Stories Under Stress

The Challenge for Indigenous Television Drama In English-Language Broadcast Markets

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1. Introduction

The creation of popular television drama, including scripted comedy, is coming under increasing stress as viewing becomes increasingly fragmented among television services around the world. Although TV drama is one of the most popular of television genres, it is also the most expensive to produce. In the United States, the economic model supporting TV drama is being forced to change in order to reflect the fragmentation of the over-the-air television audience due to cable and satellite subscription services, and the impact of new technologies such as personal video recorders, video streaming and downloading on the Internet, and mobile broadcasting devices.

These challenges to the economic model supporting TV drama were already evident by the summer of 2008. But they have been exacerbated by the financial crisis that hit the United States and other countries around the world in the fall of 2008. To the extent the ensuing recession results in reduced advertising expenditures from major advertisers, it will undoubtedly affect the ability of ad-reliant over-the-air TV broadcasters to support expensive programming like TV drama.

But the challenges facing TV drama and comedy are even greater in smaller English-language countries outside the United States.

In these countries, the production of high-cost local drama has always required government intervention to occur. The reason is simple. In the absence of government subsidy or regulatory requirements, broadcasters would always tend to acquire U.S. drama programs instead of local drama, since although U.S. drama series have production costs far in excess of the costs of local drama, broadcast rights to these programs can be acquired at a fraction of the cost of making local programming. Accordingly, while local drama can be extremely popular with viewers, it is usually more economic for broadcasters to import drama from other English-speaking countries, particularly the United States.

This report focuses on the five largest English-speaking television markets outside the United States and examines the current state of play for local television drama in each of those markets. In each of these markets, the matters examined include the local broadcast environment, the applicable regulatory requirements, and the amount of local production currently being commissioned. The particular television markets examined, in order of size, are the United Kingdom, English

Canada, Australia, Ireland and New Zealand. This report also includes some references to the situation in a number of non-English language countries, where the experience is considered relevant.

This report does not examine a number of even smaller markets where English-language television stations are present. Examples include a number of the Caribbean islands (Jamaica, Trinidad & Tobago, the Bahamas). These islands do have one or more local TV broadcast stations in operation. However, because of the limited population size, these broadcasters – apart from local news and sports – rely almost entirely on imported drama to fill their schedule. Nor does this report examine multilingual markets like South Africa, which produce a limited amount of local TV drama in multiple languages, including English.

Why focus on English-language markets? For a simple reason. While the difficulties in producing local TV drama are also present in other language markets, the language barrier in these other markets typically lessens the attractiveness of inexpensive English-language foreign drama. That does not mean that U.S. or other English-language drama does not sell into non-English speaking countries. Armed with their high production values and familiar U.S. TV stars, the top-rated U.S. series often have a profitable after market in those countries. However, given the applicable “cultural discount” and the relative attractiveness of local fare, the economics for local drama are not as problematic in those countries as they are in English-speaking markets. (Similarly, in French Canada, the economic situation of local TV drama, while difficult, is far less problematic than it is in English Canada.)

As this report will demonstrate, it is in the English-speaking markets outside the United States where the economics of local TV drama are most acute. And these challenges are increasing not decreasing.

In the United States, the major TV networks have responded to audience fragmentation in a number of ways. Through acquisition and consolidation, they now own most of the cable programming services that compete with them for audience, and that provide alternative platforms for their content. And they are aggressively expanding their use of the Internet sites to promote their content and to allow “catch-up” viewing in order to maintain audience loyalty.

These same strategies are occurring in other markets, as local broadcasters find their audiences increasingly fragmented by an abundance of viewing choices. But at the same time, those broadcasters are faced with the costs of converting to digital transmission and the cost of launching Internet sites to maintain their brand, costs which are not currently recoverable through increased advertising revenue.

The result is that the importance of maintaining if not enhancing government support and regulatory involvement in the support of local drama has greatly increased. Unless governments and regulators recognize and adjust their actions in appropriate ways, these countries will see a decline in the production of one of the most popular genres – high-cost local television drama.

In this report, the term “drama” is used in its widest sense. It includes not only serious drama, but any scripted fictional audiovisual entertainment made for television. This includes “soaps,” situation comedies, hour-long drama, dramatic mini-series, and made-for TV movies.

Feature length films made for exhibition in movie theatres also qualify as “drama,” of course, and typically have an after life on television. However, they operate under a different economic model than programs made for television. Accordingly, this report focuses on programs made for television and does not specifically address the problems facing feature film.

This report also includes references to the production of children’s programming. Programming intended for children is often dramatic in form, although many countries categorize such programming separately from drama intended for adult audiences. Of course the lines between children’s and adult programming can blur when it comes to programs intended for a teen-age or young adult audience.

A number of other genres of programming may also have dramatic elements. One such genre is long-form documentary. This is usually treated as a separate category from drama although documentaries can take the form of “docu-dramas” and are often tightly scripted. Categorization questions also bedevil the creation of so-called “reality programming.” To the extent these programs are simply game shows without much scripting, they would logically fall outside the “drama” category. However, to the extent these programs become increasingly sophisticated, with significant pre-scripted content, their status is less clear. Similarly, *ex tempore* programs like stand-up comedy are often excluded from the drama category. However, sketch comedy would generally be included since it is usually pre-scripted.

In comparing the approaches taken in the United States, the United Kingdom, Canada, Australia, Ireland and New Zealand, revenues and production costs in this report have generally been expressed in the local currency. Because these currencies have fluctuated in value over the past six years, Table 1 on the next page provides a semi-annual comparison of their exchange value in terms of the U.S. dollar from 2003 to 2008.

In that connection, it is important to note the significant adjustment in exchange rates that took place in the fall of 2008, which is reflected in the values shown for December 1, 2008. This adjustment reflected the financial crisis that hit the United States and other markets in that period.

Table 1

Comparative Exchange Rates, 2003-2008

Date	*US$*	*£*	*Can$*	*Aus$*	*€*	*NZ$*
January 1, 2003	1.00	0.62	1.57	1.78	0.95	1.91
July 1, 2003	1.00	0.60	1.35	1.48	0.87	1.70
January 1, 2004	1.00	0.56	1.30	1.33	0.80	1.53
July 1, 2004	1.00	0.55	1.33	1.43	0.82	1.57
January 1, 2005	1.00	0.52	1.20	1.28	0.74	1.39
July 1, 2005	1.00	0.56	1.23	1.31	0.83	1.44
January 1, 2006	1.00	0.58	1.16	1.36	0.84	1.46
July 1, 2006	1.00	0.54	1.11	1.35	0.78	1.65
January 1, 2007	1.00	0.51	1.17	1.27	0.76	1.42
July 1, 2007	1.00	0.50	1.07	1.18	0.74	1.30
January 1, 2008	1.00	0.50	0.98	1.14	0.68	1.29
July 1, 2008	1.00	0.50	1.01	1.04	0.63	1.31
December 1, 2008	1.00	0.65	1.24	1.53	0.79	1.82

Note: The table indicates the worth of stated currency in terms of the value of US$1.00 on the day in question. For example, on January 1, 2003, £0.62 was worth US$1.00.

2. The Importance of Story

This report focuses on TV drama, including scripted comedy. Why the focus on this genre? What is it about fiction programming that makes it important? Why should smaller countries support the production of this kind of programming, when local TV news, sports and game shows are much easier to produce, and much less expensive? In addition, local news, sports and game shows are genres which face little competition from Hollywood. By contrast, U.S. TV drama is popular in markets around the world and is available at a fraction of the cost of local drama. Why not bow to this marketplace reality and leave fictional entertainment programming to Hollywood?

These questions are frequently raised by TV policymakers and there are a number of compelling answers. Perhaps the most cogent argument is the importance of story, particularly stories that are relevant to a local audience. As U.S. educator Patrick Shannon has noted,

> "...[S]tories are important to people, politics, and education. Stories are how people make sense of themselves and their worlds. In young children's spontaneous stories that they act out as they play, we can see how they believe people relate to one another, who they hope to become, and how they will behave. We can see adolescents play roles in their own and other people's stories in order to figure out where they fit into their ever-expanding worlds. As adults, the true and imaginary stories we wish to tell and believe suggest what we value most in this world. In a real sense, stories make people.
>
> "For this reason, stories are political. Whose stories get told? What can those stories mean? Who benefits from their telling? These are political questions because they address the ways in which people's identities -- their beliefs, attitudes, and values -- are created and maintained. These identities determine how we live together…"

A former chair of the Canadian broadcast regulator has noted that "drama is storytelling – and storytelling is close to the heart of human culture." The attraction that humans have for fictional experiences is deep-rooted and universal and in fact appears to be one of the characteristics that distinguish humans from other species. This may account for the fact that drama is the single most popular genre on television today.

In Canada, for example, the drama genre received 41% of total viewing on English Canadian broadcast services in 2007. This was more than twice the number of viewing hours received by any other type of programming. The popularity of drama is just as notable in other countries. Everyone enjoys a good story and when well written and well produced, TV drama can be engaging and illuminating as well as entertaining.

But there is also a real need for TV to tell <u>local</u> stories – stories that come out of a country's experience and that resonate with local references and local relevance. It has become something of a cliché for policymakers in many countries to argue that TV should "tell <u>our</u> stories" and in an environment dominated by stories set in the U.S. and written and intended primarily for U.S. audiences, this argument rings particularly true. Local dramatic programs can bring a wide range of ideas, historical events and voices to life. Programs of this kind can allow local audiences to celebrate their experiences, share their stories, and identify with their fellow citizens in a way that imported drama programs cannot. Simply put, dramatic TV programs can be the manner in which citizens of a country tell and share their stories with one another. At an even simpler level, they provide citizens with the pleasure of seeing themselves on TV.

The importance of local relevance in TV programming was recently reflected in the consultations carried out by Ofcom, the British regulator, and reported in its public service broadcasting (PSB) review in April 2008 at paragraph 3.30:

> "Ofcom's deliberative study showed that participants, regardless of age, thought that it was very important for UK content to reflect life in the UK today. In many cases, people felt that they identified more readily with UK programmes than with programmes from overseas. However, [although] some audiences, and in particular younger people, were appreciative of programming from overseas, naming comedies, dramas, and documentaries in particular, there was concern that, without UK content, there was a risk that the UK's cultural identity could be eroded. TV's perceived power to aid societal cohesion was strongly linked to UK content. With the perceived increase in social fragmentation, participants thought that the importance of UK content would increase further in the future, by catering for different groups in UK society and, at the same time, acting as an expression of common cultural identities."

There is also an important economic justification for a focus on local TV drama. Fiction programming is the most expensive form of programming to create and there is an obvious reason. It requires the full panoply of creative resources to produce. Dramatic programming can engage the entire artistic community and involves by far the most sophisticated use of creative personnel. Contributions are required not only from screenwriters, actors and directors, but also from a myriad of others, including directors of photography, art and set decorators, casting supervisors, props masters, makeup artists and costume designers, grips, gaffers, continuity supervisors, day-players, stunt people, voice coaches, film editors, composers, and post-production supervisors. Local ddramatic programs can involve all of these creative inputs in order to bring stories to the screen, where they can be shared with viewers across the country.

In that connection, many countries have begun to realize that one of the most important drivers for their economy is the creative sector. A major study published in November 2006 entitled "The Economy of Culture in Europe" underlined the culture sector's potential for creating more and better jobs in the future. The study showed how the cultural industries in Europe drive economic and social development, as well as innovation and cohesion. According to the study, the cultural sector in Europe employed at least 5.8 million people in 2004, which is more than the total working population in Greece and Ireland put together. Furthermore, that sector accounted for 2.6% of the gross domestic product (GDP) of the EU in 2003.

In August 2008, a similar study was published by the Conference Board of Canada. The analysis, entitled "Valuing Culture: Measuring and Understanding Canada's Creative Economy," concluded that Canada's cultural sector directly contributed about C$46 billion – or 3.8% - to overall Canadian GDP in 2007. It also estimated that the culture sector's impact on the economy was much broader – C$84.6 billion in 2007, or 7.4% of total real GDP. As the study noted,

> "Countries around the world, as well as many cities and regions, recognize that a dynamic culture sector plays a key role as a magnet for talent, enhances economic output, and acts as a catalyst for prosperity."

This conclusion was picked up by the Canadian government in its Throne Speech of November 19, 2008, which noted that "[c]ultural creativity and innovation are vital not only to a lively Canadian cultural life, but also to Canada's economic future."

