

BRIEF



Syndicat canadien de
la fonction publique 

**PRESENTED TO THE
STANDING SENATE COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS**

*AS PART OF THE
REVIEW OF THE CHALLENGES FACING THE
CANADIAN BROADCASTING CORPORATION IN THE
CHANGING BROADCASTING AND COMMUNICATIONS ENVIRONMENT*

DECEMBER 8, 2014

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PREAMBLE

1. The Canadian Union of Public Employees (CUPE) is pleased to present this brief to the Standing Senate Committee on Transport and Communications as part of its review of the challenges facing the Canadian Broadcasting Corporation (CBC/Radio-Canada) in the changing broadcasting and communications environment.
2. CUPE represents over 9,000 people who work in Québec's communications industry, whether in television (Société Radio-Canada, Groupe TVA, RNC Média), radio (Cogeco, Bell Média), print media (Journal de Québec), cinema (Technicolor) or cable television, Internet and telephony (Cogeco, Vidéotron and Telus).
3. Approximately 1,700 of our members are employed by the CBC and posted at the broadcaster's stations in Québec as well as in Moncton, New Brunswick. They are represented by the Syndicat des employé(e)s de bureau et professionnel(le)s de Radio-Canada (CUPE 675) and the Syndicat des technicien(ne)s et artisan(e)s du réseau français de Radio-Canada (CUPE 5757).
4. Our members at Radio-Canada occupy various clerical and IT support positions. Others work in production as camerapersons, editors, lighting technicians, hairdressers, makeup artists, graphics design technicians, web integrators, etc. for radio, television or new broadcasting platforms.
5. CUPE also represents the producers and journalists of other media outlets as well as web and IT experts employed by private companies.
6. In its interventions, CUPE of course defends the workers it represents but also makes it a duty to equally defend the interests of the Canadian public. These two objectives are perfectly compatible given the Canadian Broadcasting Corporation plays an important role in the lives of all citizens. Indeed, the public broadcaster's mission is closely linked to our culture and our democratic institutions.

INTRODUCTION/SUMMARY

7. At the beginning of the current year, the Standing Senate Committee on Transport and Communications undertook a review of the challenges facing the Canadian Broadcasting Corporation in the wake of the national multiplatform broadcasting rights of the National Hockey League (NHL) granted to Rogers.
8. This historic agreement raised concerns from the outset seeing as the public broadcaster's English-language network (CBC Television) was obliged to renounce to its popular "Hockey Night in Canada" programme and the agreement deprived the public broadcaster of substantial advertising revenues.
9. In a press release issued by the Committee last October 27, a senator stated the following: "The committee is trying to understand what is the best role for CBC/Radio-Canada going forward."¹
10. It is CUPE's opinion that the mission given to the Canadian Broadcasting Corporation by Parliament, i.e., to provide a vast and predominantly Canadian programming that informs, enlightens and entertains Canadians from coast to coast in both national languages, remains relevant to this day.
11. Given Canadians have access to programmes and information from everywhere on the planet, the public broadcaster's mission is more relevant today than it ever was in the past. Indeed, the CBC promotes cultural expression and shared national consciousness through its predominantly Canadian programming. Also, it applies high information quality standards to counterbalance the abundance of more or less reliable news information available on the Internet.
12. CBC/Radio-Canada's main challenge resides in the decreasing means that the government puts at its disposal to enable it to carry out its mission whereas the communications world is in full transformation through the multiplication of broadcasting platforms and viewing devices, audience fragmentation, conventional television's decreasing advertising revenue, the increase in Internet advertising, etc.
13. To deal with these changes, the Canadian Broadcasting Corporation needs stable and adequate government funding more than ever before. However, in 2013–2014, its public funding fell below the historically low level recorded in 1999... And the situation is even worse this year.
14. As a result, CBC directors and management must increasingly rely on commercial revenue streams and are slowly privatizing the broadcaster without adequately informing citizens of the implications of this operation. Through service closures, to public-private partnerships (P3s) and the layoff of thousands of employees, CBC/Radio-Canada is slowly dwindling away.

¹ Standing Senate Committee on Transport and Communications. "Senate Committee on Transport and Communications to hold public hearings in Toronto." Ottawa, October 27, 2014.

15. As the public broadcaster cannot show deficits for its ongoing operations, hundreds of employees are being laid off to make up for unforeseen budgetary needs or finance the move toward digitization. That makes absolutely no sense seeing as staffing increases are required to cope with the increased number of broadcasting platforms operated concurrently.
16. By filing this brief, CUPE's intention was to take stock of what a public broadcaster is, demonstrate the complexity of CBC/Radio-Canada's mission and emphasize the challenges and difficulties it is facing in the current context. This brief addresses the public broadcaster's governance and independence as well as the various problems stemming from the P3 at Maison Radio-Canada. In each section of this brief, the shaded passages explain the challenges facing the Canadian Broadcasting Corporation with respect to the issue at hand.
17. In short, CUPE is preoccupied by all of the financial manoeuvres underway and creative solutions implemented by the CBC's directors in the 2015–2020 Strategic Plan. CBC/Radio-Canada needs more than a new mandate; it requires competent directors who take to heart its public service mission, its heritage, the Canadian culture it promotes and the access to quality information from coast to coast.
18. The Canadian Broadcasting Corporation has reached a turning point. CUPE asks the Standing Senate Committee on Transport and Communications to acknowledge this fact and take positive action to promote a strong public broadcaster solely in the interest of Canada's citizens.

THE PUBLIC BROADCASTER

Criteria defining a public broadcaster

19. Regardless of the country that created it, the type of funding it receives or how it operates, a public broadcaster exists first and foremost to serve the public interest². Universally, four main criteria are generally recognized and used to define public broadcasting³:

- Universality
- Diversity
- Independence
- Distinctiveness

20. These criteria are presented in further detail below. The shaded textboxes explain the challenges facing the CBC with respect to each criterion in the current context.

A. UNIVERSALITY

Public broadcasting must be accessible to every citizen whatever their geographic location, social status or income.

It is generally recognized that the current multiplication of broadcasting platforms in the communications world should provide increased access to public broadcasting.

However, factors that are beyond the public broadcaster's control may hinder access to its services. Such factors include the absence of high-speed Internet connectivity⁴ or the prohibitive costs of bandwidth usage.

