost drama

73. The first part of the incentive model would apply to original Canadian French-language 10-point drama programs broadcast in peak time (7:00 p.m. to 11:00 p.m.) with production budgets of at least \$800,000 per hour, plus a licence fee consistent with CTF standards.
74. As an incentive, the Commission proposes to allow three minutes of additional advertising for each hour of original high-cost 10-point drama broadcast in peak time. According to CTF data on the number of hours of high-cost drama produced for conventional French-language broadcasters in 2003-2004, had this incentive been in place, it could have generated additional revenues in the order of \$380,000 to \$525,000, depending on the broadcaster.
75. The Commission reiterates that high-cost drama programs regularly attract one million viewers and, generally, are still profitable for conventional French-language broadcasters. The purpose of this incentive is to add value to the broadcaster's programming decision, not to make high-cost drama as profitable as other programming genres that may be broadcast in peak time.

Other French-language drama funded by the CTF

76. The second part applies to any other original French-language drama with a production budget under \$800,000 per hour, and a licence fee consistent with CTF standards.
77. The incentive proposed by the Commission is to allow two additional minutes of advertising for each hour of original 10-point drama broadcast during peak time. According to CTF data on the number of hours of drama of this type that were produced for conventional French-language broadcasters in 2003-2004, had this incentive been in place, it could have generated additional revenues of \$200,000 to over \$2,500,000, depending on the broadcaster.

Original French-language drama produced without CTF assistance

78. Few original French-language drama programs are currently produced without CTF assistance. However, as English-language broadcasters do, a French-language broadcaster may, for various reasons, decide to initiate a certain production project. In such a case, the Commission proposes to allow four minutes of advertising in addition to the three or the two minutes, indicated previously, to productions that do not receive funding by the CTF.
79. The Commission expects broadcasters to work creatively with producers to ensure that the advertising revenue that broadcasters receive from the additional four minutes of advertising flows through to the production. The intent of the proposal is that the revenues associated with the four additional advertising minutes be used to compensate a producer for the absence of CTF funding. Revenues earned under this provision and passed on to producers would not be counted as Canadian programming expenditures on CRTC annual returns.

Utilizing additional advertising minutes

80. The Commission believes that two factors should be considered in utilizing additional advertising minutes. The first relates to the fact that French-language viewers are not accustomed to the 14 to 16 minutes of advertising breaks resulting from the simulcast of U.S. programs by Canadian English-language stations. The second is the impact of the incentives on the advertising inventory in the French-language market. The Commission is therefore of the view that the utilization of additional advertising minutes must, at all times, be limited to a maximum of 14 minutes per hour.
81. The Commission proposes that, under the incentive model for the four types of drama productions described above, the additional advertising minutes would be available for each conventional French-language station that broadcasts the original drama production. The Commission proposes that there would be no carry-over of advertising minutes from one broadcast year to the next.
82. The incentives for the broadcast of original Canadian drama productions would also be available to individual specialty services. The additional minutes could be aired in any program broadcast by the specialty service that has broadcast the qualifying original drama program (provided that the extra minutes of advertising material are aired in the same broadcast year as the qualifying drama). The Commission recognizes that this incentive model is generally based on the economics of the conventional television networks, particularly in the French-language market. Nevertheless, the Commission considers that some French-language specialty services may be able to take advantage of the incentives available for drama productions, particularly for medium- or low-cost productions. An example of such a production is the series *Laura Cadieux* that was broadcast by Séries +. The licensees of educational television stations that broadcast advertising may also be able to take advantage of the incentives.

83. No additional advertising minutes would be available for original drama productions that received funding as part of a benefits package arising from a transfer of ownership or a commitment made in the context of the issuance of a new licence.
84. In determining production budgets, the Commission expects parties to follow the business policies of the CTF, in particular, the Accounting and Reporting Requirements and the Producer's Fees and Corporate Overhead Policy.

Audience for Canadian English-language drama

85. Increased viewing to Canadian English-language drama programs is one of the key objectives identified by the Commission in Public Notice 2003-54. An incentive trigger based upon viewing received strong support in principle in the comments received, although most parties considered that more work was required to develop an appropriate trigger point that would take into account the varying reach of individual licensees. In the view of the CAB, a demanding but attainable objective would be to increase viewing by Anglophones to Canadian drama, as a percentage of viewing to all drama, from the present 11% to 15%, over a period of five years.

