

13 November 2020

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

By e-mail

Dear Secretary General,

Re: CBC's Carriage of Branded Programming

1. This is an application by the undersigned former employees – both staff and contract – of the Canadian Broadcasting Corporation (CBC) under Part 1 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* [CRTC's Rules] to ask that the CRTC investigate the broadcast of 'branded programming' by CBC, Canada's national public broadcaster.
2. The signatories to this letter have a vested interest in the welfare of Canada's national public broadcaster, both as citizens and as people who once worked for the CBC in a variety of roles: two former presidents, senior editorial leaders and policy directors, as well as producers, writers and hosts. We represent a large and growing group of former CBC employees, all of whom committed a significant part of their careers to sustaining and building the Corporation's role as a journalistic leader and a trusted source of news and information for all Canadians.
3. Should the Commission decline our application to investigate CBC's foray into branded programming, we ask in the alternative that it consider this as an application to add the matter of CBC's use of 'branded programming' to the items being considered by Broadcasting Notice of Consultation CRTC 2019-379, and that it grant Canadians an opportunity to file comments on this matter before the CRTC public hearing now scheduled to begin January 11, 2021.

I. Canadians' interest in the CBC and CBC's commitments to Canadians

4. Parliament established the Canadian Broadcasting Corporation in 1936 to provide Canadians with a national broadcasting service. Since then, Canadian taxpayers have invested more than \$55 billion in the Corporation, enabling it to produce, acquire and provide informative, entertaining and enlightening programming for Canadian audiences. This financial support enabled CBC to build its current reputation for credibility and trustworthiness beginning in the stressful days of the Great Depression, throughout World War II when it maintained vital links between Canadians at home and their family and friends fighting abroad and even today, as we work together to confront a global pandemic.

5. A fundamental characteristic of the CBC is that the Corporation consists of its Board of Directors but it is not owned by those directors: they essentially hold it in trust for the people of Canada. The CBC's establishment as an institution to serve Canadians helps to explain why, although CBC has always had broadcast advertising, it created standards for this type of content decades ago. Its current [Advertising Standards](#) affirm that everything carried on CBC's "[broadcast, specialty and new media services ...](#)" is subject to these *Standards*. They state that "the CBC's first priority is to deliver distinctive, high-quality

programs to its citizens and not consumers to advertisers”. And that the objective of the *Standards* “is to ensure that advertising messages are presented with integrity and good taste and are not misleading.”ⁱ

6. Canadians’ interest in the CBC is well known, demonstrated most recently in February 2020 when thousands of people took the time to share their views and suggestions about the CBC’s licence renewal applications with the CRTC. Many expressed the fear that CBC’s heavy reliance on advertising revenues has put the quality of its programming and its journalistic independence at risk.

7. But when Canadians submitted their interventions to the CRTC they did not know that the Corporation was either planning to or had already begun to carry branded content for advertisers. In fact, while CBC’s applications to the CRTC highlighted the importance of Canadians’ trust in the Corporation’s services, they said nothing about its prior, current or planned use of branded content and did not even mention the role of CBC/Radio-Canada’s Media Solutions division (for which the only reference we have found in CBC’s annual reports was from five years agoⁱⁱ).

II. CBC's past and planned use of branded content

8. Tandem has been described by CBC variously as “a dedicated service for the creation of unique and distinctive branded content”ⁱⁱⁱ, “the Tandem branded content unit”^{iv} and “a more formalized unit within CBC’s Media Solutions family”^v. The absence of any discussion by the CBC about Tandem or about branded content in general in its CRTC applications is striking because the managing editor of branded content for CBC Media Solutions is quoted in [September 2020](#) as saying that CBC carried branded content before March 2020:

The main difference between **CBC’s branded content before** and now, says [CBC’s managing editor of branded content], is that there’s been a huge focus on “how to develop a voice for our branded content, to make sure it aligns with our larger editorial vision and has a level of editorial appeal, consistency and legitimacy.” While CBC’s media solutions team has created custom content in the past, “it’s not something we’ve traditionally been known for.” Now, with a distinct unit, he’s hoping that will change.^{vi} ... (bolding added)

9. When CBC Media Solutions officially announced the Tandem project, it also quoted the General Manager and Chief Revenue Officer, CBC & Radio-Canada Media Solutions as saying that “... **branded content is not new to CBC/Radio-Canada**”^{vii}” (bolding added).