Although necessary, CBC's move to digital platforms must therefore be adequately planned out to avoid disadvantaging certain citizens such as those who live outside the major centres where high-speed connectivity options are rare or yet again citizens with low incomes.

This move must first and foremost be made in the public interest. Accordingly, CBC must dispose of the necessary means to undertake this move without sacrificing its achievements in radio and television⁵:

"... public service broadcasters need adequate financial and other resources (such as technical expertise) to be able to be present and to deliver their mandates on new communications platforms."⁶

² UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011.

³ UNESCO. *Public Service Broadcasting: A Best Practices Sourcebook*. 2005. p. 16 and 17.

⁴ UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 19.

⁵ In an address before the Board of Trade of Metropolitan Montreal on October 16, 2014, Hubert T. Lacroix stated: "89% of Canadians still watch TV live sitting in their living room, based on the schedule we put together for them, and they spend 27 hours a week doing it! Same thing goes for radio. It's stronger than ever, with a combined audience share of 21.5% among Francophones, and with our CBC Radio One morning shows number one, two or three in 20 out of 23 of our markets."

Last September, the Canadian Broadcasting Corporation applied to the Canadian Radio-television and Telecommunications Commission for the permission to close its transmitters⁷. The CBC is thus seeking to circumvent the Copyright Act⁸ in order to sell its signal to cable and satellite operators and thus increase its revenues in an attempt to stabilize its budgetary situation.

The CRTC's approval of this application would affect the universality of CBC/Radio-Canada because citizens would be required to pay a private company for access to the public broadcaster's television programming...

Would it not be more logical for the government (and less costly for taxpayers) to simply increase the CBC's public funding to enable it to adequately carry out its mission while seeing to its modernization without giving private intermediaries access to a portion of the profits?

Moreover, instead of depriving a portion of the population of its access to a broadcast medium, would it not be wiser to use existing equipment to reach a greater number of citizens? In the United States, some 130 or so broadcasters use their digital transmitters to broadcast a free signal available through mobile devices (equipped with a small antenna⁹).

We do not know if the CBC has contemplated such an avenue, but it appears to us that this solution would enable it to make profitable its digital transmitters installed in 2011 while adapting to audiences' viewing habits.

B. DIVERSITY

The public broadcaster's programming must include different genres of programmes that will interest different groups in society. By offering a varied programming, the public broadcaster remains relevant for all citizens who are able to find a programme or another that interests them. However, this strategy implies that not all programmes will register the highest audience ratings.

The decrease in public funding allocated to CBC/Radio-Canada is a direct threat to the diversity of the programming made available by the public broadcaster.

On the one hand, because of lower parliamentary appropriations, the CBC is forced to increase its self-generated revenue on an ongoing basis for the last few years. In 2013–2014, this revenue accounted for an unprecedented 40% of CBC/Radio-Canada's total

⁶ UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 19.

⁷ CRTC. Broadcasting Notice of Consultation 2014-190. *Let's Talk TV*.

⁸ Section 31 of the Copyright Act.

⁹ <http://www.nab.org/mobiletv/>

revenue¹⁰. Consequently, Canada's public broadcaster figures among those that depend the most on commercial revenues in the western world¹¹.

The CBC generates two thirds of its self-generated revenue from advertising sales (64% in 2013–2014). This contributes to standardizing its programming and bringing it closer to what private broadcasters offer. Indeed, seeing as television advertising prices are established according to programme audience ratings, the increased dependence on advertising revenue promotes the broadcasting of programmes intended for wide audiences. This is done to the detriment of varied programming designed to interest different groups in society.

On the other hand, CBC/Radio-Canada's budget problems have led in the past few years to an increase in radio and television programme rerun broadcasting. The scope of the news coverage is also affected by the successive cuts imposed on the public broadcaster. With fewer journalists and camerapersons in the field, the CBC necessarily broadcasts fewer news and opinion pieces as well as fewer public policy or science reports, as explained by Charles Tisseyre, the host of "Découvertes," at CBC/Radio-Canada's annual public meeting:

[TRANSLATION] "We are doing what we can but given the current budget cuts, we can't do as much as we'd want to do. We were forced to postpone the airing of our season by three weeks and we currently air one rerun per programme during prime-time hours: out of four reports, one is a rerun. Therefore, our quality remains unchanged, but our programming offer has decreased in quantitative terms. I've never seen that in 21 years of hosting 'Découvertes.' [...] It's gone too far [with respect to the cuts]. We no longer have the means to do what we should be doing and to do it right."

C. INDEPENDENCE

Independence from commercial or political pressures is another factor that differentiates public broadcasters from state and commercial broadcasters.

This principle of independence stems from the right to freedom of expression. To promote it, legal and structural protections must be put in place to counter governments' and businesses' universally observed tendency to want to minimize access of their critics and competitors to the broadcast media¹².

Moreover, Parliament sets out its intent in clear terms within the Broadcasting Act: to provide the CBC with all the latitude it requires to first and foremost serve the public interest rather than the government or party in power. Indeed, the Broadcasting Act stipulates that:

¹⁰ CBC/Radio-Canada. *2013–2014 Annual Report*. p. 30 + 52.

¹¹ Nordicity. *Analysis of Government Support for Public Broadcasting and Other Cultures in Canada*. October 2013. p. 5.

¹² UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 13.

“The Corporation shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence.”¹³

This provision is consistent with international law, as pointed out by UNESCO:

“It is now well established that international law prohibits political interference in the work of public service broadcasters.”¹⁴

Despite the support of several significant legal provisions¹⁵, the Canadian Broadcasting Corporation has difficulty keeping a healthy distance from political power given its CEO and members of its board of directors are all appointed by the Governor in Council¹⁶.

Since several years now, the CBC’s board of directors is almost entirely composed of Conservative supporters. In fact, 10 of its 12 members made donations to the Conservative Party between 2006 and 2013, including CEO Hubert T. Lacroix and Rémi Racine, the chairman of the board of directors¹⁷. This sheds doubt on the ability of the public broadcaster’s directors to focus on acting in the public interest:

“Boards can only be effective in terms of protecting the independence of broadcasters if they, themselves, are independent of political interference.”¹⁸

That may explain why management of the Canadian Broadcasting Corporation did nothing to avoid the budgetary cuts in 2012¹⁹. Since then, three rounds of cuts aimed at balancing the budget have forced the CBC to lay off more than 1,600 employees and reduce its journalistic coverage as well as the programmes it produces and broadcasts—in terms of both number and diversity.

