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Speaking Notes for  
Karen Thorne-Stone, President and CEO  
Kevin Shea, Chair, Board of Directors  
Ontario Media Development Corporation

at the

Canadian Radio-Television and  
Telecommunications Commission  
Public Hearings 2008-11

*Canadian broadcasting in new media*

Conference Centre Portage IV  
140 Promenade du Portage  
Gatineau Quebec  
Hearing Room: Outaouais

Monday, March 9, 2009  
9:00 a.m.

## **Introduction & Context**

Thank you, Minister.

OMDC invests in the creation and promotion of Canadian broadcasting content for both traditional and new media through a variety of tools, including our Music, Film and Interactive Digital Media Funds and as the administrator of the Province's cultural media Tax Credits. As such, our purpose today is to highlight for you some of the current challenges and opportunities facing Ontario's content creators.

Ontario is home to a vibrant and industry-leading screen-based sector and Ontario's sound recording industry is the largest in Canada.

The 2009 Juno Award nominees include acts and albums produced by a long list of Ontario labels including Arts & Crafts, MapleMusic and Last Gang Records. Ontario's interactive digital media sector also includes many industry leaders, such as Xenophile Media, Smiley Guy Studios and marbledmedia. And our world-renowned film and television companies include Shaftesbury, Epitome Pictures and Rhombus Media.

Despite these successes, Ontario companies still struggle to compete in the ever-changing and growing global marketplace. Decisions made in this proceeding will have a direct impact on the future business models for Ontario's content creators in the new media broadcasting environment.

While the competitive issues are many, I would like to focus my comments today on three key issues from our written submission:

1. First, the continued appropriateness of the Exemption Orders.
2. Second, support for broadcasting content in new media.
3. And finally, the contribution that each element of the broadcasting system should be making to Canadian broadcasting in new media.

## **Appropriateness of the Exemption Orders**

First let me speak to the appropriateness of the New Media and Mobile Television Broadcasting Exemption Orders.

As stated in our written submission, OMDC recognizes that an attempt to license the many broadcasters and distributors in the new media world would be administratively onerous for the Commission and would not provide a significant benefit to the Canadian broadcasting system.

That being said, we must acknowledge that while new broadcasting technologies and platforms have provided many opportunities for Ontario's content creators, they have also created some significant challenges.

The Commission has already heard from CIRPA, among others, that content creators face an incredible challenge in protecting their content from illegal and unauthorized distribution. While we understand that copyright protection and enforcement are outside of the Commission's jurisdiction, we hope that you will join us in acknowledging that this illegal activity has a detrimental impact on the music industry and on the Canadian broadcasting system as a whole.

It also continues to be a challenge for creators to finance high quality content as the demand for content grows across all platforms. Creators must produce for a number of screens, and the costs of doing so are high. More funding is needed in the system to ensure the creation of multi-platform broadcast-related content and direct-to-online digital media content.

Given these realities, we encourage the Commission to maintain the existing exemption orders but to introduce some conditions to those exemptions that address these challenges.

### **Support for Broadcasting Content in New Media**

This leads me to my second point, on the issue of support for broadcasting content in new media.

OMDC would like to see a mechanism introduced to provide increased financial support for the creation of content by Canadian producers in the new media broadcasting system.

We would like to highlight *Degrassi: The Next Generation* as an example of how Canadian producers can achieve worldwide audience and critical success with a quality niche product.<sup>i</sup>

The content on Degrassi's Canadian portal includes: streaming of full-length episodes, short-form video content, podcasts, feature news and entertainment stories, games and streamed music from the series.

The *Degrassi* website is operated through license agreements with CTV.ca in Canada and The N in the U.S. The limited advertising revenue is shared and it is a fixed license fee from The N which covers the majority of the site's production costs.

All of which is to say two important things about producing popular Canadian content in the new media environment. First, it is just as difficult to put together a financing structure for new media content as it is for traditional broadcasting content. And second, none of these partnerships are even possible if producers are required to hand over their digital media rights in exchange for a television license fee for the original programming.