But it is also increasingly acknowledged that the creation of audiovisual "clusters" of talent with all the supportive structures will not occur in smaller countries without government and regulatory support. In particular, economic demand for local TV drama in these countries is largely driven by regulatory requirements and funding support. A multi-nation study published in 2001 concluded that Toronto's entertainment, media and publishing cluster had been almost singlehandedly nurtured by the "unusually extensive policy framework enacted by senior levels of government in Canada out of a long-standing concern to protect home-grown culture." The linkage between government policy and creative clusters was also noted by the Ontario Ministry of Culture in a submission to the CRTC, the Canadian broadcast regulator, in January 2008:

> "The development of Ontario's [Entertainment and Creative] Cluster in the 1980's and 1990's did not occur in a vacuum. The Cluster emerged as a direct result of government policies during the same period. Critical among these policies were a number of CRTC initiatives."

The Ministry singled out the scheduling and expenditure requirements imposed on Canadian pay and specialty programming services by the CRTC, the creation of the Canadian Television Fund, supported by a levy on cable and satellite distribution companies, and the requirement that 75% of Canadian programming other than news or sports be produced by independent producers. Added the Ministry:

> "It is no understatement to say that the strength and vitality of the Cluster is vitally dependent on these measures. Since its emergence, the Cluster has come to play an increasingly important role as an economic driver of Ontario's economy…"

The relationship between government policy and the digital media economy was also highlighted recently in the United Kingdom, when the government announced its "Digital Britain" action plan on October 17, 2008. Led by Lord Stephen Carter, the U.K. minister for communications, technology and broadcasting, a report reviewing government policy is expected by the spring of 2009, with the aim of keeping the U.K. "at the forefront of innovation, investment and quality in the digital and communications industries." In announcing the study, the government stated that the digital and communications industries "are worth more than £52 billion a year, and are considered by the U.K. government to be critical to every business in the country's economy, acting both as a catalyst for creativity and allowing efficiency gains, as well as having a major impact on the U.K.'s culture and quality of life." Included in the ambit of the Digital Britain report is how to achieve "universal access to high-quality, public service content through appropriate mechanisms for a converged digital age." It is obvious that such content will need to include the production of high-quality U.K. drama.

In comparing the value of local fiction programming with cheaper genres of TV programming like local news, sports or game shows, it is also important to note the longevity of well-made television drama. Unlike news or sports shows, and most reality programming, TV drama can be evergreen. After a first showing on a major television network or broadcast service, a drama can be reshown again and again, whether in reruns, in syndication, or many years later on subscription services devoted to "gold" programs from the past. For this reason, fiction programs are sometimes referred to as "stock" programs, as compared with "flow" programs like news or sports that are ephemeral. Each time a TV drama reappears, it can garner new audiences or resonate with older audiences. This archival value of fiction programming is also relevant in preserving the cultural life of a country. Stories can be timeless and can provide a treasure-trove of narratives that can speak to later generations.

For all these reasons, there is a broad consensus in the countries under study that it is not acceptable for countries simply to leave fictional entertainment to Hollywood. Reflecting this view, the Canadian broadcast regulator stated in 2003:

> "Canadian drama should be a cornerstone of the Canadian broadcasting system. Drama can, and should, reflect Canadians of every background and culture to each other…The Commission considers that a healthy and successful Canadian broadcasting system must include popular drama programs that reflect Canadian society and project Canada's stories onto the world stage."

Similar views can be found in the United Kingdom, Australia, Ireland and New Zealand. There is wide agreement in all these countries that local TV drama should have pride of place on the prime-time schedule of local broadcasters.

So telling local stories through the medium of television is important. But this is also under increasing stress.

3. The Economics of Television Drama

It is widely acknowledged that the economic principles applicable to ordinary commodities are difficult if not impossible to apply to broadcasting. This is particularly true of the production and dissemination of TV drama. TV shows, like other cultural goods and services, are affected by what *The Economist* has called "curious economics" and these have to be carefully borne in mind. Table 2 on the next page lists a number of attributes that distinguish cultural products like TV shows from ordinary commodities.

As Table 2 makes clear, the marketplace is quite different for cultural products, like TV shows, when compared with the market for ordinary commodities. The distinctive features applicable to the economics of TV shows include the following:

- The cost of adding a viewer to a broadcast program is close to zero, which means that broadcasting is categorized by economists as a "public good." (At a technical level, a "public good" is a product whose cost does not vary with consumption.)

- unlike ordinary commodities, broadcast programs are "experience goods" which consumers must see before they can fully evaluate it, adding to the unpredictability of demand for new TV shows;

- the "shelf space" choice for TV drama is made by broadcasters, not directly by consumers, and their decisions are often driven by advertisers and relative cost considerations, rather than actual consumer demand;

- the industry is characterized by sharply increasing returns to scale, which benefits large international distributors of programs;

- because of their intellectual content, broadcast programs can never be perfect substitutes for each other; and

- because of the cultural specificity of programs, the industry is characterized by significant cultural premiums and discounts, affecting demand for programs in different countries. TV drama made in the U.S. garners a cultural premium in English language countries, for example, but is discounted in countries with different languages and cultural environments.

As has been noted, drama is the most costly to produce of the forms of audiovisual entertainment. At the same time, there is a wide variance in cost between the various forms of drama. At the very high end – the blockbuster feature film – the cost can exceed US$100 million. Even a "small" feature film can range from US$3 million to US$15 million to produce. Focusing on programs made for television, however, an hour-long television drama now costs upwards of US$2-3

Table 2

WHY CULTURAL PRODUCTS ARE NOT LIKE ORDINARY COMMODITIES

Attribute	*Ordinary Commodity (e.g. Car, Detergent)*	*Cultural Good or Service (e.g. TV Show, Book, CD)*
Nature of Product	Serves utilitarian purpose	Communicates ideas – information or entertainment
Nature of Production Process	Assembly line; each unit requires significant resources	Expensive one-time process; creates intellectual property which then can be cheaply stored, duplicated and delivered
Marginal Cost of Unit of Product	Significant	Insignificant
Predictability of Demand	Demand largely predictable month after month	Difficult to estimate demand in advance of incurring cost
Substitutability	Large degree of substitutability with competing brands	Limited substitutability; product is perceived as "unique"; copyright law protects monopoly on each title
Time Line of Demand	Demand for product continues indefinitely until next product cycle (measured in years)	Demand falls off sharply after introduction of the product and next product replaces it (measured in weeks or months)
Who Determines Demand	Ultimate consumer	Ultimate consumer in the case of books and movies; advertiser in the case of magazines and commercial broadcasting; cable or satellite gatekeeper for niche broadcast channels
Setting the Price	Non-discriminatory; arbitrage precludes market differentiation	Within markets is often set at a conventional "going rate"; between markets is discriminatory (by market, nature of use, and time line of use); copyright law permits unlimited subdivision of markets
Pricing Latitude	Dependent on competitive forces of demand and supply; constrained by significant marginal cost and non-discriminatory pricing	Marginal cost is insignificant, and pricing of cultural products can be highly discriminatory between markets
Nature of Consumption	Each unit of product is consumed and is not available to others	Original intellectual property is not consumed but can be made endlessly available; "public good" attributes
Time Line of Advertising	Continual advertising over many years to reinforce brand	Intense advertising at time of introduction of product before it is displaced by next product

Source: Table 3.1 in Peter S. Grant and Chris Wood, *Blockbusters and Trade Wars: Popular Culture in a Globalized World* (Vancouver: Douglas & McIntyre, 2004) at pp.44-45. Reprinted by permission.

million in the United States. At the low end, on the other hand, the least expensive form of adult drama to produce is the soap opera, which can benefit from lower production values and high volume production, with 2 to 4 new episodes per week.

Cultural products like TV drama operate in a market that has very high risk. Most new TV shows fail. That being said, where the market size is large enough, the few titles that do succeed can produce a very high reward, much higher than for other products. This is because the marginal cost of each additional viewer is very low so any revenue from additional sales drops to the bottom line once the initial cost is covered.

Market Size. These economic realities mean that market size is a key determinant in recovering the high costs of TV drama. And in this respect, the United States has a crucial advantage over all other English-language markets. Because of its size, the U.S. is the only English-language market where high-cost TV drama can be produced profitably without government or regulatory support. This becomes clear when one compares the population of six largest English-language broadcast markets.

Table 3

Relative Size of English-Language Television Markets

Market	*Population (M)*	*Index*
United States	299.4	100.0
United Kingdom	58.8	19.6
English Canada	23.7	7.9
Australia	20.3	6.8
Ireland	4.2	1.4
New Zealand	4.1	1.4

Note: 2007 population count; the size of the English Canada market is assumed to be 75% of the total Canadian population of 31.6 million.

The dominance of the U.S. market immediately becomes apparent when looking at the numbers in Table 3 above. The U.S. market is five times the size of the U.K. market, 13 to 15 times the size of the English Canada or Australian markets, and over 60 times the size of the Irish or New Zealand markets.

This population size difference is exacerbated by the even greater disparity when one compares the size of the TV ad expenditures in the six countries. U.S. free-to-air TV advertising revenue was US$44.4 billion in 2007. This is almost ten times the size of free-to-air TV ad revenue in the U.K. last year, which was only £2.4 billion. It was over 24 times the ad revenue in the English Canada over-the-air TV market, which generated about C$1.9 billion in 2007.

The enormous size of the U.S. television market allows TV networks in that country to support expensive local TV drama without subsidy or government intervention. Of course, the success of particular drama series is inherently unpredictable and most new drama series in the U.S. fail to achieve sufficient ratings and are cancelled. However, the rewards from a successful drama series in the United States are so significant that they end up paying for the failures.

The reason why successful U.S. drama programs can make a profit for the producers is straightforward. A U.S. network commissioning a new TV drama or sitcom typically pays a broadcast licence fee of 70% of the production cost of the show. If the show is successful, it can then benefit from syndication revenues after its network broadcast window. These alone can be sufficient to recover the remainder of the production cost and to put the show into profit. But the producer can also sell successful shows around the world, adding further to its profit line. Because the cost of a successful program is typically recouped in the domestic U.S. market, prices in foreign markets can be a fraction of the price paid in the U.S., and typically far below the cost of local productions in those markets.

The large size of the U.S. market also gives U.S. producers two other advantages, namely, (1) the ability to produce more episodes per season and (2) the ability to produce more series overall. The first factor helps squeeze out local programs in foreign markets because of the many weeks of the year it takes to run out the U.S. series (and the foreign buyer is typically required by the U.S. distributor to buy the entire season and often to commit to multiple seasons). The second factor increases the ability of the U.S. producers to overcome the high failure rate for new series in order to come up with hit series.

The potential profit in a successful U.S. drama series was demonstrated in mid-2007 when the 50% interest held by Alliance Atlantis Communications Inc. in the C.S.I. franchise (*C.S.I., C.S.I. New York and C.S.I. Miami*) was sold to investors for C$900 million. (The other 50% is owned by CBS).

Of course, this represents the high end in terms of series value, and most new drama series in the U.S. fail. Over the last ten years, according to Kagan Research, the top four commercial TV networks in the U.S. (NBC, CBS, ABC and FOX) cancelled 62% of their new shows within the first 11 episodes. In 2004, in fact, for the first time in decades, not a single one of the 25 new drama series introduced by the U.S. commercial TV networks broke out as a hit. But as CBS President Les Moonves has noted, "One *C.S.I.* pays for a lot of failures."

By contrast, because of the smaller market size, there is little if any upside profit potential for drama produced in other English-language countries, except for long-running high volume soaps that are produced at a much lower cost per hour. A study released in 2008 by Ofcom, the U.K. regulator, noted that while soaps on the commercially funded free-to-air broadcasters (ITV1, Channel 4, and Five) were profitable, U.K. drama series and serials were only marginally profitable, while one-off U.K. drama, U.K. sitcoms, and U.K. films were unprofitable for the commercial broadcasters. By contrast, drama series acquired from the U.S. at much lower prices were very profitable.

The Impact of U.S. Drama Pricing on Local TV Drama. With ordinary commodities, according to economic theory, the socially optimal price for the good would be its marginal cost. However, in the case of broadcast programs, recovery of program production costs cannot occur if such programs are priced at the socially optimal price of zero. Accordingly, broadcast programs are priced (particularly across borders, but in other ways as well) in a highly discriminatory basis which bears little or no relationship to cost.

In 2007, for example, *Variety International* reported that the average price paid by a free-to-air TV broadcaster for the broadcast rights to a one-hour U.S. drama (typically costing upwards of US$2 to $3 million to make) was only US$300,000 in the U.K., US$100,000 in Canada, US$75,000 in France, and US$60,000 in Australia. The average price for the local broadcast rights to a half-hour TV situation comedy (typically costing upwards of US$2 million to make) was reported to be only US$200,000 in the U.K., US$60,000 in Canada, and US$35,000 in Australia.