For CBC/Radio-Canada to actually be able to maintain a healthy distance from the current government, among other things, members sitting on the board of directors should be appointed independently of political interference:

“As a general observation, the involvement of a range of individuals in the appointments process, representing all significant political viewpoints, rather than just the president or prime minister, is a key way of bolstering independence. As a corollary of this, it is

¹³ Section 46(5) of the Broadcasting Act.

¹⁴ UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 88.

¹⁵ Namely sections 44(3), 46(5), 53(1) and 53(3) of the Broadcasting Act.

¹⁶ Section 36(2) of the Broadcasting Act.

¹⁷ Friends of Canadian Broadcasting. *Conservative Broadcasting Corporation*. October 17, 2014. <http://www.friends.ca/blog-post/11728>.

¹⁸ UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 89.

¹⁹ In an address before the Board of Trade of Metropolitan Montreal on February 10, 2012, Hubert T. Lacroix stated: “All of the decisions that we will be taking in the next weeks to cope with the upcoming cuts will be based on our strategic plan [...] We are committed to delivering you the strategic plan within our current budgets without asking for additional funding from the government. We will do that by shifting approximately 500 jobs from our traditional to our digital services, overhauling our production methods, bringing the CBC and Radio-Canada even closer together to make them even more efficient and expanding our partnerships and revenue sources.”

important that the process allows for input by civil society, as a means of further broadening participation and ensuring against partisan nominations.”²⁰

The process by which members of the public broadcaster’s board of directors are appointed should be improved. For example, the government could make its selection from a list of candidates nominated by citizens, civil society organizations or even the House of Commons²¹.

Also, a given number of candidates could be required to possess specific expertise in broadcasting or experience in the journalistic or cultural sectors. Currently, none of CBC/Radio-Canada’s directors have experience in the regulated media environment²².

Finally, to counter commercial pressures that risk undermining its independence and affecting its programming, the CBC should receive stable and adequate public funding. The constant increase in the portion of commercial revenues making up CBC/Radio-Canada’s budget compromises the public broadcaster’s independence.

D. DISTINCTIVENESS

Public broadcasting services must be distinguished from those of other broadcasting services. The distinctiveness of such services may take on different forms and be expressed namely in terms of programming quality or originality:

“It is not merely a matter of producing the type of programmes other services are not interested in, aiming at audiences neglected by others, or dealing with subjects ignored by others. It is a matter of doing things differently, without excluding any genre. This principle must lead public broadcasters to innovate, create new slots, new genres, set the pace in the audiovisual world and pull other broadcasting networks in their wake.”²³ [our emphasis]

The distinctiveness of the CBC’s programming is threatened by the reduction of the broadcaster’s public funding. It is this form of funding—theoretically higher and more stable than that of commercial broadcasters—that should enable it to produce distinctive and innovative programmes.

Indeed, parliamentary appropriations enable public broadcasters to take programming risks, something that commercial broadcasters cannot afford to do.

The constant reduction of public funds allocated to CBC/Radio-Canada increasingly exposes the public broadcaster to the tyranny of audience ratings, which raises concerns with respect to the originality of its programming²⁴ and its capacity to influence other broadcasters to do better.

²⁰ UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 89.

²¹ Ibid.

²² CBC/Radio-Canada. *2013–2014 Annual Report*. p. 141 à 145 et www.cbc.radio-canada.ca.

²³ UNESCO. *Public Service Broadcasting: A Best Practices Sourcebook*. 2005. p. 17.

²⁴ Refer to the shaded textbox in section B on diversity. p. 7.

THE PUBLIC BROADCASTER'S MISSION

21. The Broadcasting Act stipulates that the Canadian broadcasting system counts on its private, public and community components to attain the objectives of the Canadian Broadcasting Policy. Consequently, the Act stipulates that “each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming²⁵ focused on quality, balance and diversity that informs, enlightens and entertains²⁶.”
22. Furthermore, Parliament also gave the Canadian Broadcasting Corporation a much larger mission and greater obligations. Thus, the Act stipulates that the CBC must alone provide, from coast to coast, adequate radio and television services in both official languages that incorporate a wide range of programming that informs, enlightens and entertains. The Act also requires the public broadcaster to be predominantly and distinctively Canadian, reflect Canada and its regions while serving the special needs of regions and linguistic minorities and actively contribute to cultural expression²⁷.
23. “No other Canadian broadcaster—commercial or public—has the responsibility to provide the same breadth of services or the same scale and scope of operations as the CBC/Radio-Canada²⁸.”, as noted by the Office of the Auditor General of Canada in a Special Examination Report on the CBC.
24. Moreover, Parliament deemed that the public broadcaster played such an important role that it gave precedence to its mission²⁹ over the interests of all other broadcasting corporations when conflicts arise³⁰.
25. No matter what critics say of it, the CBC is not just another broadcaster.
26. CBC/Radio-Canada is our only national public broadcaster and the only one to provide coverage in both national languages to the country’s most remote regions³¹. It is the only broadcaster to offer an international service (RCI)³² as well as a Canada-wide perspective in French and eight aboriginal languages³³. It also represents the broadcaster that innovates the most on new platforms and in entertainment programmes and the only one to count on an extensive network of foreign bureaus that present international news from a Canadian point of view³⁴.

²⁵ Section 3(1)e) of the Broadcasting Act.

²⁶ Canadian Broadcasting Policy.

²⁷ Sections 3(1)l) and m) of the Broadcasting Act.

²⁸ Office of the Auditor General of Canada. *2013 Special Examination Report on the Canadian Broadcasting Corporation*. Ottawa, February 14, 2013, p. 1 and 2.

²⁹ Sections 3(1)l) and m) of the Broadcasting Act.

³⁰ Section 3(1)n) of the Broadcasting Act.

³¹ Sections 3(1)(m)(iv) and (v) of the Broadcasting Act.

³² Section 46(2) of the Broadcasting Act.

³³ Sections 3(1)k) and o) of the Broadcasting Act.

³⁴ Section 3(1)i)(ii) of the Broadcasting Act.