10. Then, at the end of October 2020, CBC’s spokesperson was quoted by the *Globe and Mail* as saying that, “... **CBC/Radio-Canada had been publishing branded content ‘for years** – not weeks, not months – years’ and that it was merely Tandem’s rollout last month that raised hackles. Everybody woke up to the fact that we’re in the branded content game.”^{viii} (bolding added).

11. Canadians woke up to the fact that CBC is “in the branded content game” primarily because of the mid-September 2020 announcement by CBC’s Executive Vice-President (English Services) that “Tandem will help Canada’s strongest brands shape and share inspiring stories across our platforms and across the country.”^{ix} In addition to having already carried branded content, CBC Media Solutions hired a Managing Editor for Radio Canada’s Tandem “outpost” in March 2020 and a Managing Editor of branded content for CBC in August 2010, all as part of Tandem’s rollout.^x

12. CBC’s September 2020 news announcement about Tandem also noted that six episodes of “Athabasca University’s first season of the much anticipated podcast, ‘Go the Distance,’ launching this month [and

hosted] by CBC personality Leah Simone-Bowen^{xi} were branded content. Tandem’s managing editor in CBC Media Solutions said that “when he heard the first episodes, it struck him how similar the podcasts sounded to something CBC’s editorial team would produce.”^{xii} The General Manager and Chief Revenue Officer of CBC & Radio-Canada’s Media Solutions added that, “Clients wanted ... to ... leverage the credibility of our network. I am so pleased that we now offer this.”

13. The CBC’s credibility is key to the trust that it says it seeks from Canadians. This credibility is the result of decades of investment in expert journalism. The stories told by CBC journalists established for Canadians a sense of their place in the northern half of North America, strengthened their relationship with each other and the world and helped define their sense of being Canadian. It is a special responsibility, not always easy to sustain, but one that CBC’s professional journalists fulfill with commitment, energy and pride. It is neither fitting nor appropriate for their employer to hang a ‘for sale’ sign on the corporate reputation they have nurtured with such vigilance.

14. The CBC’s current willingness to ‘leverage’ that trust by selling it is why we are asking the CRTC to add the issue of branded content to the 2019-379 process. There are far too many unanswered questions about the interplay between CBC’s programs and branding – and only the CRTC can obtain answers for Canadians.

III. Four troubling questions raised by Tandem

15. Our first question is whether the [Broadcasting Act](#) allows CBC to sell Canadians and their trust in CBC to advertisers by carrying branded content. After reviewing Parliament’s broadcasting policy for Canada in [section 3](#) and the objects set out for the CBC in [section 46](#), we think the answer is a resounding no. The CBC’s current [Advertising Standards](#) support our position: they state that while commercial content generates revenue, “the CBC’s first priority is to deliver distinctive, high-quality programs to its citizens and not consumers to advertisers.” As the sole independent public authority^{xiv} responsible for implementing Parliament’s broadcasting policy, regulating and supervising licensees including CBC and as the *CRTC’s Rules* provide,^{xv} the Commission should consider whether CBC’s legal mandate permits it to carry branded content in this way.

16. Second, if the *Broadcasting Act* does somehow stretch to allow branded content, how can the CRTC be sure that the public interest is being served by CBC’s decision to sell branded content? Only the CRTC has the authority to provide Canadians with an opportunity to express their views on whether it is appropriate for the CBC to monetize its public trust. If the CRTC agrees that transparency matters and trust is relevant to CBC’s applications, it could hold an inquiry into the matter as provided by the *Broadcasting Act* and its *Rules*.^{xvii} Alternatively, since the CBC to our knowledge did not clearly identify its past, current and planned branding sales activities until September 2020, the CRTC could address the branded content issue in its January 2021 hearing as its *Rules permit*.^{xviii}

17. Our third question has to do with the degree to which CBC’s branded content meets its current regulatory and licensing requirements. Does CBC’s past, current and future carriage of branded content meet its conditions of licences for advertising? Only the CRTC has the authority to require CBC to state whether any of the programming on its radio services is branded, for example – and if so, how this type of commercial activity is consistent with the current prohibitions of paid national advertising on Radio 2 and ICI Musique.^{xix} Only the Commission can determine whether programming directed at children has been or will be branded, and whether such programming complies^{xx} with the CRTC condition of licence

requiring CBC to adhere to advertising standards for children’s programming.^{xxi} Only the CRTC can determine whether the CBC is meeting the CRTC’s regulations requiring broadcasters to identify and report advertising in their radio and television programming.^{xxii}

18. Lastly, even if the *Broadcasting Act* does permit CBC to sell Canadians’ trust in its programming and the Corporation is, in fact, meeting its licensing requirements, the emphasis that today’s society places on transparency and accountability demands that CBC disclose its revenues and expenditures from branded content and explain how this content meets its advertising and journalistic standards. Canadians are surely entitled to know how much CBC stands to make for selling their trust in its programming! If the CRTC agrees, it could use its powers under the *Broadcasting Act*^{xxiii} and its *Rules*^{xxiv} to ask the CBC to provide this information for the public record.