Historically, many commentators have founded the need for broadcast regulation on arguments concerning the scarcity of spectrum and the public character of radio frequencies. But these are not the only arguments for the regulation of broadcasting. In the area of entertainment programming, another key argument is that unless there is regulation, viewers in smaller countries would be presented with a menu of program choices largely dominated by high-cost production acquired from the United States at a fraction of its cost. This is a phenomenon recognized throughout the English-speaking world.

The problem faced by local TV drama trying to compete with imported US drama at low prices is exacerbated by the disparity in production budgets between U.S. drama and TV drama in other countries. This is graphically shown in Table 4 below, which shows average production budgets in six markets in 2006. In examining Table 4, it should be realized that the cost per hour numbers for French Canada and Australia are lower in part because of a heavy reliance on high-volume soaps, which are the least expensive form of drama to produce. (By contrast, broadcasters in English Canada have only rarely commissioned high-volume soaps and they have not proven to be successful.)

Table 4

Average Production Costs per Hour for Local Drama in 2006

Market	*Cost Per Hour in 2006 (000)*	*Conversion Rate in 2006*	*Cost in US$ (000)*	*Index (U.S.= 100)*
United States	US$2,616	1.00	2,616	100
English Canada	C$1,392	1.11	1,254	48
France	€855	0.78	1,096	42
United Kingdom	£532	0.54	985	38
French Canada	C$508	1.11	458	18
Australia	A$298	1.35	221	8

Source: Nordicity Group Ltd., *Canadian Television: Why the Subsidy?* (Ottawa, CBC, January 2008) at p.8; CTF Annual Report, 2007.

As shown in Table 4, U.S. drama series typically have production budgets that are two to three times higher than those in English Canada, France or the United Kingdom. This inevitably affects production values in terms of what can be shown on the screen. The problem was memorably described by ex-TV executive Trina McQueen in a study prepared for the CRTC in May 2003. Although the report was prepared five years ago, the economic comparisons are still valid.

> The achievements in [Canadian] drama have occurred against all odds; and they conceal the central problem, which is financing.
>
> Drama is the most expensive and the most risky of all forms of television. When it succeeds, and attracts large audiences, it is also the most profitable. Because the potential profits are so large, Americans spare no expense in making drama series.
>
> Last October [in 2002], the *Hollywood Reporter* published its list of licence fees paid for dramatic series. The licence fee is about 70 per cent of the show budget. The highest licence fee reported was for *E.R.* at US $8,350,000. Per hour! …
>
> *E.R.*, like *Friends* and *Frasier,* is in the stratosphere even for American shows. A more representative cost might be *West Wing* at over $3.5 million Canadian per hour.
>
> A Canadian producer and broadcaster might be inspired by the critical acclaim and high ratings (until this year) of *West Wing* to produce a similar series called *PMO* (fill in your own joke here). The producer might have a total per hour budget for *PMO* of $1 million. Here's what she can't buy that the Americans can:
>
> - *Stars*. The producer might see the Prime Minister's press secretary as the lead role in the series; and might believe that Kiefer Sutherland would be excellent in a Jim Munson-like role. The very lowest probable cost, if Kiefer felt very patriotic: $500,000 per episode. Jennifer Aniston gets more than US $l million for *Friends*. Ray Romano has just signed for US $1.5 million for *Everybody Loves Raymond*. The producer would forget about a star, and look for a good actor who would likely get $20,000 per episode. She will then hold her breath to see if she can keep him. One producer told me the story of an actress contracted for a small recurring role in a top Canadian series for $60,000 a season. She was offered exactly the same work in an American series for $60,000 per episode. She begged to be released. She is in Los Angeles now, with hundreds of other Canadians with similar stories.
>
> - *Writers*. A series like *West Wing* will use between 6 and 12 writers in a season. *PMO* will be lucky to afford four.
>
> - *Extras*. In *West Wing* the press conference room will be filled with 30 actors playing reporters, even for a scene which lasts only a couple of minutes. On screen, the full room will generate a sense of excitement and tension. In *PMO* the press encounter might include two or three reporters in a mini-scrum.
>
> - *Sets.* The *West Wing* sets on the Warner's lot cover thousands of square feet, fully dressed. A camera can follow C.J. for five minutes through the sets as she leaves her office, walks down the hall to talk with Toby; walks down another hall towards the President's ante-room, enters the Oval Office and finds the President on the Patio. During her walk, an assistant director will have directed another 30 actors in background activities. The viewer will have a complete illusion of being in a busy White House. In *PMO* the press secretary will leave his office and walk across an empty hall to see the Prime Minister.

> The list goes on, through shooting days, second units, extra locations, hit music and all the production values that Canadians see every evening. The expensive grammar of American television is the lingua franca for our viewers. Canadian producers must compete with talent, cunning and stories that are intensely relevant to their viewers. They do well. On a program budget cost per viewer, Canadian shows do as well or better than American shows. Unfortunately, this is no one's measure of success.
>
> Moreover, before *West Wing* was picked up by NBC, the network had commissioned about 100 different scripts; and funded 10 to 20 pilots at a cost per hour of anywhere between US $2 and $4 million each. And hundreds of thousands of dollars will have been spent on audience research.
>
> Here in Canada, the network that chooses to produce *PMO* will have commissioned, perhaps, five other scripts. There will be no pilots and no audience research.
>
> Almost everyone involved with *West Wing* has become very wealthy (or, even more very wealthy). The studio and the network will show handsome profits. The producers, the stars and the writers will take home millions; with the promise of more to come from foreign sales and syndication. When *Cheers* was sold into syndication, the producer, concerned about whether he should buy his dream home, called his agent for reassurance. The agent told him: You can buy the biggest house in your area code.
>
> No one who works on *PMO* will become wealthy. The cast and crew will be paid union scale. The producer will have fees, if they were not deferred to make the financing. The Canadian distributor, these days, is not likely to make back his advance for a very long time. Telefilm is unlikely to recoup more than 5 per cent of its equity investment.
>
> If the broadcaster is the CBC, it will have used, for one hour of drama, resources which could have funded three or more hours of arts, documentaries or journalism: all important to its mandate.
>
> If the broadcaster is a private network, the network will not make its cost back, let alone a profit, from the commercial revenue in the program. Even though the broadcaster paid only 20 per cent of the program cost, it can anticipate losing about $100,000 per hour.
>
> No broadcaster has ever made money on drama. It exists entirely and only because of political and regulatory will.

The problem of competing with U.S. production values has also been examined in the European context. David Graham & Associates Limited, a U.K. economic consulting firm (since renamed "Attentional") that specializes in the audiovisual sector, included the following analysis in a study done for the European Commission in 2005:

> Substantial economies of scale and scope, combined with the culturally specific nature of much TV and audiovisual content, leaves the USA – which has the world's most valuable and culturally homogeneous audiovisual market – with an unbeatable competitive advantage when it comes to international trade in TV and related material. This in turn leads to persistent trade deficits in audiovisual activities for even the largest European countries.
>
> The USA TV market – which is eight times the size of Europe's largest national markets of Germany and the UK – has the scale to fund large volumes of high-value drama and comedy. Although this output does not necessarily appeal directly to the

> various national cultures in Europe, high production values, plus the fact that most of the production cost has been recouped in the USA, means that such programming can prove extremely cost effective for commercially driven national European broadcasters.
>
> Even though audiences and consumers in these foreign domestic markets may have a preference for home-grown material, the US material is still able to secure a high share of their domestic markets as it often contains 10 to 20 times the production value and creative endeavour of domestic content, while effectively being sold into the domestic market at the same, or an even lower, price than the domestic material. So a $5m Italian or UK film competes with a €50m US film in the domestic box office, which is only looking to recoup €3m from the Italian or UK markets. Similarly, a €5m per episode US TV comedy is competing against a €1m UK-made comedy, but the US episode is only looking to recoup €100,000 from the UK market.
>
> Once such an advantage is established, it can reinforce itself. The US industry becomes commercially vibrant and actively seeks overseas appeal, while foreign markets struggle to find a business model that works – capital, quality commercial management and creative talent flow into the US industry and out of the domestic sectors, helping to reinforce the US advantage…

After an extensive analysis of this and other factors (including market structure, the need to safeguard and promote culture, the need to encourage pluralism, and the benefits of supporting a healthy independent production sector), the Graham study concluded that market intervention was absolutely required to support local fiction programming in the broadcast sector in Europe.

All this may sound counter intuitive to some observers. If a local TV drama is popular, why wouldn't the market support it? The answer, of course, lies in comparing the profit levels of broadcasters when airing imported drama acquired at a fraction of the cost of local TV drama. In an earlier study for the U.K. Department of Culture, Media & Sport, the Graham group calculated that U.K. broadcasters were acquiring imported programs for only one-sixth of the cost per hour of acquiring programs from independent U.K. producers. Given this price and cost disparity, experience has shown, particularly in English-language markets outside the United States, that unless governments or regulators act, there will be little or no local high cost drama on television screens.

4. The "Cultural Tool Kit" to support Local Drama Production

I have written elsewhere about the kinds of measures that governments can take to sustain or develop a broader range of popular cultural products, without undermining freedom of expression, and have referred to these measures as comprising a "cultural tool kit." (See Peter S. Grant and Chris Wood, *Blockbusters and Trade Wars: Popular Culture in a Globalized World* (Vancouver: Douglas & McIntyre, 2004), at Chapters 7 to 14.) Among others, the tool kit includes six types of measures, which are widely used in developed countries around the world:

- The institution of *public broadcasting* is considered a key support measure for local TV drama, because public broadcasters can be given a mandate to support local cultural expression in a variety of formats and languages. Public broadcasters can also be seen as a means to provide local and alternative expression in digital and on-line media. (In this report, the term "public broadcasters" refers to state-owned or not-for-profit broadcasters as opposed to private shareholder-owned broadcasters. In the U.K., the term "public service broadcaster" or "PSB" has a wider ambit, extending not only to state-owned or not-for-profit broadcasters but also to private broadcasters that have a public service mandate or remit.)

- The imposition of reasonable *scheduling requirements* on private broadcasters and other cultural gatekeepers. Many countries require private broadcasters to include program genres that would otherwise be under-represented in their program schedules, in particular, local drama, children's programs, or documentaries. And a few countries require a certain proportion of screen time in cinemas to be devoted to local films.

- The imposition of *expenditure requirements* on privately owned cultural gatekeepers to support the creation of local cultural products. A variant of this model is to impose a levy on box office or distributor subscription revenue which goes to a funding agency to support investment in local expression. Examples include the box office levy by the French government to support local film production and the requirement imposed by Australia, Canada and France on subscription programming services to expend a certain proportion of their revenue or programming budget on local drama. In Canada, all cable and satellite distributors must contribute 5% of their subscription revenue to a fund that supports local Canadian programming (and late in 2008, the broadcast regulator increased this to 6%). In Italy, commercial broadcasters must spend at least 4% of their revenue on the support of Italian films. In France, the number is 5.5%.

- The application of *national ownership rules* in certain cultural industry sectors. This hopefully adds local "green lights" for the benefit of indigenous producers. Broadcasters in the United States, Canada, Australia and many other countries are required to be locally owned. In countries outside the

United States, the effect of these rules is to create broadcast companies that provide a local "green light" for the benefit of indigenous producers, so they have more doors to go to besides Hollywood. The problem with national ownership rules, of course, is that the larger the local company becomes, the more its program choices become indistinguishable from that of a multinational.

- The use of *competition policy measures*, to support independent production and to lessen the dominance of gatekeepers. An example is the rule in a number of countries requiring their broadcasters to acquire a certain proportion of their programs from independent producers. Another example is the imposition of access rules on cable or satellite companies, requiring them to carry indigenous broadcast services. Again, the object of the exercise is to promote diversity of source.

- The support of the creation or distribution of cultural products through *subsidies or tax incentives*. This is probably the most common type of measure used in developed countries around the world to support a diversity of cultural expression. For example, the movie trilogy, "The Lord of the Rings," would never have been made but for tax incentives from Germany and New Zealand.

There is no question that when properly applied, measures of this kind can be quite effective in maintaining a level of pluralism in cultural expression. However, most of the measures in the cultural tool kit have weaknesses as well as strengths, and they need to be carefully drafted and implemented in order to be fair and effective. In addition, the cultural policy appropriate for one society may be quite different than that for another, just as every cultural product is unique.

Can measures of this kind succeed in supporting local TV drama? The answer is clearly yes. One can turn to Europe for an excellent example.