27. Although the number of bureaus has been reduced since 2011 because of budgetary cuts, CBC/Radio-Canada still maintains journalists in nine countries³⁵. In comparison, CTV, which is the English-language commercial broadcaster that counts the highest number of Canadian journalists posted abroad—operates a total of four foreign bureaus³⁶. In the French-language market, TVA employs a single foreign correspondent³⁷ whereas V has none at all.
28. In short, no other broadcaster—whether commercial, public or community—can replace the Canadian Broadcasting Corporation in carrying out the mission given to it by Parliament. The CBC is at the centre—and the heart—of the Canadian Broadcasting Policy. More than 20 years after the Act came into force, CUPE believes that it is still relevant that the Corporation continues to carry out this mission.
29. The changes that are sweeping the communications world—namely the multiplication of digital broadcasting platforms and growing interest for social media—in no way affect the validity of this finding. To the contrary, the public broadcaster is in our opinion more relevant and necessary than ever before for two main reasons.
30. First, its predominantly³⁸ Canadian programming enables cultural expression and a shared national consciousness³⁹. This contribution to diversity and Canadian culture is that much more important given the multiplication of content around the world.
31. Second, the Canadian Broadcasting Corporation provides access to reliable news items that counterbalance the abundance of more or less reliable information available out there.
32. In this regard, it must be pointed out that CBC/Radio-Canada is the only Canadian media (print media, radio, television and Internet combined) to provide the services of ombudspersons who answer citizens' complaints and propose corrective measures whenever the public broadcaster did not fully comply with its Journalistic Standards and Practices⁴⁰.

Maintaining the mission Parliament gave the CBC and extending⁴¹ it to digital platforms are threatened by a dwindling public funding base.

³⁵ CBC/Radio-Canada. *2013–2014 Annual Report*. p. 31. "Internationally, CBC/Radio-Canada has nine foreign bureaus."

³⁶ Based on our information, CTV has Canadian journalists posted in Washington, Los Angeles, London and Beijing.

³⁷ TVA's sole foreign correspondent is based in Washington.

³⁸ Section 3(1)m(i) of the Broadcasting Act and CRTC, Broadcasting Decision CRTC 2013-263, *Canadian Broadcasting Corporation – Licence Renewals*. Ottawa, May 28, 2013. Paragraph 41: "The CBC's commitment to devote at least 75% of the broadcast day and 80% of prime time to Canadian programming illustrates a strong commitment to be predominantly and distinctively Canadian, as the Act requires."

³⁹ Sections 3(1)(i)(iii) and (vi) of the Broadcasting Act.

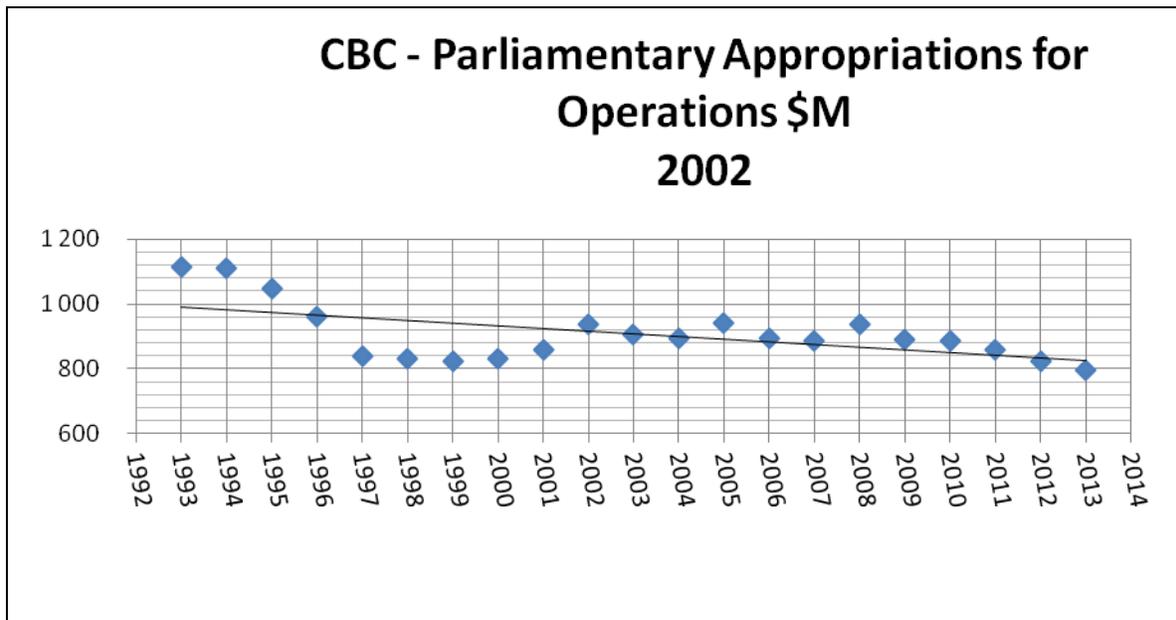
⁴⁰ CBC/Radio-Canada. *Journalistic Standards and Practices*. <http://www.cbc.radio-canada.ca/en/reporting-to-canadians/acts-and-policies/programming/journalism/>

⁴¹ Section 3(1)m)(vii) of the Broadcasting Act.

As recently stated by the CEO of CBC/Radio-Canada, Hubert T. Lacroix, before the Board of Trade of Metropolitan Montreal:

“89% of Canadians still watch TV live sitting in their living room, based on the schedule we put together for them, and they spend 27 hours a week doing it! Same thing goes for radio. It’s stronger than ever, with a combined audience share of 21.5% among Francophones, and with our CBC Radio One morning shows number one, two or three in 20 out of 23 of our markets. So, here’s our challenge. On the one hand, we can’t leave TV and radio behind. On the other, neither can we afford to ignore our industry’s realities. New ways to consume content are emerging alongside traditional methods. We’re in a transition between past and future models, at a time when we need to also accompany our audience, at their own pace, toward digital media.”⁴².

However, the funding allocated to the public broadcaster does absolutely not take into account the additional burden that the CBC must shoulder to remain relevant for citizens in light of the industry’s move toward digitization. In constant dollars, the sums allocated by the government to the CBC have constantly decreased since the beginning of the 1990s to reach an all-time low.



The government must acknowledge the scope and complexity of the CBC’s mission and give it the funding it needs to remain a relevant public broadcaster within the new media industry. By constantly cutting its funding—be it simply to not index it to the cost of living—, the federal government is forcing the Canadian Broadcasting Corporation to increasingly depend on advertising and commercial revenues or to outright neglect certain aspects of its mission.

⁴² CBC/Radio-Canada. *Speaking notes for Hubert T. Lacroix, President and CEO, CBC/Radio-Canada, at the Board of Trade of Metropolitan Montreal.* October 16, 2014.