IV. Conclusion

19. In brief, we believe there are several critical questions that CBC will not answer unless they are posed by the Commission,^{xxv} including the following:

1. When did CBC's Board of Directors approve CBC's carriage of branded content?
2. Which officers of the CBC are responsible for approving branded content, and do these officers have the authority to overrule decisions made by CBC's Media Solutions?
3. Is branded content that is carried or will be carried by CBC subject to CBC's *Advertising Standards*?
4. When did CBC/Radio-Canada first broadcast or carry branded content?
5. Are there any programs or content, or types of content, in which CBC is not placing branded content?
6. What are the CBC’s expansion plans for branded content? How does or will the CBC confirm that all branded content is identified to audiences?
7. How does or will the CBC identify branded programs in the logs it submits to the CRTC?
8. For how many separate advertisers has CBC carried branded content, by year?
9. What are the revenues and expenses of the branded-content project, by year, since the practice of carrying branded content began?
10. Are projected revenues and expenses of the branded-content project included in:
 1. CBC's applications to the CRTC, including the financial summary filed in June 2020,
 2. CBC's *Annual Returns* to the CRTC,
 3. CBC's Annual Reports, and/or in
 4. CBC's Corporate Plans approved by the Department of Finance?

20. We ask that the CRTC investigate CBC's past, current and planned use of ‘branded content’, to determine whether the CBC is permitted by the *Broadcasting Act* to engage in this activity and whether its actions have met and still meet its regulatory requirements. In the alternative, we ask that the

Commission add the matter of 'branded content' to its 2019-379 proceeding and grant Canadians sufficient time to make their views on the issue known before the 11 January 2021 CRTC public hearing.

Yours sincerely,

Undersigned former CBC employees

Tony Burman, former Editor-in-Chief, CBC News

Jane Chalmers, former Vice President, CBC Radio

Adrienne Clarkson, former CBC Television Host (*Take Thirty*, *The Fifth Estate*, *Adrienne Clarkson Presents*) and former Governor General of Canada 1999 to 2005

Kelly Crichton, former Executive Producer, *The Fifth Estate* and *The National*

Kelly Crowe, former Medical Sciences Correspondent, CBC News

Jeffrey Dvorkin, former Managing Editor and Chief Journalist, CBC Radio

Melissa Fung, former National Correspondent, CBC News

Paul Gaffney, former Senior Director, Regulatory Affairs

Elizabeth Gray, former Host, *As It Happens*

Bernie Lucht, former Executive Producer, *Ideas*

Tony Manera, former President 1992 to 1995

Peter Mansbridge, former Host, *The National*

Linden MacIntyre, former Host, *The Fifth Estate*

Tassie Notar, former Executive Producer, *Marketplace*

Robert O'Reilly, former Executive Director, Radio Canada International, and Director, International Relations

Robert Rabinovitch, former President 1999 to 2007

Susan Reisler, former host of Newsworld Business News

Julian Sher, former Senior Producer, *The Fifth Estate*

Ruth-Ellen Soles, former Spokesperson and Head of Media Relations, English Services