A key support for local TV drama in Europe comes from public broadcasters, who receive significant per capita funding from TV licence fees or government appropriation. Public broadcasters in high-support countries, like the U.K., Germany, Denmark, Finland, Norway, Sweden and Switzerland, receive per capita funding from US$100 to US$150 per year. Public broadcasters in medium-support countries, like France, Ireland, Austria, and Belgium, receive per capita funding from US$60 to US$80 a year. By contrast, public broadcasters in low-support countries like Canada, Australia and New Zealand receive less than US$40 per capita funding from government or licence fees to support their operations. (In that connection, calculations of the per capita support for public broadcasters in 18 countries, prepared for the CBC by Nordicity Group Ltd. and expressed in Canadian dollars, are set forth in Appendix 2 of this report.)

This funding allows public broadcasters in a number of European countries to commission a significant amount of expensive local drama. As for private TV broadcasters in Europe, they have been generally subject to the 1989 *Television without Frontiers Directive* (which was amended and renamed the *Audiovisual Media Services Directive* in 2007*).* Article 4 of that Directive states that "Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve for European works a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping." While the applicability of this directive to private broadcasters has been varied, its general impact has been to increase the amount of local fiction compared with imported fiction (mostly U.S.) on private as well as public TV stations in Europe.

By the end of the 1990s, the increased volumes of European fiction and its higher quality had led to impressive ratings gains. In fact, by that time, well-made European drama had largely displaced popular U.S. drama in prime-time, relegating U.S. drama to shoulder periods. After 2000, the advent of reality programming slowed this development somewhat, although its impact was primarily to reduce the number of sitcoms rather than to affect 1-hour drama.

The experience in Europe, as well as the experience elsewhere, has shown unequivocally that the cultural tool kit can generate local drama programs and that those programs can be very popular with local viewers. However, the economic model for TV drama is coming under increasing pressure. In the following sections of this report, each of the five major English-language markets outside the United States is separately examined, in order of size – the United Kingdom, English Canada, Australia, Ireland and New Zealand. In each country, the environment 1for television broadcasting is examined and the current state of play for local drama is assessed.

6. The United Kingdom

Free-to-Air Television. Free-to-air or "over the air" television to the 58.8 million residents of the United Kingdom is currently provided by four major broadcasting organizations.

The British Broadcasting Corporation is the country's first and largest public service broadcaster. It is governed by a royal Charter which is reviewed every 10 years; the current version came into effect on January 1, 2007. Management of the BBC reports to the BBC Trust, which replaced the Board of Governors in 2007. The BBC had an operating expenditure of £4.3 billion in 2007. The principal means of funding is through the U.K. television licence which currently costs £139.50 a year for a colour TV. The BBC received £3.2 billion from the licence fee in 2007, with its remaining revenue coming from commercial businesses and other sources.

The BBC's broadcast services in the U.K. are all commercial free. Its flagship analog channels are BBC One and BBC Two. The BBC first began a television service in 1936 but it did not operate during World War II and reopened in 1946. The second channel, BBC Two, was launched in 1964. As well as these two analog services, the BBC now also offers digital services BBC Three, BBC Four, BBC News, BBC Parliament, CBBC Channel, CBeebies, BBCi (renamed BBC Red Button) and BBC HD. At the end of 2007, the BBC introduced *BBC iPlayer*, an on-demand service which allows U.K. viewers to view "catch-up" episodes through the Internet. It has been very successful, with over 8 million people using the service every week. The BBC services had a combined viewing share of 31% in 2007.

The BBC has had a distinguished history of supporting quality U.K. drama, particularly on BBC One. The three most watched programs on BBC One in 2007 were *EastEnders, Doctor Who* and *The Vicar of Dibley*. Other popular and innovative drama programs in recent years include *Spooks, Judge John Deed, Hustle, Life on Mars* and *Ashes to Ashes*. BBC One also broadcasts about 2 hours a day of children's programs. BBC Two focuses on less mainstream programming which has included some highly praised U.K. drama series as well as independent films.

ITV (Independent Television) is a network of fifteen regional and three national commercial television franchises, originally founded in 1955 to provide competition to the BBC. ITV was the country's first commercial television provider funded by advertisements, and has been the most popular commercial channel throughout its existence. Through a series of mergers, takeovers and relaxation of regulation, eleven of these companies are now owned by ITV plc, two by SMG plc. while UTV and Channel Television remain independent. ITV has been officially known as Channel 3 since 1990. ITV plc also operates digital channels ITV2, ITV3, ITV4, Men & Motors and the CITV Channel. In 2007, ITV's commercial revenue was £1.9 billion, and the ITV channels had a viewing share of 19%. ITV invests around £1.0 billion in original, UK-produced programming every year, including £350 million on U.K. drama. It has also enjoyed great success with entertainment formats such as *Who Wants To Be A Millionaire, X Factor* and *Britain's Got Talent*.

ITV's primetime schedule has been dominated by its U.K. soap operas, including *Coronation Street, Emmerdale* and the popular police drama *The Bill*. However, ITV has been criticized for moving more into reality TV programs and for removing children's programs from its schedule in 2006 due to increased competition from non terrestrial children's channels carrying mainly imported material.

Channel 4 is a publicly owned national broadcaster which launched in 1982, and is funded almost entirely by commercial advertising. Under its mandate, Channel 4 has a special role to be distinctive, innovative and to provide diversity. Its program schedule includes high quality news, single drama, comedy, educational programming, extensive current affairs (including the highly regarded *Dispatches* strand) and serious factual programming. Channel 4 has a distinguished record of funding the production of independent British films, including *My Beautiful Launderette, The Madness of King George* and the Oscar winning *Last King of Scotland.* Channel 4 was the first U.K. broadcaster to focus solely on commissioning programs from the independent production sector (although all U.K. broadcasters are now required to outsource at least 25% of their programming from such sources). Alongside its main channel, Channel 4 offers a range of digital channels and new media services. Since 2005, it has been a member of the Freeview consortium, and operates one of the six digital terrestrial multiplexes with ITV as Digital 3&4. Channel 4's viewing share in 2007 was 9%. Its total revenue in 2007 was £936.9 million. In March 2008 Channel 4 set out an ambitious strategic blueprint (called *Next on 4*) to enhance its public service role for a fully digital age.

Five (previously known as Channel 5) was the final analog broadcaster to be launched, in March 1997. Its analog terrestrial coverage is less than that of the other analog broadcasters, and broadcast in re-assigned frequencies, often at a lower power from major transmitters only. Many ex-VHF transmitters which were used for black and white transmissions prior to the switchover to UHF transmissions in the 1970s–80s are now used to broadcast Five, mainly due to capacity restraints on the masts. RTL Group, Europe's largest television broadcaster, took full control of the channel in August 2005. Five launched two new channels, Five US and Fiver in October 2006. All of these channels are also carried on satellite television, cable television and digital terrestrial television services. Like Channel 4, Five does not have programming regional variations, however, it does for advertising. Five's viewing share in 2007 was 5%; in multi-channel homes the viewing share of the three Five channels together was 6%. Five has commissioned relatively little U.K. drama but has been successful in running popular drama series from the U.S. and Australia. Series from Australia have included *Home and Away* (poached from ITV), *Neighbours* (poached from the BBC), *Sons and Daughters*, and *Prisoner Cell Block H*. It also ran the New Zealand drama soap, *The Tribe*. Its commissioned U.K.

drama includes *Perfect Day, Tripping Over* (a U.K.-Australian co-production with Network Ten), and sitcoms *Suburban Shootout* and *Respectable*.

Since 2002, U.K. homes have had access to Freeview, a free digital terrestrial television service that provides the foregoing analog channels in digital form plus other digital channels. By the end of 2006, 30% of U.K. households used Freeview, and when cable and satellite subscribers are included, almost 90% of U.K. households were receiving digital signals by 2008. The government plans to switch over all U.K. households to digital reception by 2012.

Subscription Programming Services. In the U.K., subscription television services are offered through cable or satellite TV. About 60% of homes in the U.K. subscribe to these multichannel distributors, which provide additional TV services. British Sky Broadcasting, 38% owned by News Corp, operates a satellite television service and numerous television channels including Sky One, Sky Two, Sky Three, Sky Movies and Sky Sports. BSkyB's revenue in 2007 was £3.8 billion. BSkyB also has a 18.9% interest in ITV plc, although in 2008 it was ordered by the competition authorities to reduce this stake to below 7.5%.

UKTV is a joint venture between the BBC's commercial arm, BBC Worldwide, and Virgin Media Television. Both companies also co-own a number of other channels, broadcast domestically or internationally. Channels under the joint venture are Dave, UKTV Documentary, UKTV Drama, UKTV Food, UKTV Gardens, UKTV Gold (recently split into two services), UKTV History, UKTV People, UKTV Style, plus a number of timeshift services. The most watched digital channels are owned by the broadcasters noted above. Other broadcasters who provide subscription channels to U.K. households include Viacom, Discovery Networks and Disney. In 2007, the total viewing to subscription programming services in the U.K. was 36%.

Collectively, the free-to-air services (BBC, ITV, Channel 4 and Five) spent £2.48 billion on U.K. programming in 2007, while the subscription services spent only £268 million on U.K. programs, excluding their spend on sports and film rights.

Television Regulation in the United Kingdom. Apart from the BBC, which is governed by its Charter, television broadcasters in the U.K. have been regulated since 2003 by the Office of Communications (Ofcom) under the *Communications Act 2003*. Ofcom has only limited powers to regulate content on broadcast schedules. Although it is required to set quotas for news and current affairs programs on ITV1, Channel 4 and Five, nations and regions programming on ITV1, and schools output on Channel 4, Ofcom does not set any quotas for local drama. However, Ofcom has been authorized to ensure compliance by broadcasters with the U.K.'s obligations under articles 4 and 5 of the Television Without Frontiers (TWF) Directive, noted earlier. Article 4 states that "Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve for European works a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping." Article 5 requires that broadcasters devote at least 10% of transmission hours to independent productions. (In fact, Ofcom requires 25% in the U.K.). The TWF Directive was amended in 2007 to extend these obligations to all audiovisual media services, including those offered through the Internet. The U.K. has until December 19, 2009, to implement these extended requirements.

On April 10, 2008, Ofcom launched the first phase of a review of the future of "public service broadcasting" (PSB) in the U.K, a designation that includes the BBC, ITV1, Channel 4 and Five. In its news release, Ofcom stated that it had reached a number of conclusions from its consultations. In particular, it stated that

- Public service broadcasting is at a crossroads.
- Audiences value competition for the BBC, but the underlying economics of commercial public service broadcasting are increasingly difficult.
- Audiences place a high value on U.K.-made public service programming from a mix of providers, but there is risk that this will not be provided to the same degree in the future.
- Audiences are increasingly taking advantage of new digital media to access public service content.
- A new sustainable model for public service broadcasting is needed, with a range of options for funding and provision considered.

Ofcom noted that since its creation in 2003, the way that U.K. audiences watch and access television programs has changed dramatically. Almost 90 per cent of U.K. homes now had digital television and the majority had broadband. However, despite the expansion of choice, public service broadcasters represent over 90 per cent of total investment in U.K. television content (excluding sport and film) and account for two-thirds of television viewing. But their audiences were declining as digital viewing and time spent online continues to increase. There had been a 17 per cent decline in the public service channels' share of viewing between 2003 and 2007, rising to 22 per cent among 16-24 year olds who have grown up with multichannel television and the internet.

Ofcom's review highlighted the impact of declining audiences on the current funding model for public service broadcasting by the commercial free-to-air broadcasters, noting that they had already reduced their investment in unprofitable services for the nations and regions and children's television.

Ofcom identified three main risks to the future delivery of public service broadcasting: (1) falling investment by ITV1, Channel 4 and Five in U.K. content; (2) a loss of choice in many types of public service content; and (3) a declining ability to reach a large audience with programs shown on the main channels. As a result, Ofcom forecast that some types of U.K.-made content which audiences want may in future only be available from the BBC. It stated its belief that a new PSB model would need to be in place by 2011.

Ofcom stated that a new public service broadcasting system should achieve five main goals: (1) delivering high levels of content made in the U.K.; (2) meeting the changing needs of UK audiences; (3) reaching a broad audience with content that is free at the point of use; (4) providing diverse content serving all the communities within the UK; and (5) being sufficiently flexible to respond to future audience and market changes. It highlighted four potential models for the future of public service broadcasting and content:

1. *Evolution:* the BBC, ITV1, Channel 4 and Five continue to provide public service programming as they do now, though with either extra public funding or fewer obligations for the commercial channels.