Once again this year, "...a freeze of salary funding has also been confirmed by the government in its most recent Economic Update for fiscal years 2014–2015 and 2015–2016. This means that any salary increases for CBC/Radio-Canada employees will have to be managed through cost reductions in other areas⁴³."

This momentum denatures the public broadcaster and detracts it from its mission by making it increasingly similar to commercial television networks⁴⁴. CBC management, in its constant search for savings and new sources of funding, is also increasingly looking toward privatizing operations. We only have to think about the application to have transmitters shut down⁴⁵, various event broadcasting partnerships and the transformation of the Maison Radio-Canada in Montréal under a P3 (Public-Private Partnership) to be convinced of this⁴⁶.

The 2015–2020 five-year plan⁴⁷ states objectives that raise many questions regarding compliance with the public broadcaster's statutory mission and its public vocation in a context of budget cuts.

Indeed, one may wonder how the CBC will be able to *intensify its relationship with Canadians*⁴⁸ by offering content on a greater number of platforms while laying off employees (more than 1,000 positions remain to be abolished⁴⁹).

How will CBC/Radio-Canada manage to *preserve its geographic presence, to be even more local, but at a reduced cost?*⁵⁰

And what *long-term sustainable ways* will be developed to manage its financial health and ability to invest in the future⁵¹?

Should the CBC be promoting Canadian unity?

33. That being said, let's turn back to the comments made by Senator Maltais who, last October 8, stated that the Canadian Broadcasting Corporation's fundamental mission was "Canadian unity."⁵²

⁴³ CBC/Radio-Canada. *2013–2014 Annual Report*. p. 52.

⁴⁴ Refer to the shaded textbox in section B on diversity. p. 7.

⁴⁵ Refer to the shaded textbox in section A on universality. p. 7.

⁴⁶ Refer to p. 20.

⁴⁷ CBC/Radio-Canada. *A space for us all*. June 2014. p. 2.

⁴⁸ CBC/Radio-Canada. *A space for us all*. June 2014. p. 2.

⁴⁹ The Globe and Mail, *CBC cutting up to 1,500 jobs, trimming newscasts: the live report*, Ottawa, 26 juin 2014.

⁵⁰ CBC/Radio-Canada. *A space for us all*. June 2014. p. 2.

⁵¹ Ibid.

⁵² Standing Senate Committee on Transport and Communications. *Evidence*. Ottawa, October 8, 2014.

<http://www.parl.gc.ca/content/sen/committee/412/TRCM/51630-e.HTM>.

34. It is true that the Broadcasting Act of 1968 mandated the Corporation to contribute among other things “to the development of Canadian unity,” but this provision is not longer in force since the adoption of the current Act in 1991⁵³.

35. Before a committee of the House of Commons, Marcel Massé, the Conservative Minister of Communications at the time, had explained the reasons that had convinced him to remove this obligation from the Act in 1990:

“I have removed from the CBC its obligation to promote Canadian unity because it is, first maintaining this political value artificially, and second, it was a constraint on freedom of expression. This obligation also opens the door to an intolerable interference. In removing it, we will rather place greater emphasis on the capacity of Canadians to recognize each other through their values.”

“I am on the side of freedom of expression, and the quality of life in our country is directly connected, not to the will of politicians, but to freedom of expression for the population. This is why Canada is a great country. Not because of directives given by previous governments to [Radio-Canada], but because we have the right to express our cultural identity. This is why the Canadian identity, in my opinion, rests more on freedom of expression than on directives issued by previous governments...”⁵⁴ [our emphasis]

36. In our view, this position is still relevant and the resulting reform of the Act remains just as relevant. Freedom of expression protects both the right to broadcast information and the right to receive this information and be exposed to different ideas⁵⁵.

37. In a legal analysis of public broadcasting in different countries on the planet, UNESCO notes that freedom of expression is an internationally recognized principle and that public broadcasters have a responsibility with regard to it:

“It may be noted that the obligation to respect freedom of expression lies with States, not with the media *per se*. However, these obligations do apply to public broadcasters. Because of their link to the State, these broadcasters are directly bound by international guarantees of human rights. In addition, public broadcasters are in a special position to satisfy the public’s right to know and to guarantee pluralism and access, and it is therefore particularly important that they promote these rights.”⁵⁶

38. By requiring its public broadcaster to promote Canadian unity, Canada would be placing itself at odds with international law and the *Charter of Rights and Freedoms*, which both protect freedom of expression.

39. Consequently, we ask that the Senate Committee take our arguments into consideration in its final report and disregard Senator Maltais’ October 8 statement on Canadian unity.

⁵³ Peter S. Grant. *Canadian Broadcasting Regulatory Handbook*. McCarthy Tétrault. 2012. p. 28.

⁵⁴ Peter S. Grant. *Canadian Broadcasting Regulatory Handbook*. McCarthy Tétrault. 2012. p. 28 and 29.

⁵⁵ UNESCO. *Public Service Broadcasting: A Comparative Legal Survey*. 2011. p. 11.

⁵⁶ *Ibid.* p. 12.

FUNDING THE PUBLIC BROADCASTER

How are the world's public broadcasters financed?

40. Public broadcasters receive funding from various sources:

“[...] the main forms of financing public broadcasting around the world are direct government grants, licence fees, advertising, and voluntary subscriptions. Only a small number of PBS [public broadcasting] systems use any of these forms as a 'pure' model. The evidence is that most systems use a combination of some of the four forms.”⁵⁷

41. A 2013 study conducted by Nordicity⁵⁸ in 18 western countries (2011 data) arrived at the following conclusions:

- 7 of the 32 public broadcasters present in the surveyed countries were fully funded by the state;
- 19 of these broadcasters received public funding and relied on commercial revenues for up to 38% of their budgets;
- 6 public broadcasters relied on commercial revenues for more than 38% of their budgets.

How is the Canadian Broadcasting Corporation financed?