Audience for Canadian French-language drama

86. As indicated in Table 4 set out in Appendix A, viewing to Canadian drama accounts for 52% of all viewing to drama on French-language services.

Commission's preliminary view

87. For Canadian English-language services, the Commission sees merit in establishing a specific goal for the industry regarding viewing of Canadian drama and adding an incentive aimed specifically at meeting that goal. In the Commission's view, it would be more appropriate to base an incentive on the viewing to Canadian drama as a percentage of viewing to all drama on Canadian services. This would give licensees a greater degree of control than they would have if the viewing to non-Canadian services were included in the base. BBM data for 2002 shows that viewing to Canadian drama, as a percentage of viewing to all drama on Canadian English-language services, was approximately 14%. For example, using the BBM statistics to explain the model, the Commission could establish an objective for an increase in the viewing to Canadian drama on Canadian English-language services over a five-year period, from the current industry average of 14% to 20%.
88. Canadian French-language services already account for 52% of viewing to Canadian drama, significantly exceeding the proposed five-year goal of 20% for English-language services. Given the exceptional performance over the years of French-language broadcasters, the Commission does not find it necessary to consider incentives for increasing viewing to Canadian French-language drama.

Incentives for increased expenditures on Canadian drama by English-language broadcasters

Commission's preliminary view

89. A number of parties, including the CFTPA and the Coalition of Canadian Audio-visual Unions (CCAU), proposed a return to expenditure regulation. For the reasons noted earlier, the Commission does not consider it appropriate to regulate expenditures at this time. However, it does consider that, in order for its objectives to be fulfilled, spending on Canadian drama must be maintained and should be increased. Accordingly, the Commission proposes an incentive for English-language broadcasters that would be triggered by an increase in spending on Canadian drama.
90. As an example, in each of 2002 and 2003, English-language private conventional television licensees expended a combined average of 4% (excluding the CTF top-up) of their total revenues on Canadian drama. The Commission proposes to establish an overall objective for expenditures on Canadian drama that would represent 6% of the total revenues earned by the Canadian private television industry, to be achieved over a five-year period. Each ownership group would be encouraged, through the incentive of additional advertising minutes, to increase its Canadian drama expenditures, as a percentage of revenue earned by its conventional television services, by an amount equal to the difference between the current industry average and the 6% industry objective.

Expenditures on Canadian drama by French-language broadcasters

91. In 2002 and 2003, licensees of conventional French-language television stations spent a combined average of 15% of their total revenues on Canadian drama (excluding the CTF contribution).

Commission's preliminary view

92. Given the results that have already been achieved by conventional French-language stations, the Commission is of the view that an additional incentive is not required, and encourages these private stations to maintain their current levels of spending on Canadian drama.
93. The Commission is currently reviewing the annual returns for specialty services with a view to determining how best to monitor their spending on individual program categories, as is now done in the case of the annual returns filed by the licensees of conventional television services. At this time, the Commission does not collect information with regard to expenditures by program category for specialty services. The potential qualification of specialty services for the drama expenditure incentive model will be reviewed at a later date.

Implementation and monitoring

94. The Commission proposes that any incentives based upon additional advertising time would be implemented by way of condition of licence. Conventional television licensees that wish to participate in the incentive program must therefore file an application requesting a condition of licence that would authorize them to broadcast additional minutes of advertising material, as set out in the Commission's Public Notice, in addition to the 12 minutes per hour permitted by section 11 of the Regulations. Specialty licensees must file an application requesting an amendment to their conditions of licence in order to change their established advertising limits.
95. The Commission expects that applications seeking the conditions of licence necessary to implement the new incentives could be approved early in 2005. Licensees would be able to accumulate advertising credits from the beginning of the 2004/05 broadcast year. However, licensees would not be permitted to broadcast the additional advertising minutes until the appropriate conditions of licence have been approved.
96. The Commission would monitor the performance of those licensees participating in the incentive program through a combination of the annual returns and annual reports submitted by the participating licensees, and the Commission's logs. The details of the monitoring plan are set out below.

Evaluation of the incentive package

97. The Commission intends to evaluate progress in both language markets regarding the respective incentive packages. The results of this evaluation would be made public in the Commission's Broadcast Policy Monitoring Report. If the annual results do not demonstrate sufficient progress towards the targets, the Commission could introduce necessary changes to its policy at any time.
98. Given the past significant contribution by conventional French-language broadcasters to original Canadian drama, the Commission is of the view that the additional incentives will be sufficient to maintain a proper balance of original drama in peak time. The Commission will analyze the progress made by the licensees at their network licence renewals in 2008.