2. *BBC only*: ITV1, Channel 4 and Five become purely commercial and the market provides competition to the BBC.

3. *BBC/Channel 4 plus limited competitive funding*: the BBC and Channel 4 are the main UK-wide public service broadcasters with other providers bidding for limited long-term funding to provide additional competition to the BBC.

4. *Broad competitive funding:* A wide range of providers – not just ITV1, Channel 4 and Five – bid for long-term funding to provide public service competition to the BBC.

More recently, Ofcom has indicated that Option 2 – relying only on the BBC -- was not acceptable to it because of its concern to promote pluralism.

Ofcom also outlined a number of options for funding these models, including

- Government funding, from a variety of possible sources.

- The licence fee, either funding currently going to BBC services or the excess licence fee which contributes to the costs of switchover until 2012.

- Continued access to broadcasting spectrum and other regulatory benefits.

- Industry levies: a wide range of industry levies could be considered, similar to the proposals currently under consideration in France.

Ofcom noted, however, that any decisions for substantial change in the way PSB is provided or funded would be for Government and Parliament.

Trade Agreements. In 1995, the United Kingdom, together with all other European countries, declined to make national treatment commitments in the Uruguay Round in regard to audiovisual services. Accordingly, the GATS agreement under the WTO does not affect the ability of the U.K. to regulate the television industry.

Impact on Drama Production in the United Kingdom. It is clear that many of the trends identified by Ofcom in its PSB review present particular problems for TV drama produced in the U.K., except for long-running and relatively inexpensive soaps. Although the popularity of indigenous drama remains high, the fragmentation of audience has adversely affected the commercially based broadcasters, i.e. ITV, Channel 4 and Five. As if to underline these problems, ITV experienced a disturbing decline in ad revenue in 2008, and similar declines were forecast for Channel 4 and Five. By mid-year, it was predicted that the overall U.K. TV advertising market would experience a year on year decline of 4% by the end of 2008. ITV's share price dropped precipitously and the broadcaster was hit with takeover rumours in August 2008. In the wake of this, ITV has sought to reduce its burden of regulation and in particular, its U.K. content requirements. An obvious target will be high-cost U.K. drama series, which have not performed well, although in June 2008 an ITV spokeswoman said that ITV's drama budget of £300 million would be maintained. However, the ITV director of television was reported as seeking to drive drama budgets from £750,000 an hour down to £500,000. If its advertising revenue continues to slump, ITV might consider surrendering its PSB licence to reduce its regulatory obligations. Under this scenario, it would no longer be subject to the Terms of Trade that benefit independent U.K. drama producers.

The BBC continues to fund U.K. drama with a budget of £288 million in 2008, and its recent programming has won high ratings and awards, although centralization of decision-making has given rise to some concerns from producers. A key question, however, is to what extent the BBC will continue to receive the licence fee funding it needs or whether this will be diluted by other claimants. For example, the Conservative Party in the U.K. has indicated that it favours having the BBC share the licence fee with ITV and Channel 4, although ITV has not supported this idea.

One of the anomalies of the U.K. system is the lack of meaningful regulation of subscription programming services. In both Canada and Australia, as will be seen below, subscription programming services are subject to regulations or licence conditions that require support of local programming, including drama. Had BSkyB been licensed in Canada, for example, its subscription film channels would have been required to support local film or drama production, and this support would have been substantial. But this has never been the case in the U.K., which has focused almost entirely on the contribution of the PSBs, i.e. the free-to-air broadcast services.

The jury is still out on the impact of new technologies on the U.K. broadcasting system. Although Internet ad revenue has grown significantly, total TV viewing is almost steady, even among younger viewers. Multichannel and digital TV penetration is now approaching saturation in the U.K. and the rate of loss of audience of the commercial PSBs has slowed down. However, there is no question that unless the U.K. government takes appropriate steps with respect to funding and regulation, the amount of high-cost U.K. drama will inevitably decline.

6. English Canada

The English Canada Television Market. In terms of economics, the TV market in Canada actually comprises two distinct markets – English-language television and French-language television. Television services in both official languages are available on a national basis. However, viewing and ad revenue can be broken out by language, and the impact of programming from the U.S. is much more pervasive on the English side. Because of the presence of bilingual viewers, the line between the two markets is somewhat subjective. According to Statistics Canada (2006 data), 68% of Canadians speak only English, 13% speak only French, and 17% are bilingual. The number of francophone households is typically estimated to be about 25% of total Canadian households. On this basis, the English Canada TV market reaches about 23.7 million people out of a total population of 31.6 million.

Free-to-air Television. In English Canada, "free-to-air" television, also referred to as "over-the-air" (OTA) or "conventional" television, is provided by a national public broadcaster (the CBC), provincial educational broadcasters, and a number of private commercial TV stations and networks.

The Canadian Broadcasting Corporation (CBC) owns and operates TV stations in every major market in Canada. In 2007, the CBC and its French-language arm, Société Radio-Canada (SRC), had combined TV ad revenue of C$355.6 million. The CBC/SRC parliamentary appropriation was C$956.5 million and another C$89.4 million was amortization of deferred capital funding. In 2007, the CBC spent about C$55 million on English-language drama. Many of its drama series, such as *Da Vinci's Inquest*, have been sold around the world. Its current series include *Little Mosque on the Prairie, This is Wonderland, The Border, Intelligence, Sophie* and the *Rick Mercer Report*.

Provincially owned educational broadcasters operate OTA TV stations in Ontario and Quebec, and satellite to cable services in B.C. and Saskatchewan. CTVglobemedia ("CTV") operates an educational TV service in Alberta. With relatively limited budgets, these broadcasters provide little or no local drama but do provide some original children's programming.

The private commercial OTA TV sector in English Canada is dominated by three national players: CTV, CanWest Media Inc., and Rogers Broadcasting. All three companies own and operate local TV stations in each of the major English-language markets. In the case of CTV and CanWest, they also operate a secondary group of stations which provide TV service in a number of smaller markets but whose signals can be received by cable or satellite subscribers across Canada. For its part Rogers Broadcasting, which acquired the CITY-TV group of stations in 2007, also owns a group of ethnic TV stations operating in a number of major markets.

CTV's current drama series include *Corner Gas, Degrassi: The Next Generation, Instant Star,* and, most recently, *Flashpoint*. CanWest's series include *Falcon Beach,* the *Jane Show, Best Years,* and *ReGenesis* (after a first run on pay TV). CITY-TV has run *Godiva's* and *Murdoch Mysteries*.

The combined advertising revenue of the private English-language TV stations in Canada in 2007 was C$1,721 million. Of the private English-language OTA TV stations in Canada, CTV has the largest market share, with 48% of revenue in 2007; by contrast, CanWest had 34% of advertising revenue and the CITY-TV stations (now owned by Rogers) had 9%. In 2007, the private TV stations expended about C$437 million on Canadian programming, of which about C$40 million was on Canadian drama. They also spent about C$695 million on U.S. programming, mostly drama.

There are a number of features of the Canadian OTA television environment that make it unique among English-language markets outside the United States. The first is that over 90% of Canadian TV homes can receive the program signals of U.S. border stations affiliated to each of the U.S. TV networks (ABC, CBS, NBC, FOX and PBS), either directly off-the-air or through cable or satellite providers. This feature is offset to a degree by the fact that any Canadian station or network that purchases the broadcast rights to a U.S. program and schedules it as the same time as a U.S. border station, can require the cable or satellite provider to substitute its signal (including commercials) for that of the U.S. border station during the broadcast of the program. This has the advantage of repatriating advertising revenue that would otherwise be lost to U.S. TV stations that were not licensed to serve Canada. But it has the disadvantage of encouraging Canadian TV networks to build their prime-time schedule around these simulcast opportunities, putting Canadian drama series at a disadvantage.

A second and more recent feature of the Canadian TV environment came with the introduction of satellite providers Bell ExpressVu (now Bell TV) and Star Choice in 1997. In addition to offering the signals of local TV stations to their subscribers, the satellite providers offered their subscribers the signals of stations affiliated to the same network but from other time zones (as many as five). These "time-shifting" packages have proven to be quite popular and the major cable operators were quick to follow suit with similar packages of time-shifted signals. The result is that most Canadian viewers can see a given program on a number of different time-shifted signals, increasing audience fragmentation and lessening the efficiency of local ad campaigns.

Canadian TV stations have sought compensation of C$90 million for the harm caused to them by time-shifted signals (this is apart from the royalties of about C$85 million per year already being paid by the cable and satellite companies to collectives representing copyright owners for the retransmission of distant signals). In a decision on October 30, 2008, the CRTC declined to award "fee for carriage." However, it stated that the OTA TV stations would be permitted to negotiate payments in order to recover the value of their time-shifted signals from the cable and satellite companies, subject to CRTC arbitration. The amount that will be generated for the OTA broadcasters from this new policy is still unknown.

Subscription Programming Services. 89% of households in Canada subscribe to either cable or satellite multichannel distribution services, which offer a wide range of Canadian subscription programming services in addition to the OTA services. The pay television services, which subsist solely on subscription revenue, include two movie-based premium services (The Movie Network in Eastern Canada and Movie Central in Western Canada) which provide significant support for Canadian films and dramatic series. The Canadian specialty services, which are offered in lower-cost higher penetration packages and are supported by both advertising and subscription revenue, include a number of services that focus on drama and which support Canadian series.

Set out in Table 5 below is a list of all English-language pay and specialty services that expended more than C$1 million for Canadian drama in 2007. The total expended by these 13 pay and specialty services on Canadian drama was C$141.8 million in 2007. In the case of the movie-based pay services (TMN and Movie Central), they broadcast Canadian feature films; however, they have also run

Table 5

Canadian English-Language Pay and Specialty Services Support for Canadian Drama

		C$ Million (2007)	
Name of Service	*CPE %*	*Revenue*	*Expended on Canadian Drama*
Showcase	42%	$63.8	$21.6
TELETOON	47%	86.4	21.0
Comedy Network	45%	49.8	20.7
The Movie Network (TMN)	32%	116.0	19.3
YTV	40%	89.5	17.1
Movie Central	32%	86.4	13.1
Space	40%	46.7	9.9
Family Channel	30%	50.4	7.2
Mpix	26%	22.6	3.4
Bravo!	33%	40.6	2.5
Vision	25%	22.2	2.5
W	41%	73.5	2.0
Treehouse	36%	11.9	1.6

Source: CRTC; "CPE %" refers to the "Canadian programming expenditures" licence condition requiring the particular licensee to expend the stated ratio of its previous year's gross revenues (advertising + subscription revenue) on Canadian programming. For this purpose, moneys received from the Canadian Television Fund for "licence fee top-up" count towards the CPE requirement. The third column sets out the actual CPE expenditures made by each licensee on Canadian drama in 2007, not including CTF licence fee top-up. TELETOON includes expenditures by both English and French services.

original Canadian dramatic series like *ReGenesis, Slings and Arrows, Durham County* and *Terminal City*. Showcase's prime-time schedule is largely devoted to reruns of older Canadian drama series, but it has commissioned original series like *Paradise Falls, Trailer Park Boys, Billable Hours, Rent-a-Goalie, MooseTV* and *G-Spot.*

Viewing Shares. In 2007, the share of viewing of broadcast services in English Canada was as shown in Table 6 below.

Table 6

Viewing Share of Canadian and Non-Canadian Television Services in English Canada

Type of Broadcast Service	*Viewing Share (%)*		
Canadian TV Services			
Canadian English Services			
CBC	5.0		
Private OTA TV (CTV, CanWest and Rogers)	25.6		
Specialty Services	31.8		
Premium Pay Services	4.8		
Educational Services	2.7		
Canadian French-language services	2.2		
Canadian Other-language services	1.7		
Canadian Other (Community and PPV)	1.3		
SUB-TOTAL		74.9	
Non-Canadian TV Services			
U.S. OTA services	12.8		
U.S. specialty services	9.7		
International Services	0.1		
SUB-TOTAL		22.6	
Miscellaneous		2.7	
TOTAL			100.0

Source: BBM Nielsen Media Research, All Canada, excluding Quebec Francophone market, Viewing share for 2006-2007 TV season, All persons 2+ Monday to Sunday, 6 a.m. to 6 a.m.

As shown in Table 6 above, viewing to foreign stations or services in English Canada is 22.6% of viewing hours, while Canadian stations and services garner 74.9% of viewing.

On the Canadian stations and services, U.S. programs (mostly drama) garnered 52% of overall viewing in 2007. Within the drama category, which accounted for 41% of overall viewing, Canadian drama accounted for 21% of this. A breakout of the viewing of drama on the various types of Canadian services is shown in Table 7 on the next page.