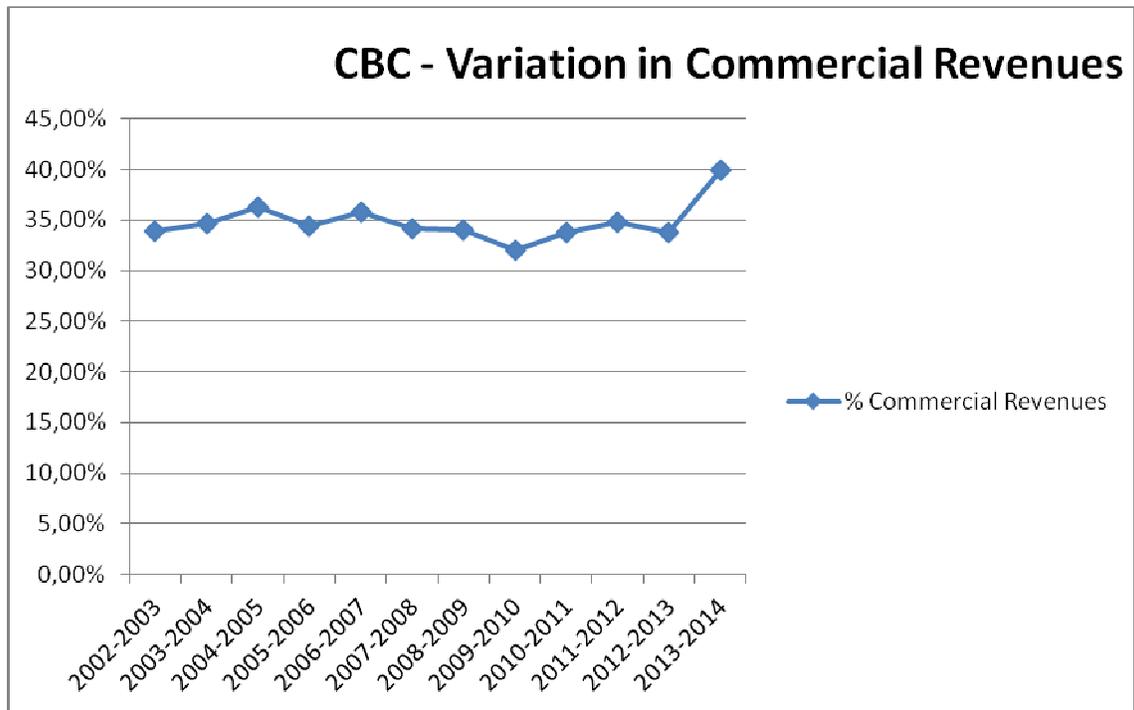
42. At the time, CBC/Radio-Canada was in the median with 34% of its revenues generated from commercial sources. However, the situation has changed since then. Cuts totalling \$115 million made by the federal government in 2012 and the freeze of salary funding imposed for several years⁵⁹ forced the CBC to increase its self-generated revenue. The proportion of the public broadcaster's budget represented by commercial revenues has skyrocketed since 2010⁶⁰.

⁵⁷ UNESCO. *Public Service Broadcasting: A Best Practices Sourcebook*. 2005. p. 133.

⁵⁸ Nordicity, *Analysis of Governmental Support for Public Broadcasting and Other Culture in Canada*, October 2013, p.5.

⁵⁹ Salary inflation funding was frozen between fiscal years 2010-2011 and 2012-2013 according to CBC / Radio-Canada, *Annual Report 2012-2013*, p.67.

⁶⁰ CBC/Radio-Canada. 2002-2003 to 2013–2014 *Annual Reports*.



Source: CBC/Radio-Canada, 2002-2003 to 2013-2014 Annual Reports.

43. The situation is quite ironic since private independent producers see their various sources of government revenues (tax credits, Canada Media Fund, rights purchases by the CBC, etc.) increase. Between 2000-2001 and 2011-2012, public funding of independent producers jumped 10%⁶¹.
44. With respect to advertising, despite a general decrease of this type of revenue among the country's private conventional broadcasters, CBC/Radio-Canada managed to maintain a rate of growth of approximately 3% of its advertising revenues over the last five years. However, FY 2012–2013 was disastrous in this regard because of the National Hockey League (NHL) lockout.

⁶¹ AQPM, CMPA and Department of Canadian Heritage. *Profile – Economic Report on the Screen-based Media Production Industry in Canada*. 2005 to 2013. Canada Media Fund. Annual Reports. 2010 to 2013. Canadian Television Fund. Annual Reports. 2006 to 2009.

ADVERTISING REVENUES – CBC’S CONVENTIONAL TELEVISION

Total revenue (in \$M)	2012 (Sept. 1, 2011 to Aug. 31)	Variation %	2013 (Sept.1, 2012 to Aug. 31, 2013)	Variation %	Annual compound growth rate (2009-2013)
Atlantic	\$7.53	1.34	\$6.72	-10.73	2.6%
Québec	\$137.00	2.04	\$137.87	0.63	4.6%
Ontario	\$206.44	0.59	\$169.30	-17.99	2.4%
Prairies	\$10.85	4.44	\$8.75	-19.31	-4.3%
B.-C. + Territories	\$10.88	-11.72	\$8.48	-22.03	-6.2%
Canada	\$372.70	0.83	\$331.12	-11.15	2.8%
Canada excl. Québec	\$235.69	0.03	\$193.25	-4.84	1.56%

Source: CRTC, Conventional Television – Statistical and Financial Data, 2009-2013.

45. This does not bode well for the years to come seeing as the Canadian Broadcasting Corporation will no longer earn revenues on the advertising broadcast during Hockey Night in Canada (HNIC). Under a four-year agreement⁶² in force since this fall, Rogers holds the television rights to NHL games and will manage all of the advertising broadcast during the CBC’s flagship programme.
46. In exchange, CBC/Radio-Canada will have no broadcasting rights to pay over the term of the agreement. The strategy is for the least questionable seeing as the public broadcaster thereby becomes an additional advertising window for a private media conglomerate... In 2018, the public broadcaster will also need to add 360 hours of programming⁶³ to its schedule to replace hockey and this will necessary have an impact on its expenditures.
47. Moreover, it is far from certain that the move toward digitization will have the intended effect on the CBC’s commercial revenues. Even though part of the public broadcaster’s conventional advertising market is shifting to the web, Internet advertising investments do not fully compensate the revenue lost by general interest television⁶⁴. The move toward digitization must therefore not serve first and foremost to fill CBC/Radio-Canada’s coffers because the revenue might simply not be there. The objective must

⁶² CBC/Radio-Canada. *2013–2014 Annual Report*. p. 65.

⁶³ Standing Senate Committee on Transport and Communications, *Proceedings of the Standing Senate Committee on Transport and Communications*, Issue 3 - Evidence, February 26, 2014.