Mark Starowicz, former Executive Director, Documentary Programming

Bruce Steele, former Host, *What on Earth?*

Brian Stewart, former Senior Correspondent, *The National*

David Studer, former Director, Journalistic Standards and Policy

Doug Ward, former Director of Radio, National Capital Region

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Endnotes

- i CBC, Programming Policies, *Advertising Standards*, “1.3.1 Objectives and Values”, <https://cbc.radio-canada.ca/en/vision/governance/programming-policies/advertising/objectives>.
- ii CBC, 2014-2015 *Annual Report*, page 11:
With the intent to continue developing partnerships that increase access to CBC/Radio-Canada content and reduce our infrastructure costs, both media revenue teams are now consolidated as one Media Solutions service. This means that we are better able to adapt to market realities and meet our business partners’ needs.
- iii CBC & Radio-Canada Media Solutions, “Introducing CBC/Radio-Canada Tandem: A DEDICATED SERVICE FOR BRANDED CONTENT” Media Release ([17 September 2020](#)).
- iv Bree Rody, “CBC formalizes new branded content unit”, *Media In Canada* ([17 September 2020](#)).
- v *Ibid.*
- vi *Ibid.*
- vii CBC & Radio-Canada Media Solutions, “Introducing CBC/Radio-Canada Tandem: A DEDICATED SERVICE FOR BRANDED CONTENT” Media Release ([17 September 2020](#)).
- viii Simon Houpt, “Current, former CBC employees condemn corporation’s branded-content initiative” *Globe and Mail* ([29 October 2020](#)).
- ix CBC & Radio-Canada Media Solutions, “Introducing CBC/Radio-Canada Tandem: A DEDICATED SERVICE FOR BRANDED CONTENT” Media Release ([17 September 2020](#)).
- x *Ibid.*
- xi Bree Rody, “CBC formalizes new branded content unit”, *Media In Canada* ([17 September 2020](#)).
- xii *Ibid.*
- xiii CBC, *Advertising Standards*, 1.3.1 Objectives and Values, “Policy”.
- xiv *Broadcasting Act*, s. 3(2): “It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in

subsection [3](1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority.”

xv [CRTC’s Rules](#):
s. 5(1) “ The Commission may exercise any of its powers under these Rules at the request of a party or interested person or on its own initiative.”

s. 7 “If the Commission is of the opinion that considerations of public interest or fairness permit, it may dispense with or vary these Rules.”

xvi [Broadcasting Act](#), s. 18(3):
The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so.

xvii [CRTC’s Rules](#), s. 10(e)
The Commission may
...
(e) provide an opportunity for the parties to make written or oral representations ...

xviii [CRTC’s Rules](#), s. 10(b):
The Commission may
...
(b) if it is of the opinion that the circumstances or considerations of fairness permit, combine two or more proceedings;

xix [Decision CRTC 2016-353](#).

xx [Broadcasting Act](#):
12 (1) Where it appears to the Commission that
(a) any person has failed to do any act or thing that the person is required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part, or has done or is doing any act or thing in contravention of this Part or of any such regulation, licence, decision or order,
...
the Commission may inquire into, hear and determine the matter.

xxi [Broadcasting Decision CRTC 2013-263](#), Appendix 3, Conditions of licence and expectations for French-language conventional television (network and stations) and English-language conventional television (network and stations):
8. The licensee:
(a) shall adhere to the standards for children’s advertising set out in the Corporation’s Policy 1.3.8: Advertising Directed to Children Under 12 Years of Age. As a minimum, the licensee shall adhere to the standards set out in the Canadian Association of Broadcasters’ Code on Broadcast Advertising to Children, as amended from time to time and approved by the Commission.
(b) shall not broadcast any commercial message during any child-directed programming, nor broadcast any child-directed commercial message between programs directed to children of pre-school age. For the purpose of this condition, programs directed to children and scheduled before 12:00 noon during school-day morning hours will be deemed to be programs directed to children of pre-school age.

- xxii See, for example, the CRTC's [Television Broadcasting Regulations, 1987](#),
 10 (1) Subject to any condition of licence, a licensee shall
 (c) cause to be entered in the log or record each day the following information:
 ...
 (iv) the time of commencement of advertising material, its duration and, in the case of a
 commercial message, the name of the person selling or promoting goods, services,
 natural resources or activities,

- xxiii [Broadcasting Act](#), s. 10(1) and s. 28:
 10 (1) The Commission may, in furtherance of its objects, make regulations
 ...
 (i) requiring licensees to submit to the Commission such information regarding their
 programs and financial affairs or otherwise relating to the conduct and management of
 their affairs as the regulations may specify; ...
 28 (1) The Commission may require a party
 (a) to provide information, particulars or documents that it considers necessary to
 enable the Commission to reach a full and satisfactory understanding of the subject
 matter of the proceeding; or
 (b) to make written or oral representations on any matter related to the proceeding.
 See, for example, s. 12(3) of the [Television Regulations, 1987](#):
 At the request of the Commission, a licensee shall respond to
 ...
 (a) any complaint ... filed by any person or any request for information regarding the
 programming originated or distributed by the licensee or regarding the licensee's ...
 financial affairs ... and
 (b) any request for information regarding the licensee's adherence to the conditions of
 its licence, the Act, these Regulations, industry standards, practices or codes or any
 other self-regulatory mechanism of the industry.
- xxiv [CRTC's Rules](#), s. 10(1)(c):
 xxv [Broadcasting Act](#), s. 28:
 The Commission may require a party
 (a) to provide information, particulars or documents that it considers necessary to
 enable the Commission to reach a full and satisfactory understanding of the subject
 matter of the proceeding