Summary of the proposed incentive package

99. Based upon the comments received in response to Public Notice 2003-54 and on the available economic data, the Commission proposes, for comment, the following package of incentives designed to maintain, during peak time, a proper balance of French-language drama programming offered by broadcasters in the French-language market, including a minimum of high-cost programs or series.

Incentives to broadcast original hours of Canadian drama

100. The Commission proposes four different triggers, each with a different reward.
- **Trigger:** the broadcast of 10-point, original, CTF-funded Canadian French-language drama in peak time (7:00 p.m. to 11:00 p.m.), with a production budget of at least \$800,000 per hour and a minimum licence fee as established by the CTF.
Reward: three minutes of additional advertising for each original hour broadcast.
 - **Trigger:** the broadcast, in peak time, of 10-point, original, CTF-funded Canadian French-language drama having a production budget of less than \$800,000 per hour, and a minimum licence fee as established by the CTF.
Reward: two minutes of additional advertising for each original hour broadcast.
 - **Trigger:** the broadcast, in peak time, of 10-point, original, Canadian French-language drama having a production budget of at least \$800,000 per hour, but without having CTF funding.
Reward: A total of seven minutes of additional advertising time for each original hour broadcast – i.e., the three minutes earned under the first trigger described above, plus four minutes for not accessing CTF funding.
 - **Trigger:** the broadcast, in peak time, of 10-point, original, Canadian French-language drama having a production budget of less than \$800,000 per hour, but without having CTF funding.
Reward: a total of six minutes of additional advertising (the two minutes under the first trigger, plus four minutes for not accessing CTF funding).
101. The conditions relating to peak time broadcast are not applicable to original Canadian drama directed toward children in subcategories 7(a) to 7(e). These programs will be eligible for the incentives if they are broadcast during hours of the day considered appropriate for viewing by children.
102. In the case of each trigger, hourly production budgets would be determined on the basis of CTF business policies. Implementation of the triggers and rewards would be by condition of licence.

103. Licensees would be required to submit a report to the Commission at the end of each broadcast year, specifying the following:
- the number of qualifying hours broadcast, including titles, episode number and date and time of broadcast on each conventional television or specialty service;
 - the production budget of each qualifying hour broadcast and an identification of those productions financed with revenues derived from the additional four minutes of advertising provided in lieu of CTF funding; and
 - The name, time and date of broadcast of the programs in which the extra advertising minutes were placed.
104. The Commission will cross-check a licensee's reports against the Commission's logs data.

The regulatory framework

105. The Commission considers that, if the proposed incentive package is implemented, the regulatory framework with respect to Canadian content and priority programming requirements should remain unchanged until there has been sufficient opportunity to evaluate the effect of the new incentives. The licensees will be required to continue to fulfil conditions of licence relating to priority programming. The existing 150% and 125% dramatic time credits against priority programming will remain in effect. There will be no change to the Canadian content regulations.
106. The proposed package of incentives would apply to the licensees of all conventional, private, French-language television stations, as well as to the licensees of those French-language specialty television services that are permitted by condition of licence to broadcast Category 7 programs. The proposed incentive package would also apply to the French-language television services of the CBC and to all French-language educational television services airing advertising.
107. The Commission recognizes the vital role that the CBC has played in developing French-language drama. The Commission notes that, when the CBC released its new strategic positioning in February 2003, it indicated its commitment to ensuring that drama continues to play an important role in that positioning. The CBC also expressed its intention to maintain the quality of its drama programming, continue broadcasting *téléromans*, series and plays, and further support new authors, more innovative approaches and bolder objectives. The Commission considers that the incentives aimed at high-cost drama will assist in achieving the CBC's objectives.

Licence fee top-ups

108. A number of parties submitted that the practice of allowing money received from the CTF to count towards Canadian program expenditure (CPE) obligations for specialty services lowers the amount of money a service must invest in Canadian programming. Parties also argued that the practice puts pressure on the CTF as it gives licensees an additional incentive to seek CTF funding. In this regard, it was suggested that services are often willing to pay higher licence fees in order to increase the likelihood of receiving CTF funding.
109. The Commission notes that the existing CPE requirements were partly based on the projected CTF licence fee top-ups for each service. If the licence fee top-up were deemed to be ineligible, fairness would require that a public process be held to re-calculate the CPE requirements for each service. The end result would likely be a similar amount of money spent on Canadian programming, only calculated differently. Accordingly, the Commission does not propose any change to the way in which licence fee top-ups are claimed at this time.