⁶⁴ The *Canadian Internet Advertising Revenue Survey* (IAB Canada, September 17 2014, p.10), indicates that “The top 10 Internet advertising earners in this survey brought in 82% of all Canadian Internet ad revenues in 2013 [...] The top 20 earners accounted for 89% of total Internet revenues in 2013...”. It is therefore unrealistic to think that the CBC would be able to replace all its ad revenues from TV by the same amount of money coming from Internet advertising sales. CBC/Radio-Canada monopolizes actually about 20% (more than 300 millions of dollars per year) of total traditional TV revenues in Canada (CRTC, *Statistical and Financial Reports 2009-2013*).

instead be to provide Canadians with the services they expect from their public broadcaster.

Faced with the industry's move toward digitization and the fluctuation of all of its revenue streams, the CBC must more than ever before be able to rely on a stable source of public funding.

Given CBC/Radio-Canada may not borrow to satisfy its working capital requirements⁶⁵, its employees—who embody the public broadcaster's expertise—are used as a credit margin to deal with increasingly frequent unforeseen circumstances. This situation is not sustainable.

CBC/Radio-Canada's CEO, Hubert T. Lacroix, is right when he says that it is impossible to continue to operate in a context of repeated and massive staff layoffs: "... we can't be resizing the public broadcaster every two years. It's not good. It's not healthy. And it's not the normal course of business⁶⁶..." The exaggerated rhythm at which the CBC is reducing its workforce jeopardizes the public broadcaster's mission, expertise and capacity to transform itself to meet Canadians' needs.

It may well be asked how CBC/Radio-Canada will manage to maintain the quality of its radio and television programming while producing more and more digital content given its workforce and organizational structure are constantly changing!

That being said, CUPE does not believe that the solution lies in an endless increase of the CBC's commercial revenues because the advertising market's situation is not conducive to it. The government must therefore assume responsibility and provide the necessary financial support to enable the Canadian Broadcasting Corporation to transform itself while remaining fully relevant.

The current situation is unhealthy because most priorities are established on the basis of CBC/Radio-Canada's financial difficulties rather than the public interest.

A strategic planning document produced by the board of directors of CBC/Radio-Canada states that the services planned for 2020 will be reinvented such as to contribute to the *financial sustainability* of the public broadcaster⁶⁷. Should we understand that services that are not profitable but fulfill the objectives of the Broadcasting Act could be eliminated or reduced?

⁶⁵ CBC/Radio-Canada. *Policy 2.3.29: Management of Investments*. March 2012. Annex A, point 3: "However, Borrowing Guidelines provided by the Department of Finance specify that the CBC may not borrow to satisfy working capital requirements."

⁶⁶ CBC/Radio-Canada. *Speaking notes for Hubert T. Lacroix, President and CEO, CBC/Radio-Canada, 2014-2015 Budget*, April 10, 2014.

⁶⁷ CBC/Radio-Canada. *Discussion of the Board's Strategic Planning Committee – The Main Challenges*. May 14, 2014. p. 7.

In the same document, which is largely blacked out, the board's strategic planning committee states that its intention is to make the CBC more local while reducing costs by providing more or less elaborate local news services across the country's regions. Does this imply that the right to freedom of expression (and, by the same token, the right to information) would follow a variable geometry model in Canada?

Moreover, the 2015–2020 plan provides for the privatization of all production operations (with the exception of informational programming) as well as the sale of immovable and transmission assets. The implemented strategy transfers CBC assets to the private sector, but citizens are kept in the dark as to the advantages, if any, that this privatization would have for them.

Having recourse to a public-private partnership (P3) for the sale and transformation of the Maison Radio-Canada (MRC) in Montréal is a good example of this. Documents obtained by CUPE that appear to be authentic documents of the CBC's board of directors stipulate that this project would cost between \$7.3 million and \$15 million more per annum than what it currently costs to operate the MRC. The financing rate is estimated at 7.5% over 30 years for an estimated project cost of \$230.7 million⁶⁸.

Recent studies on P3s have established that a government or a public institution the likes of CBC/Radio-Canada are able to obtain a financing rate that is lower than any private company or consortium⁶⁹. So why not contemplate the possibility of renovating the MRC or entrusting the project to the Canada Lands Company? The CBC never publicly motivated its choice of a P3.⁷⁰

Moreover, a second document of CBC/Radio-Canada's board of directors obtained by CUPE indicates that in November 2013, the public broadcaster's management and directors decided to pay between \$2.25 million and \$3 million to each consortium that responded to the request for proposals⁷¹. This decision was made despite a recommendation by PPP Canada to limit proponents' retribution to \$1.5 million and after lobbying by the consortia hoping to obtain the project.

Finally, whereas the CBC's 2015–2020 plan states as an objective to *reduce its real-estate footprint and reinvest in programming*⁷², one of the board documents received⁷³ instead indicates that the layoffs in the CBC's French-language network (SRC) will finance the P3 shortfall. May it be said that this project is expected to lead to the

⁶⁸ The document appears to have been produced in April 2013.

⁶⁹ John Loxley. *Public Service Private Profits – The Political Economy of Public-Private Partnerships in Canada*. Fernwood Publishing. 2010. As an example (p. 159), the cost of borrowing money for the Moncton Water Treatment Plant was of 10% whereas «... the city could have raised its own financing, at less than 6 percent in 1998. »

⁷⁰ Idem, p.38. «The economic and financial impact of P3 can be complex. [...] Where a P3 is being promoted to cover a number of different activities, such as design, finance, build, lease, maintain and operate, it is essential that each aspect of the proposal be evaluated separately and its costs and benefits compared with those to be had if the individual operation were to be carried out by the public sector.»

⁷¹ The document is dated November 25 and 26, 2013.

⁷² CBC/Radio-Canada, A space for us all. June 2014, p. 2.

⁷³ The document seems to be dated April 2013.

disappearance of all but one Montréal-based studio. This situation is aberrant given the TVA network operates a total of nine studios in Montréal...

The scope of the changes made by this project is that much more troubling in that industry actors do not agree on what the future holds for television⁷⁴. For some, like CBC/Radio-Canada, the future lies entirely in the Internet. In its restructuring made public last June 26, the CBC relegates television production to the last rank of its priorities in terms of content⁷⁵ (after mobility, the Internet and radio).