Table 7

Viewing of Drama on Canadian English-Language Television Stations and Services (Viewing Share % in 2007)

	Canadian Drama	Non-Canadian Drama	Total Drama
CBC OTA TV Stations	31.3	68.7	35.3
Private OTA Stations	8.1	91.9	42.2
Subscription Programming Services	26.2	73.8	39.6
Total	21.0	79.0	40.7

Source: *CRTC Communications Monitoring Report, 2008,* Tables 4.3.6 to 4.3.9

Television Regulation in Canada. Television in Canada is regulated by the Canadian Radio-television and Telecommunications Commission (CRTC), an independent regulatory agency originally created in 1968 and deriving its current powers under the 1991 *Broadcasting Act*. Television licences are issued for a maximum of seven years and are subject to licence conditions set by the Commission.

Scheduling Requirements. The basic quota for private OTA television in Canada requires 60% Canadian content during the 18-hour broadcast day, and 50% Canadian content in the evening hours from 6 p.m. to midnight. The quota is higher for the CBC, which is required to maintain a 60% level in both the 18-hour broadcast day and the evening broadcast period from 6 p.m. to midnight. The quota is subject to some case-by-case exemptions.

The overall Canadian content quota in the regulations does not distinguish between particular program categories. History quickly demonstrated, however, that where there are no specific mechanisms in place that require private television broadcasters to air dramatic programs, these productions will get very little air-time.

To address this, the CRTC in 1979 imposed a category quota explicitly for Canadian drama as a condition of licence for the CTV Television Network. That licence condition was appealed to the Supreme Court of Canada on a variety of grounds, but was upheld in 1982. Over the next few years, the Commission increased the requirements placed on CTV and then imposed conditions on Global Ontario. By 1999, the CTV network licence, taking into account repeat factors, was subject to a condition that the network schedule about 1½ hours per week of new Canadian drama programming, with an additional 20 new hours per year of Canadian dramatic features, mini-series and limited series. Global Ontario was subject to a requirement that it broadcast 2 hours of first run Canadian drama per week.

However, these rules were supplanted by the Commission's Television Policy in 1999, which changed the scheduling requirement to focus on a minimum number of so-called "priority programs," a category that was expanded beyond drama, music and dance to include documentaries and regional non-news programs. The new TV Policy does not set any specific requirements with respect to the broadcast of new Canadian dramatic programming. Rather, it simply requires that CTV and CanWest Global (and latterly Rogers) broadcast an average of eight hours per week of priority programming during the peak viewing periods (7:00 p.m. to 11:00 p.m.) over the course of the broadcast year. The priority programming does not need to be first-run programming but can include repeats.

As each of the pay and specialty programming service licences were issued over the last 20 years, the CRTC has also imposed Canadian content scheduling requirements for these services. However, they are made applicable through customized conditions of licence, rather than through generally applicable regulations. In its decision of October 30, 2008, the Commission maintained the scheduling requirements applicable to pay and specialty services.

Expenditure Requirements. A Canadian content expenditure quota was first introduced by the CRTC in 1982 for pay television. It was a quota specified as a fixed percentage of subscription revenue. Since then the CRTC has imposed expenditure requirements on almost all specialty and pay television services licensed up to 2000. The concept of requiring a certain level of expenditures on Canadian programs was extended to Global Ontario in 1986 and CTV in 1987. In 1989, the CRTC applied the concept to all major local television stations, as part of their licence renewal decisions. The level of expenditures was tied to the advertising revenues of the station concerned. As a result, the expenditures on Canadian programs required by the CRTC fluctuated up and down with changes in the ad revenue for the stations. In the period immediately up to 1999, CTV and Global were also subject to licence conditions that required them to expend a certain dollar amount on "entertainment programming," defined to mean drama, music and dance.

As part of its new TV Policy in 1999, however, the Commission eliminated all expenditure requirements for OTA (conventional) TV stations, except for ownership "transfer benefits" and new licence commitments. The Commission's transfer benefits policy requires persons who acquire control of a TV station or service to commit to expending at least 10% of the transaction value on incremental benefits to the broadcasting system over 7 years. Since 1999, major ownership changes involving CTV, CanWest Global and Rogers have resulted in significant transfer benefits being payable, and much of that money has been allocated to hard-to-finance programming like Canadian drama. Notwithstanding this, in the absence of expenditure requirements, total spending on Canadian drama by the OTA broadcasters in English Canada has declined.

However, Canadian program expenditure (CPE) requirements continue to apply to Canadian pay and specialty television services, except for a class of digital services (Category 2 services) licensed since 2000. About 75 Canadian services (50 analog specialty services, 18 Category 1 digital services and seven pay television services) have guaranteed access on cable and satellite distribution systems in Canada and almost all of them are required to spend a prescribed percentage of their previous year's gross revenue on Canadian programming. (Table 5 at p.28 above shows the CPE requirements for the thirteen English-language services that expend more than C$1 million a year on Canadian drama.)

On October 30, 2008, the CRTC issued new policies on pay and specialty programming services. While the Commission loosened the genre protection rules for news and sports specialty services, and liberalized the packaging rules for Canadian services, it maintained the rules guaranteeing access for the 75 services (renaming them Category A services) and maintained the CPE requirements for those services, subject to review at the time of their licence renewal.

The Canadian Television Fund. In 1984, the federal government created the Broadcast Program Development Fund to support independently produced Canadian drama and other under-represented programs. The fund was administered by Telefilm Canada. The Fund acted as a "carrot" for OTA broadcasters and coupled with the "stick" of CRTC regulation is largely credited with the rise of the independent TV production sector in Canada in the late 1980's and early 1990's. In 1994, the fund was augmented by a private not-for-profit fund created by the cable industry to avoid a reduction in cable rates. Over the next five years, the two funds were combined and rationalized into the Canadian Television Fund (CTF). The CTF is now the largest financial supporter of television production in Canada after federal and provincial tax credits, investing C$249 million in Canadian production in 2007, of which C$99.7 million went to support English-language drama and C$32.4 million went to support English-language children's and youth programs. In the past ten years, it has supported over 4,000 projects and contributed C$2.2 billion in funding, which has triggered C$7.4 billion in production budgets. Funding for the CTF comes from two sources. The first is a levy imposed by the CRTC on cable and satellite distributors of 5% of their gross revenues (less any contribution to community television of up to 2% of gross revenues); 80% of these contributions – amounting to C$150 million in 2007 -- must go to the CTF. The second source of CTF funding is an annual grant from the Department of Canadian Heritage, currently amounting to C$120 million.

In early 2007, the CTF faced a crisis when two cable companies withheld their contribution until the CRTC established a Task Force to examine the CTF operations and governance. That led to a CRTC hearing in February 2008 which culminated in a CRTC report issued on June 5, 2008. The report recommended splitting CTF funding into public and private sector streams with two separate boards of directors, although Telefilm Canada would continue to administer both streams. The matter is now in the hands of the Minister of Canadian Heritage.

Whatever the result, the crucial importance of the CTF to the support of Canadian drama and other difficult-to-finance program genres remains indisputable.

New Media. Under Canadian law, Internet and mobile services form part of the broadcasting system to the extent that they distribute audiovisual programming to the public. However, in 1999 the CRTC exempted Internet services from regulation under the *Broadcasting Act*. It similarly exempted mobile services from broadcasting regulation in 2007. In May 2008, it announced that it had decided to hold a hearing to examine the role and impact of new media. The hearing is scheduled for February 2009 and the CRTC will be reviewing both exemption orders at that time.

Trade Agreements. Canada entered into a free trade agreement with the United States in 1988, which was expanded to the North American Free Trade Agreement (NAFTA) by adding Mexico in 1994. Canada negotiated a “cultural exception” to the agreements, which preserves its right to impose discriminatory requirements in the broadcasting and audiovisual fields to support local content. Canada also declined to make national treatment commitments in the Uruguay Round in 1995 so that the GATS agreement under the WTO does not affect its ability to regulate the television industry.

Developments Affecting Canadian Drama. Since 1999, three developments have occurred which affect Canadian TV drama in English Canada.

The first is that the conventional TV stations lowered their Canadian drama expenditures, except for those required by virtue of transfer benefits. In 2004, the CRTC suggested that the target for Canadian drama expenditures by the private OTA licensees (not including transfer or new licence benefits) should be 6% of ad revenue. But in fact, even when transfer benefits were included, only 2.3% of ad revenue – about C$40 million -- was spent by the private English-language OTA television stations on Canadian drama in each of 2006 and 2007. The result was a precipitous decline in new TV series. The CRTC responded by initiating a complex incentive system to support Canadian drama in 2004. However, this was abandoned in 2007.

The second development is that the conventional TV stations in English Canada significantly increased their expenditures on U.S. programs, mostly drama. The CRTC has expressed concern about this development. Licence renewal hearings for the OTA TV stations licensed to CTV, Global and Rogers are scheduled to take place in 2009, when all these issues will be discussed.

The third development is that the revenues of Canadian pay and specialty services have increased significantly and those services that focus on drama have been spending more on Canadian drama, triggered by their expenditure requirements. This has been a significant factor in maintaining overall production levels, particularly in niche genres like children’s programming and animation.

The decline in Canadian drama spending by the OTA broadcasters over the past seven years was accompanied by other developments which have further contributed to the problem. Private broadcasters in Canada have typically paid lower broadcast licence fees as a percentage of the production budget for indigenous commissioned productions than in other countries. However, over the last seven years, producers have also had to hand over more rights for those licence fees, including longer broadcast windows, more plays, and the right to broadcast the program on affiliated specialty services as well as on the OTA service. In a situation where there are few buyers and many sellers, and lacking any Terms of Trade, Canadian drama producers had little choice but to agree. (However, the CRTC has recently required the OTA broadcasters to negotiate Terms of Trade with producers.)

Producers had also hoped that the introduction of federal and provincial tax credits in the mid to late 1990's might give them more of a back end, but this did not happen. Instead the credits became essential to the financing of the programs. The result is that the economic situation for producers has become much more difficult. All of these developments have led to what many have described as a crisis for Canadian drama.

Despite the structural problems they have faced, a number of Canadian drama series have achieved ratings success and have been successfully exported around the world. The ratings for popular current dramatic series like *Corner Gas* and *Degrassi: The Next Generation* have also benefited from the fact that the CTV transfer benefits allowed more episodes per year to be commissioned.

Drama Production in English Canada. Annual statistics on film and TV production in Canada are collected by Nordicity Group Ltd. and published by the Canadian Film and Television Production Association (CFTPA). Table 8 below shows the cost of production of English-language TV drama and children's programming over the last five years. As will be seen, the total dollars going into TV drama production has been more volatile than the amount going into children's production. Although support from OTA TV licensees other than the CBC declined over the period (apart from transfer benefits), there was increased support from the pay and specialty sector and from BDU funding directed to the Canadian Television Fund.

Table 8

English-Language TV Drama and Children's TV Production in Canada, 2002-2007 (C$ millions)

	2002/3	*2003/4*	*2004/5*	*2005/6*	*2006/7*
TV Drama Production	668	583	621	680	762
Children's TV Production	232	224	236	217	285

Source: Nordicity Group Ltd.

The Situation in French Canada. Although this report focuses only on English-language markets, some comments may be addressed to the French-language broadcast market in Canada. The significant difference between the two markets in Canada is best shown in Table 9 below, which can be compared with Table 6. As will be seen, foreign broadcast services receive virtually no viewing in French Canada, compared with 22.6% of viewing in English Canada. And while fragmentation from Canadian French-language pay and specialty services has eroded the audience of the French-language OTA broadcasters (SRC, TVA and TQS), they still command over 50% of viewing.

Table 9

Viewing Share of Canadian and Non-Canadian Television Services in French Canada

Type of Broadcast Service	*Viewing Share (%)*		
Canadian TV Services			
Canadian French-Language Services			
SRC	12.8		
Private OTA TV (TVA and TQS)	37.8		
Specialty Services	34.0		
Premium Pay Services	4.5		
Educational Services	3.3		
Canadian English-language services	4.2		
Canadian Other-language services	0.3		
Canadian Other (Community and PPV)	0.3		
SUB-TOTAL		98.5	
Non-Canadian TV Services			
U.S. OTA services	0.8		
U.S. specialty services	0.8		
International Services	0.0		
SUB-TOTAL		1.6	
Miscellaneous		0.0	
TOTAL			100.0

Source: BBM Nielsen Media Research, Quebec Francophone market, Viewing share for 2006-2007 TV season, All persons 2+ Monday to Sunday, 6 a.m. to 6 a.m.