At risk equity

110. At risk equity refers to equity investments in drama productions that have no guarantee of a return. Currently, licensees of specialty services may only claim the losses on equity investments as Canadian program expenditures. Conversely, pay services are authorized to use equity investments to fulfil their CPE obligations.
111. In recent years very few equity investments in Canadian programming have been undertaken by Canadian specialty services. In contrast, pay services have traditionally financed Canadian feature films by way of equity investments. The Commission considers that permitting specialty services to count at risk equity against CPE requirements could result in the increased willingness and ability of those few specialty services that commission original Canadian drama to make equity investments.
112. The Commission agrees with the positions of Telefilm Canada and the CCAU who submitted that an equity investment is not truly at risk if it has some return that is guaranteed. In these cases, it is more akin to a loan or advance. In allowing equity investments to count against CPE requirements, the Commission would require that the investment be demonstrably “at risk.” The Commission seeks comment on the most appropriate means to ensure that broadcaster investments are truly at risk and do not replace appropriate licence fees.

Reflecting Canada’s diversity

113. Drama is an important way to reflect and share culture. Public Notice 2003-54 emphasized that “drama can and should reflect Canadians of every background and culture to each other.” While few comments raised the issue of diversity in Canadian

drama programming, the Commission considers that it is a crucial element that must be taken into account by producers and broadcasters alike in the development of new drama projects.

114. The Commission has taken a number of measures to meet cultural diversity objectives. In the 1999 TV policy, emphasis was placed on the role and responsibility of television licensees to accurately reflect the cultural diversity of Canadians in their programming. To aid this objective, the Commission, in the same public notice, indicated its support for an industry and community task force to examine the issue of cultural diversity. The creation of the Task Force on Cultural Diversity was announced in *Representation of cultural diversity on television – Creation of an industry/community task force*, Public Notice CRTC 2001-88, 2 August 2001. The task force is expected to publish its report shortly. In addition, most licensees are required to file annual cultural diversity plans which describe how each is meeting the cultural diversity objectives within its corporate organization and in its programming. These reports are available for public consultation.
115. In the Commission's view, the mechanisms are in place to encourage licensees to ensure that the original Canadian drama they broadcast reflects Canada's diversity.

Call for comments

116. The Commission seeks comment on its proposals for the incentives described in this public notice. Specifically, the Commission seeks comment on the following questions:
 1. For the purpose of the proposed incentives, please comment on the following definition for an original program:

An original program is a program that has never before been distributed by any licensee of a broadcasting undertaking and that will be distributed for the first time by the licensee.
 2. The Commission proposes incentives for Canadian drama programs directed to children when such programs are broadcast at times of the day that are appropriate for children. Should the Commission define these time periods? If so, what specific hours of the day should be considered as appropriate for television viewing by children?
 3. Is three minutes of additional advertising for each original hour of high-cost, 10-point Canadian French-language drama broadcast in peak time an appropriate incentive reward? If not, what would be the appropriate incentive?
 4. Is two minutes of additional advertising in peak time for original Canadian French-language 10-point drama with a budget of less than \$800,000 per hour an appropriate incentive reward? If not, what would be the appropriate incentive?

5. Should the proposed incentive of four additional minutes of advertising for drama not funded by the CTF apply to the French-language market?
6. How can the Commission best ensure that revenues derived from the additional four minutes of advertising for drama programs that are not funded by the CTF flow through to Canadian drama production?
7. Will the proposed incentive program for drama impact negatively on other program categories such as documentary? If so, what could be done to minimize any negative impact?
8. How should the Commission ensure that broadcaster equity investments are demonstrably at risk investments? Should the Commission consider other measures in order to provide safeguards?

117. The Commission will accept comments that it receives on or before **23 July 2004**.

118. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedures for filing comments

119. Interested parties can file their comments to the Secretary General of the Commission by using ONE of the following formats:

- Intervention/Comments form available from the Commission's web site by indicating and selecting the public notice number under the Decisions, Notices and Orders section

OR

- by electronic mail to procedure@crtc.gc.ca

OR

- by mail to
CRTC, Ottawa, Ontario K1A 0N2

OR

- by fax at
(819) 994-0218

120. Submissions longer than five pages should include a summary.
121. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.
122. The Commission will make comments filed in electronic form available on its web site at www.crtc.gc.ca but only in the official language and format in which they are submitted. Such comments may be accessed in the Public Proceedings section of the CRTC web site. Copies of all comments, whether filed on paper or in electronic form, will also be placed on the public examination file.
123. The Commission encourages interested parties to monitor the public examination file and the Commission's web site for additional information that they may find useful when preparing their comments.