However, other industry observers believe that television is at the heart of the industry's changes:

"Television is not dead or dying. It is thriving, and remains at the core of the internet – and wireless – centric media universe. Moreover, television and online video are driving the development and use of wireless and internet services. [...] Of course, this does not mean that life is easy for those in the television business. Indeed, all of these sectors continue to have to come to terms with an environment that is becoming structurally more differentiated because of new media, notably IPTV and over-the-top (OTT) services such as Netflix, as well as significant changes in how people use the multiplying media at their disposal."⁷⁶

Therefore, there is a future for television programming but its future must be adapted to take into account changing technology and new viewing habits. Yes, CBC/Radio-Canada has reason to want to modernize its operations but it must avoid placing all its eggs in the same basket. In fact, the most recent statistical data indicate that radio and television consumption over the Internet tends to complement rather than replace conventional listening or viewing habits.

WEEKLY CANADIAN MEDIA CONSUMPTION

Hours per week	Television	Internet <i>on different devices</i>	Radio	Newspapers	Magazines
2001	25.5	5.2	21.4	2.7	1.3
2013	28.9	28.9	17.8	3.2	0.6

Source: IAB Canada, 2013: Unearthing Internet Time, IAB Canada, December 2013.

In this context, it seems illogical to us for CBC/Radio-Canada to get rid of its television studios seeing as they could be used to shoot different audiovisual products whether for television, tablets or mobile phones. CUPE's unions are aware of the fact that the CBC needs to move toward digitization. However, it must avoid doing so too quickly, in the wrong manner or for the wrong reasons.

⁷⁴ CRTC. Notice of Consultation 2014-190. *Let's Talk TV*.

⁷⁵ <http://www.cbc.radio-canada.ca/en/explore/strategies/2020/local-offer/>

⁷⁶ Canadian Media Concentration Research Project. *The Growth of the Network Media Economy in Canada, 1984–2012*. October 15, 2013. p.8.

The disappearance of the Montréal studios—as has already been the case for many regional stations—will lead to the loss of professional expertise that will be impossible to replace. It will also lead to increased subcontracting of the public broadcaster's programming (privatization) and increased production costs over which the CBC will have no control.

Entrusting a increased number of programmes to the independent production sector could also lead to all sorts of abuses as was the case with some of Québec's municipalities. Such a scheme would also be detrimental to the balance between private and public producers sought by Parliament in the Broadcasting Act⁷⁷.

We can hardly imagine what CBC/Radio-Canada management will do, once the P3 has been completed, the studios have disappeared and the employees have been laid off should the industry once again make it necessary to use internal production capacities. For example, this scenario could be possible if the Canada Media Fund (CMF) saw its funding reduced⁷⁸ or the cost of programme broadcasting rights continued to increase. In such cases, the CBC would cruelly lack both *adaptability and flexibility*⁷⁹ seeing as it would have lost all of its expertise in its primary mission. The Corporation would then be required to take costly measures to rebuild what it destroyed (for example, buy back commercial producers' activities as Bell did with Entourage⁸⁰) or remain at the mercy of the private sector as is the case of several Québec municipalities that massively subcontracted the rebuilding of sidewalks.

The Canadian Broadcasting Corporation renders an essential service to the community. Yes, it needs to be modernized while however preserving its achievements in content production on all platforms and both in major urban centres and more rural areas. The public interest must be at the heart of the CBC's move toward digitization for it to occur at a rhythm with which citizens are comfortable. The goal must not be limited to generating savings.

⁷⁷ Section 3(1)(i)(v) of the Broadcasting Act.

⁷⁸ The CMF is funded by a percentage of the broadcasting revenues of Canadian broadcasting distribution undertakings (BDUs), i.e., cable and satellite operators.

⁷⁹ CBC/Radio-Canada. *A space for us all*. June 2014. p. 2.

⁸⁰ Gérard Bérubé. "Bell entend récupérer ses techniciens" in *Le Devoir*. February 23, 2005:

<http://www.ledevoir.com/economie/actualites-economiques/75493/bell-entend-recuperer-ses-techniciens>

CONCLUSION

48. The Canadian Broadcasting Corporation is faced with major financial challenges that threaten its ability to carry out its mission, a mission given to it by Canadians through Parliament.
49. To compensate the decrease in public funding it receives, CBC/Radio-Canada management depends more and more on commercial revenue streams such as advertising and partnerships with the private sector.
50. The CBC is at a turning point in its history. If nothing is done soon, our public broadcaster will disappear because its management and board of directors have begun privatizing entire sectors of the Corporation.
51. The CBC's 2015–2020 plan, titled *A space for us all*, indeed unveils initiatives that are undoubtedly geared toward privatization: sale of the Maison Radio-Canada in Montréal, disappearance of all but one Montréal-based studio, event broadcasting partnerships with the private sector, dismantling of the costume department in Montréal, closure of digital transmitters, advertising windows entrusted to the private sector, rental of office space, studios and transmission equipment... Soon, there will be nothing public about the public broadcaster other than its name.
52. The directions taken by CBC/Radio-Canada's senior management and directors are jeopardizing the unique position that the public broadcaster occupies in the broadcasting system. Regardless of what its management and directors may think, the CBC is not a broadcasting corporation that can be compared to others. It provides an essential public service that is aimed at offering varied and innovative programming to all Canadians and on all available platforms. Its mission is also to inform and enlighten citizens with respect to local, national or international news in both national languages and from coast to coast.
53. The scale of the digital revolution planned by CBC/Radio-Canada and especially the speed at which it is scheduled to unfold appear to us motivated first and foremost by projected savings. Yet, these savings remain to be proven...
54. It would be a shame if CBC/Radio-Canada lost its expertise because it sought to modernize its operations too quickly for budgetary reasons. The plan put forward by the CBC for 2015–2020 should not only be economically profitable but also have cultural and social benefits. Rural citizens should also benefit from the plan seeing as CBC/Radio-Canada's mission under the Broadcasting Act includes meeting their needs.
55. For CUPE, it is clear that the Canadian Broadcasting Corporation needs stable, adequate and predictable funding to enable it to carry out its mission. The government must assume responsibility in this regard before it is too late.

56. We ask that the Standing Senate Committee on Transport and Communications recommend that CBC/Radio-Canada henceforth receive increased and stable public funding.
57. Canadians deserve senators who leave their partisanship aside and take a stand first and foremost in the interest of citizens. The public broadcaster must be given the means to carry out its mission without jeopardizing its achievements.

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