In French Canada, drama is very popular, commanding 42.5% of viewing. Of this percentage, 36.6% is accounted for by Canadian French-language drama. In 2007, the CBC's French-language arm – SRC – spent about C$57M on French-language drama, the private OTA broadcasters (TVA and TQS) spent C$36M, while the French-language pay and specialty services spent C$33M. Total private OTA advertising revenue in French Canada in 2007 was C$323M. The cost of French-language drama production in 2007 was C$183 million, while French-language children's TV production was C$52 million. Unlike English Canada, French Canada faces no direct competition from U.S. signals; however, local drama production is still problematic and requires government and regulatory support to survive.

7. Australia

Free-to-Air Television. Free-to-air or “over the air” television to the 20.3 million residents of Australia is currently provided by two public broadcasters and three major commercial television networks. The public broadcasters are the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS).

ABC-TV is Australia’s only national commercial-free public television broadcaster. It first went on the air in 1956, and operates under a charter set forth in section 6 of the *Australian Broadcasting Corporation Act 1983*. In 2006-07, ABC received parliamentary appropriations totalling A$823 million. ABC-TV broadcasts 60% Australian content in the period from 6 p.m. to midnight, and provides a diverse range of local programming, including a significant amount of Australian drama. Its successful adult dramas have included *SeaChange, MDA, Blue Murder* and *Police Rescue* and its comedy programs include *Kath & Kim (*acquired by Seven Network after its 3rd season*),CNNN* and *The Glass House*.

SBS is the second public broadcaster in Australia, having launched in 1980. SBS was created with a multicultural mandate to provide programs specifically aimed at the growing number of Australians for which English is not their native language, and is required to meet certain programming obligations under the *Special Broadcasting Services Act 1991*. It receives about A$190M per year from parliamentary appropriations, which is supplemented by about A$10M in ad revenue. (SBS is limited to 5 minutes of commercials per hour, compared with 15 minutes per hour for the fully commercial TV stations.) Apart from comedy, SBS-TV’s drama line-up consists almost entirely of imported content, mostly programming produced in languages other than English. However, the channel presents a number of local comedy shows, such as *Pizza, Newstopia, Life Support*, and *John Safran*, and one local non-comedy drama, *Kick*.

There are three commercial television “networks” in Australia: Nine Network, Seven Network and Ten Network. The names relate to the VHF frequencies used for the main transmitters in the capital cities. Each network is comprised of a core of commonly owned stations in the capital cities, augmented by affiliation with groups of commonly owned regional stations.

The Nine Network was formerly owned by the Packer group, but 75% of the Nine’s parent company, PBL Media, was sold to the private equity firm CVC Asia-Pacific in two deals in 2006 and 2007. Historically, Nine has been the most watched network in Australia but its ratings were beaten by its main rival, the Seven Network, in 2000 and 2007. Its local drama shows include *Alice, Comedy Inc. The Late Show* and *McLeod’s Daughter*.

The Seven Network is owned by a public company controlled by Kerry Stokes. Its local drama series include *City Homicide*, *All Saints, Blue Heelers* and *Home and Away* and in 2007 it acquired the fourth season of *Kath & Kim*.

The Ten Network is 84% owned by a public company -- Ten Network Holdings Pty Ltd -- which is majority owned but not controlled by CanWest Media, a Canadian company. Its drama series include *Neighbours, Thank God You're Here, The Ronnie Johns Half-Hour* and *The Wedge*.

The combined ad revenue of the three commercial networks in 2006/07 was A$3.1B, out of total TV free to air TV ad revenue of about A$4.0B. About 66% of the programming costs of the three networks is for Australian content.

In 2007, the share of viewing for each of the free-to-air networks in the five largest cities in Australia was as shown in Table 10 below.

Table 10

Viewing Shares of Television Networks in Australia

Name of Network	*Viewing Share (%)*	
Free-to-Air TV Services		
ABC	15.1	
Seven	24.3	
Nine	20.4	
Ten	16.5	
SBS	4.2	
SUBTOTAL		80.5
Subscription Services		19.5
TOTAL		100.0

Source: OZTAM, 5 City Markets, October 12-18, 2008, Prime Time (18:00-23:59)

Subscription Programming Services. In Australia, subscription television services are offered through cable or satellite TV. Cable service has been available in a number of cities since 1992 with Galaxy TV. Foxtel and Austar launched cable services in1995 and Foxtel took over the Galaxy subscribers in 1999, adding a satellite platform in that year. The two major cable providers in Australia are now Foxtel and Optus TV. Minor providers include Austar, TransAct, Bright Telecommunications and Neighbourhood Cable, which only operate in limited areas. Foxtel, the largest provider, is a joint venture between Telstra (50%), News Corporation (25%) and Consolidated Media Holdings (25%). It offers the Australian services in both SD and HD, as well as a wide range of entertainment, sports, news, music and children's channels.

Aggregate penetration of these multichannel subscription services reached 26% of households in Australia by June 2007 and is expected to reach 29% by 2009, still well below the levels in other developed markets around the world.

Television Regulation in Australia. The television sector is regulated by the Australian Communications and Media Authority (ACMA), under the provisions of the *Broadcasting Services Act 1992*. The ACMA replaced the Australian Broadcasting Authority (ABA) on July 1, 2005. In regard to the state-owned ABC, however, the ACMA only administers program standards and does not impose program quotas.

Regulation of Free-to-Air Television. Commercial over-the-air television stations in Australia are required, by virtue of the *Broadcasting Services (Australian Content) Standard 2005*, to broadcast at least 55% Australian content between 6 a.m. and midnight each year. Australian content includes official Australian co-productions and New Zealand programs. In general, this 55% quota has been met by the three commercial networks. The Seven Network Australian programming decreased from 60% of the schedule in 2002 to 58% in 2007. The Nine Network increased from 60% in 2002 to 65% in 2007, while Network Ten broadcast 58% Australian content in both 2002 and 2007.

The standard also requires commercial television licensees to broadcast a minimum amount of first release (a) Australian drama programs in prime time; (b) Australian documentaries, and (c) Australian children's programs.

To qualify under (a), adult drama, series, serials and mini-series must be "first release" programs. Programs are considered first release programs when first broadcast in a licence area, provided the program has been acquired within 2 years of the completion of production. Telemovies and feature films previously broadcast on subscription TV are still considered first release for over-the-air quota purposes.

The Australian drama requirement is regulated through an annual and three-year drama point score system. The current minimum annual score for each station is 250 and the minimum three year score is 860. The formula for calculating the drama score is to multiply a "format factor" times the duration of the program in hours.

The format factor provides a higher factor for more expensive programs, and is intended to "better reflect the relative costs and risks associated with the production of particular drama genres." For example, films acquired for at least $150K receive a higher format factor than older or less expensive films.

A format factor of 1, the lowest factor, applies to an Australian drama program that is a serial or series produced at the rate of more than 1 hour per week. This covers such "soaps" as *Neighbours* and *Home and Away*.

A format factor of 2.5 applies to an Australian drama program produced at a rate of 1 hour or less per week, unless it has been acquired from an independent producer for a licence fee of at least A$300K, in which case the factor rises to 3. An Australian drama program that is a feature film gets a factor of 3.2 if it has been acquired prior to July 11, 2002, a factor of 4 if it has been acquired for a licence fee of at least A$150K, and a score of 2.5 in any other case. Finally, an Australian drama program that is a telemovie, mini-series, or self-contained drama of less than 90 minutes duration has a format factor of 4.

To qualify for these factors, the program must be broadcast during prime time, defined to mean between 5 pm and 11 pm. This time band can be extended in certain instances to allow broadcasters some flexibility to schedule drama in late night time slots.

In the period from 2002 to 2007, all three commercial networks complied with the drama point count requirement. In the early part of this period, Network Seven routinely exceeded the required minimum by a significant margin, while the other two networks performed closer to the minimum. However, over the period, Network Seven steadily reduced its use of Australian drama so that by the end of the period it was at a similar point count to the other two.

In terms of actual hours of first release drama, Network Seven and Network Ten have relied much more on soaps to meet the drama standard, particularly Network Seven. By contrast, Network Nine has tended to focus on fewer but more expensive drama series to meet the standard.

Putting all the numbers together, the result has been that the total number of first release Australian drama hours broadcast by the commercial networks has declined in the last few years in Australia. Over the three year period 2005-07, Network Seven broadcast about 608 drama hours (compared with 670 in the three year period 2002-04), Network Nine had 281 hours (compared with 308) and Ten Network had 526 (compared with 528 hours). So the total Australian drama hours have declined, largely explained by Network Seven's decreased drama levels over time (with the exception of a peak in 2005). Over the last three years, then, the average number of new drama hours commissioned or acquired by each commercial network per year has been 157 hours, or about 3 hours per week.

Annual combined expenditures on Australian adult drama by the three commercial networks ranged from A$113M to A$131M per year in the period from 2002/03 to 2005/06. However, those expenditures declined to only A$96.2M in 2006/07, a decrease of A$16.2M from the previous year. In 2006/07, the three networks expended A$96.2M on Australian adult drama and A$12.3M on Australian children's drama. (By contrast, they spent A$410.8M on overseas programming, A$385.9M of which was on overseas drama.)

Since 1998, New Zealand programs have qualified as Australian content, as a result of a High Court of Australia decision. Up to 2005, few if any New Zealand drama programs were broadcast by the Australian commercial networks. However, this suddenly changed in 2006, when Network Seven decided to air 8 hours of New Zealand drama. In 2007, Network Seven dropped its use of New Zealand drama to only 1 hour, but Network Nine aired 11 hours of New Zealand drama, and Ten Network aired17 hours.

In addition to the adult drama requirement, the three commercial networks are each required to air at least 130 hours per year of first release children's programming, of which 25 hours must be drama. The 130 hour requirement is the equivalent of a new half-hour children's program aired each weekday, Monday to Friday, on each network.

Finally, each network is required to air at least 20 hours a year of first release Australian documentaries.

Regulation of Subscription Television. In the case of subscription television services, the *Broadcasting Services Act* requires licence holders to spend at least 10 per cent of their program expenditures for drama channels on Australian (or New Zealand) drama programs. The Act defines a "subscription television drama service" as a service with more than 50% of its programming consisting of drama programs. On this basis, 17 drama channels reported compliance to the ACMA, namely, Boomerang, Cartoon Network, Turner Classic Movies, Hallmark Channel, Disney Channel, Playhouse Disney, Fox 8, Fox Classics, Movie Extra, Movie Greats, Movie One, Nickelodeon, Showtime, Showtime Greats, TV1, SCI FI and UKTV.

The aggregate expenditure by these services on new Australian drama reached A$26.4M in 2006-7, an increase from A$15.9M in 2004-05 and A$18.4M in 2005-06. This was out of total program expenditures by those services of A$207.9M in 2006-07.

New Media. Under the *Broadcasting Services Act* and relevant Ministerial determinations, a "broadcast" is defined to exclude a service that makes programs available on demand on a point-to-point basis. Services that make radio or television programs available using the internet are also excluded from broadcast regulation in Australia. However, recent amendments to the *Broadcasting Services Act* have extended the regulatory framework for television services to include live content services streamed over mobile and the internet. That regime aims to regulate the provision of "prohibited content," to require, among other things, that operators introduce a restricted access system for certain types of content to verify that the user is over 18.

Trade Agreements. Australia declined to make national treatment commitments in regard to audiovisual services in the Uruguay Round in 1995 so that the GATS agreement under the WTO does not affect its ability to regulate the television industry. However, it subsequently entered into the Australian-U.S. Free Trade Agreement, which came into force on January 1, 2005. That bilateral treaty limits the ability of Australia to impose local content broadcast scheduling quotas in excess of the 55% quota applicable between 6 a.m. and midnight on free-to-air TV broadcasters. The agreement also states that "subquotas for particular program formats (e.g. drama, documentary) may be applied within the 55 percent quota." In the case of the 10% expenditure requirement applicable to subscription television broadcasting services, Australia is permitted to increase this requirement to a maximum level of 20 per cent. In the case of interactive video services, the Australian government is permitted to take measures to ensure that access to Australian audiovisual content or genres thereof is readily available to Australian consumers.

Drama Production in Australia. An annual survey of feature film and TV drama production is published by Screen Australia, a government agency that succeeded the Australian Film Commission on July 1, 2008. In 2006/07, the survey showed that 645 hours of TV drama (50 programs) were shot in Australia, an increase from 597 hours (45 programs) the previous year.