Examination of public comments and related documents at the following Commission offices during normal business hours

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room G-5
Gatineau, Quebec K1A 0N2
Tel: (819) 997-2429 - TDD: 994-0423
Fax: (819) 994-0218

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel: (902) 426-7997 - TDD: 426-6997
Fax: (902) 426-2721

405 de Maisonneuve Blvd. East
2nd Floor, Suite B2300
Montréal, Quebec H2L 4J5
Tel: (514) 283-6607
Fax: (514) 283-3689

55 St. Clair Avenue East
Suite 624
Toronto, Ontario M4T 1M2
Tel: (416) 952-9096
Fax: (416) 954-6343

Kensington Building
275 Portage Avenue
Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel: (204) 983-6306 - TDD: 983-8274
Fax: (204) 983-6317

Cornwall Professional Building
2125 - 11th Avenue
Room 103
Regina, Saskatchewan S4P 3X3
Tel: (306) 780-3422
Fax: (306) 780-3319

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel: (780) 495-3224
Fax: (780) 495-3214

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
Tel: (604) 666-2111 - TDD: 666-0778
Fax: (604) 666-8322

Secretary General

This document is available in alternate format upon request and may also be examined at the following Internet site: <http://www.crtc.gc.ca>

Appendix A to Broadcasting Public Notice CRTC 2004-38

Table 1

Expenditures on drama and revenues, including those of the CBC's French-language television

Conventional French-language television (000)	1998	1999	2000	2001	2002	2003	Variation
							1998 to 2002
							4,650 7.8%
CPE - Drama							1998 to 2003
CPE Drama Excl. CTF*	59,941	57,974	59,800	59,502	64,591	***84,874	24,933 41.6%
							1998 to 2002
							-0.2%
							1998 to 2003
% CPE Drama*/Total Rev.	13.5%	12.6%	12.6%	12.4%	13.3%	16.7%	3.2%
							1998 to 2002
							42 696 9.6%
							1998 to 2003
Total Revenue**	443,883	461,153	474, 770	479,039	486,579	508,916	65,033 14.7%

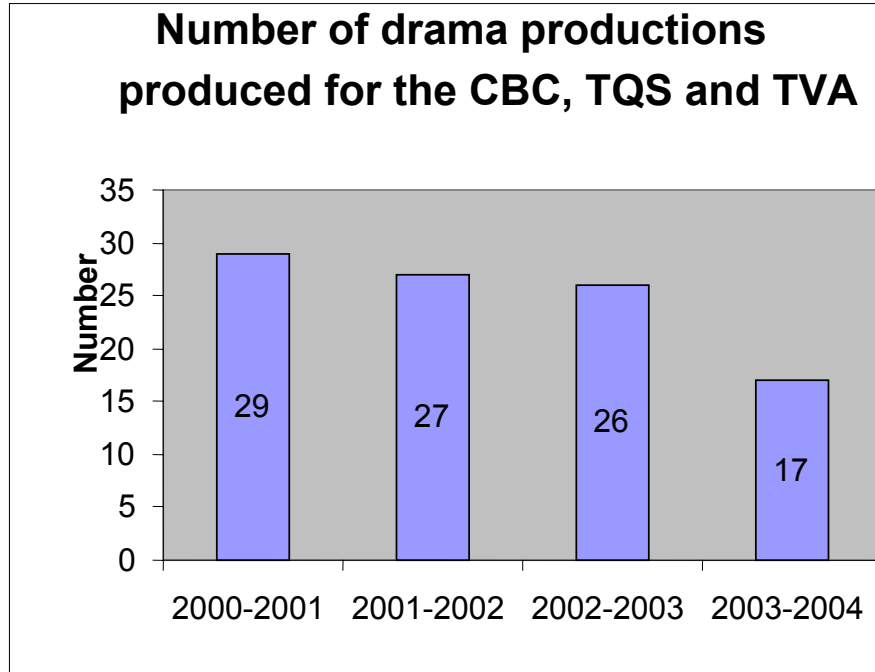
Where appropriate, includes the tangible benefits arising from transfers of ownership as well as expenditures required as part of licence renewals.