The Commission has heard many suggestions for how Canadian content for new media could be supported, which we outlined in our written submission. OMDC believes that the adoption of one or more of the proposed mechanisms is important for the support

and promotion of Canadian content in the new media environment. While the development of the exact support model is outside of our expertise, we applaud the Commission's willingness to explore the alternatives and to determine which precise tools would be most effective.

Whatever type of support mechanisms are introduced, OMDC believes that this support should go towards professionally-produced content, which continues to be the most difficult type of content to finance.

Any new funding mechanisms should be incremental and should not come at the expense of the funds available for traditional broadcasting content.

Finally, support for content creation is optimized when all the intellectual property rights associated with that content are exploited. OMDC supports the Commission in its efforts to ensure that independent producers and Canadian broadcasters are able to come to a fair terms of trade agreement. In order to secure new media broadcasting rights, it is imperative that broadcasters compensate producers for that intellectual property.

OMDC also supports the suggestion, put forward by the CFTPA and others, that terms of trade should include a "use it or lose it" provision. If digital rights are demanded by broadcasters who then do nothing with them, it is a loss to the system as a whole. Taxpayer money that has been invested in the content is wasted if that content is not available to Canadian audiences on the new media platforms of their choice. A use it or lose it provision would help ensure the maximum exploitation of valuable IP.

### **Contribution to Canadian Broadcasting in New Media**

Lastly I would like to address the issue of who should be providing support to Canadian broadcasting in new media.

OMDC believes that as broadcasting content is spread across a growing number of online and mobile platforms, it should be acknowledged that the companies that provide these services are elements of the broadcasting system and therefore have an obligation to contribute to that system.

In today's world, consumers can access content through a variety of traditional broadcasting as well as new media broadcasting channels. Often many of these services are provided to the customer by the same company. Canada's largest cable and satellite providers are also the largest Internet and mobile service providers and they may also have specialty and conventional broadcast interests. These large, integrated companies have a major influence over how Canadians access all kinds of creative media content, including local news, recorded music and television programs.

For this reason OMDC encourages the Commission to look at the system as a whole, rather than as a series of isolated parts. Conventional broadcasters and distributors are rightly required to make contributions to Canadian content, and the ISPs and mobile

service providers that also benefit from delivering audiovisual content to consumers should be required to do the same.

In spite of the challenges we have outlined for you today, the Canadian independent screen-based and music producers are making a significant contribution to the creation of content for new media broadcasting. Any financial and/or regulatory incentives that are introduced to support the creation, promotion and visibility of Canadian content must be accessible to the independent production sector.

## **Conclusion**

In conclusion, OMDC would like to reiterate that while the New Media and Mobile Television Broadcasting Exemption Orders continue to remain relevant, it is time to impose some conditions on those exemptions in order to ensure that increased funding is available for Canadian content.

Support for the creation and promotion of Canadian content is important across all broadcasting platforms, including new media platforms. More money is needed in the system so that Ontario producers continue to be in a position to compete both at home and internationally with their content.

This support should be directed toward professionally-produced, high quality creative content, should be incremental to existing funding mechanisms and should not come at the expense of the funds available for traditional broadcasting content.

We would also like to re-state our support for the Commission in its ongoing efforts to see that terms of trade agreements are put in place between broadcasters and independent producers. A “use it or lose it” provision for intellectual property rights is important in these terms of trade to ensure that content is made available for Canadian audiences on the platform of their choice.

And finally, as Canadian audiences continue to turn to a widening array of platforms for the consumption of content, we feel that it is time to acknowledge that the companies that provide access to these platforms are elements of the broadcasting system and therefore should have an obligation to contribute to the creation and promotion of Canadian content on that system.

I would like to thank the Commission for the opportunity to appear today, and hand our presentation back over to Minister Carroll.

## Notes

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<sup>1</sup> Most of the information concerning *Degrassi* was originally presented in a paper by Stephen Stohn to the Law Society of Upper Canada, "Wagging the Long Tail", April 25, 2008.