*Although they receive funding from the CTF, the networks have not reported it.

**For the CBC, only includes advertising revenues

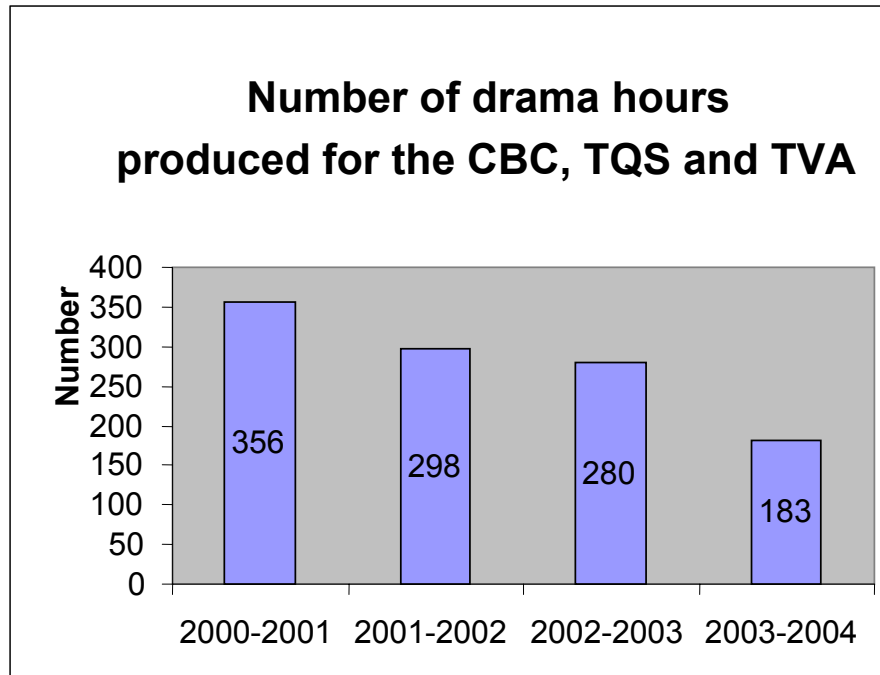
***Includes \$10 million by the CBC and \$5 million in tangible benefits resulting from the transfers of ownership of TVA and TQS.

Table 2



Source: Canadian Television Fund

Table 3



Source: Canadian Television Fund

Table 4**Viewing to Canadian Drama/Comedy as a Percentage of All Viewing to Drama on English-Language Services***

1983	1984	1985	1986	1991	1996	1997	1998	1999	2000	2001	2002
4%	4%	6%	7%	6%	8%	10%	10%	11%	11%	11%	11%

*Includes all Canadian and U.S. conventional, specialty and pay television services, with the exception of ethnic television services.

Based on BBM Fall surveys and CRTC database
– All Canada – All persons 2+

Viewing to Canadian Drama/Comedy as a Percentage of All Viewing to Drama on French-Language Services

1991	1996	1997	1998	1999	2000	2001	2002
43%	42%	48%	49%	50%	47%	51%	52%

Based on BBM Fall surveys and CRTC database
– All Canada – All persons 2+

Appendix B to Broadcasting Public Notice CRTC 2004-38

Types of French-language Canadian drama, whether broadcast on conventional television stations or specialty services that will qualify for the proposed incentives and rewards.

- a) 10-point, original, CTF-funded drama broadcast in peak time (7:00 p.m. to 11:00 p.m.) with a production budget of at least \$800,000 per hour and a minimum licence fee as established by the CTF.
 - **Three additional minutes of advertising per original hour of drama**
- b) 10-point, original, CTF-funded drama broadcast in peak time with a production budget under \$800,000 per hour, and a minimum licence fee as established by the CTF.
 - **Two additional minutes of advertising per original hour of drama**
- c) 10-point, original. French-language drama, not funded by the CTF, broadcast in peak time, with a production budget of at least \$800,000 per hour and a minimum licence fee.
 - **Seven additional minutes of advertising per original hour of drama**
- d) 10-point original French-language drama, not funded by the CTF, broadcast in peak time, with a budget under \$800,000 per hour and a minimum licence fee.
 - **Six additional minutes of advertising per original hour of drama**

Note:

The conditions relating to peak time broadcast are not applicable to original Canadian drama directed toward children in subcategories 7(a) to 7(e). These programs will be eligible for the incentives if they are broadcast during hours of the day considered appropriate for viewing by children.