In the seven years since 2000/01, the full TV drama slate has averaged 48 titles and total budgets of A$322 million per year, including an average of 37 Australian programs with total budgets of A$215 million. Local production has generally accounted for more than 60% of TV drama spending in Australia. Since 1995/96, around half the finance for the combined Australian and co-production TV drama slate has come from the Australian film/TV industry, mainly from the commercial broadcasters.

In 2006/07, the three commercial broadcasters spent 66% of their program budget of A$1201M on Australian programs. Australian drama (including children's) accounted for 9% of the overall budget while all other Australian programs accounted for about 57%. That was a decline from the previous year when the equivalent percentages were 12% and 60%.

Ratings of Drama in Australia. Local Australian drama can be very popular, rivalling and often exceeding ratings for imported drama. The opening episode of season four of *Kath & Kim* on the Seven Network attracted an Australian audience of 2.5 million nationally, making it the most watched TV program in 2007.

In 2007, of the top 20 drama series and serials shown on TV in Australia, four were Australian, including the no. 1 show, *City Homicide* on Seven Network. Of the top 20 comedy series, seven were Australian, including the top three programs. That being said, ratings can be just as unpredictable for new series as is the case in the U.S. The Nine Network, for example, had a long string of failures through the 1980s and early 1990s before finally achieving success with *Water Rats, Stingers, Good Guys Bad Guys* and *Halifax fp*.

8. Ireland

Free-to-Air Television. The 4.2 million residents of Ireland are served by four free-to-air TV channels, namely, RTÉ One, RTÉ Two, TV3 and TG4. Each of these channels has national coverage. About 22% of the homes in Ireland only receive these channels.

RTÉ One and RTÉ Two are provided by Radio Telefís Éireann (RTÉ), the state broadcaster. Last year (2007), their combined viewing share in prime-time (6 p.m. to midnight) was 38.9%, a reduction from 2006, where the viewing share of RTÉ One was 32.1% and RTÉ Two was 12.9%. RTÉ is operated by the RTÉ Authority, which is a state-owned statutory corporation. The members of the RTÉ Authority are appointed by the Cabinet upon the recommendation of the Minister for Communications, Marine and Natural Resources. The RTÉ Authority is both the legal owner of RTÉ and is also its regulator. (For recent proposed legislative changes, see further below).

In the Republic of Ireland, a television licence is required for any address at which there is a television set. In 2008, the annual licence fee is €160. This revenue is collected by An Post, the Irish postal service. The bulk of the fee is used to fund RTÉ. The bulk of the rest of RTÉ's revenue comes from RTÉ broadcasting commercials on its radio and TV stations. In 2006, RTÉ's total revenue was €407.9 million, made up of €182.8 million from licence fee revenue and €225.1 million in commercial revenue. In 2007, the licence fee contributed €195.7 million to RTÉ's revenues and commercial income delivered €245.5 million (up 10% from the previous year). RTÉ reported a surplus of €26.4 million in 2007.

Since July 2007 RTÉ has been participating in a HD trial in Dublin. It shows programs such as Planet Earth and Gaelic Athletic Association matches. RTÉ have recently announced it is planning to launch two television channels; one general entertainment channel - *RTÉ 3* (working name) - and a timeshift service for RTÉ One - *RTÉ One +1* (working name).

TG4 is an Irish language channel, which was operated as a subsidiary of RTÉ (Serbhisí Telefís na Gaeilge Teoranta) prior to its separation from RTÉ on 1 April 2007. In that month, TG4 became an independent statutory corporation. RTÉ continues to contribute programs to the channel, including Nuacht TG4. In 2006, TG4 had a primetime audience share of 2.6%. One of its most popular series is an Irish-language soap opera entitled *Ros na Rún*.

TV3 is a commercial TV channel that launched in 1998, and was the first TV station in Ireland not publicly funded by tax or licence fees. In 2006, the station was acquired from its previous owners, which included CanWest and ITV plc, by Doughty Hanson & Co, a venture capital firm. TV3's reported revenue in 2006 was €53.6 million. Apart from local news and sports coverage, much of TV3's schedule is taken up with simulcasting of ITV programs, programming acquired from the U.S., and movies. In 2006, TV3 had a primetime viewing share of 12.8%.

Subscription Programming Services. In Ireland, subscription television services are offered through cable or satellite TV. About 75% of homes in Ireland subscribe to these multichannel services, which provide additional TV services, including a number of Irish channels, including Channel 6, Setanta Ireland (a sports channel), Bubble Hits and Bubble Hits Ireland (music channels), City Channel, DCTV (an advertising-free community channel based in Dublin), NASN (a sports channel owned by ESPN) and P5TV.

Channel 6, an Irish commercial TV channel, was launched in March 2006 on cable and satellite platforms but after two years of losses, control was acquired by Doughty Hanson & Co., the owners of TV3, in July 2008 for €10 million. TV3 has stated that it wants to double Channel 6's current audience share of less than 1 per cent to around 2 per cent. Channel 6's content is largely based on U.S. dramas and sitcoms, with only a smattering of locally produced non-drama series.

Cable and satellite subscribers in Ireland also receive the UK free-to-air channels, including BBC 1, BBC 2, ITV, Channel 4 and Channel 5. Viewing of foreign broadcast channels in Ireland is very high, reaching 44% in 2001.

Television Regulation in Ireland. The broadcast regulatory regime in Ireland is in transition. The Broadcasting Commission of Ireland (BCI) (Irish: *Coimisiún Craolacháin na hÉireann*) is the regulator of the commercial broadcasting sector in Ireland. It is responsible for arranging the provision of television and radio services in additional to those provided by Radio Telefís Éireann (RTÉ). In addition, it is responsible for developing codes on advertising and other matters, which apply both its own stations and those of RTÉ.

The Commission awards television and radio program contracts (typically called "licences", though the actual broadcasting licences are really issued by ComReg) by a beauty contest system. Typically the Commission will decide on the area and type of service to be provided. It then asks for expressions of interest, which will then lead to an actual contest for the contract. Each bidder for the contract submits a detailed business plan and programming proposals to the Commission, which then selects a preferred bidder. It will then conduct further negotiations before issuing the contract.

The Commission was originally set up as the Independent Radio and Television Commission (IRTC) under the terms of the *Radio and Television Act, 1988*. This act allowed the first legal stations not operated by RTÉ to come into existence. Prior to this commercial broadcasting in Ireland had been unlicensed and illegal. The selected contractor for the television service TV3 Ireland, took eight years to find a backer before it finally went on air.

The *Broadcasting Act, 2001* gave the Commission its present name and increased its powers. It can now issue contracts for broadcasting via cable, satellite, and most recently DTT under a different model from 2001 Broadcasting (Amendment) Act 2007, and can also develop codes in relation to various broadcasting activities. The first, a code on children's advertising, has proved highly controversial.

Article 4 of the *Television Without Frontiers Directive* and Regulations 4(1) and 3(b) of SI 313/1999 and Article 9 of the Directive and Regulation 3(a) of SI 313/1999, regarding European Works will apply to all content contracts issued under Section 36 except the following:

i) Services that are intended for local audiences and do not form part of a national network;

ii) Services that are exclusively devoted to sport, news, games, teleshopping or promotion; and

iii) Teletext services.

Under the *Broadcasting Bill 2008,* the Commission will be abolished and its powers transferred to the new Broadcasting Authority of Ireland's Contract Awards Committee. The BAI will also incorporate the role of the Broadcasting Complaints Commission for Ireland and also the regulatory powers of the RTÉ Authority and Teilifís na Gaeilge. While the contract award process will not be radically altered, the Authority will now have powers to fine stations rather than having to remove their contracts.

The Commission also operates the Broadcasting Funding Scheme or "Sound & Vision" which distributes 5% of the collected TV licence to projects on film, TV and radio. (In December 2008, this percentage was increased from 5% to 7% during the committee stage on the Broadcasting Bill, with RTE's funding cut by 2%. The difference on an annual basis was projected to be €4.4 million) This is further to the *Broadcasting (Funding) Act 2003*. So far over €30 million has been invested into the audiovisual sector in Ireland as a result of the scheme, enabling 280 projects to be funded and broadcast in peak listener/viewer times.

In September 2006, the Government published on the internet the proposed text of the *Broadcasting Bill*. This proposes that RTÉ and TG4 will become separate companies limited by guarantee, with the Minister as sole member of both companies (CLGs do not have shareholders). RTÉ will now be legally obliged to agree to a charter every five years and publish a statement of commitments every year, and be under the jurisdiction of the proposed Broadcasting Authority of Ireland. The bill was delayed, but was finally introduced into Dail Éireann on 14 April 2008. The bill as initiated retains RTÉ as a statutory corporation, but renames the RTÉ Authority as the RTÉ Board and makes changes to the way it is appointed. It also renames the corporation to *Radio Teilifís Éireann*.

The *Broadcasting Bill 2008* is expected to be enacted in early 2009.

In the meantime, during 2007 the *Broadcasting (Amendment) Act 2007* was passed by the Oireachtas, awarding RTÉ control of one multiplex for digital terrestrial television and giving it responsibilities in relation to broadcasting outside the state. In line with this, RTÉ and the government are currently in discussions with regard a new channel proposed for to launch outside the Republic of Ireland, this (as of March 2008) has the working title of *Diaspora TV*.

The digital TV switchover date for the Republic of Ireland is expected to be September 30, 2012, coinciding with the U.K. switchover date for Northern Ireland. The switch will be officially determined in the Broadcasting Bill 2008 which is currently in draft form in the Houses of the Oireachtas currently. When enacted, it will also establish the Oireachtas TV channel and the Irish Film Channel as public service broadcasters; and will give the BCI a new role as the Broadcasting Authority of Ireland over both PSBs and commercial broadcasters with new powers of financial fines.

Trade Agreements. In 1995, Ireland, together with all other European countries, declined to make national treatment commitments in the Uruguay Round in regard to audiovisual services. Accordingly, the GATS agreement under the WTO does not affect the ability of Ireland to regulate its television industry.

Drama Production in Ireland. In 2005, 49% of the combined schedules of RTÉ One and RTÉ Two consisted of fiction programs. Although most of these shows were imported drama, RTÉ also produces or exhibits significant amounts of local television drama. Current Irish drama series on RTÉ include a cult medical drama, *The Clinic,* and a rural crime drama, *Single-Handed*, both of which are highly popular and critically acclaimed. In the fall of 2008, RTÉ is also introducing a new drama series entitled *Raw*, as well as a two part drama, *Whistleblower*.

In commissioning new drama, RTÉ has benefited from small but steady licence fee increases and double-digit advertising revenue growth every year since 2003. However, 2008-9 is seen as being a different story, with RTÉ only breaking even this year and possibly suffering a €25-50 million shortfall next year. RTÉ is also facing the need to spend €100+ million next year on building up a digital terrestrial network.

TV3, the commercial channel, has based its schedule largely on U.S. drama shows, although it also simulcast *Eastenders* from 1998 to 2000. Following its acquisition of a 45% share in the station in 2000, Granada (later ITV plc) allowed TV3 to simulcast several of its soaps like *Coronation Street* and *Emmerdale* as well as drama series such as *Bad Girls* and *Footballers' Wives*.

ITV reality shows are also simulcast on the station as well as U.K. lifestyle shows. In early 2008, TV3 made an effort to produce more Irish programming. Shows launched as part of a new Irish focused line-up included *Me and The Big C*, charting different people's struggle with cancer; *Inside and Out*, a makeover show hosted by Sinead O' Carroll; *Dirty Money: The Story of the Criminal Assets Bureau*, a crime documentary fronted by Paul Williams and *Diary of…* which follows six people as they go through life-changing events.

Also TV3 will air *Rock Rivals,* a drama it co-produced with ITV and which was filmed in Ireland. TV3 also announced *School Run*, a new 2-part comedy drama, the first television drama ever commissioned by TV3, which follows the actions of a group of parents and their children as they attempt to raise funds for their crumbling Southside Gaelscoil.

9. New Zealand

Free-to-Air Television. The 4.1 million residents of New Zealand are served by six free-to-air TV channels, namely, TV One, TV2, TV3, C4, Prime and Maori Television. Each of these channels has national coverage. There are also some local broadcast channels that broadcast only in one region or city.

TVOne and TV2 are provided by Television New Zealand (TVNZ), a state-owned broadcasting company which operates under a TVNZ Charter implemented in 2003. The TVNZ Charter includes a range of public service objectives and expectations. About 90% of TVNZ's revenue is from commercial activity. TVNZ's total revenue was NZ$380 million in the year ended June 30, 2008, excluding government funding for its digital channels, and TVNZ will pay a dividend of NZ$10.8 million to the Crown.

TVOne, which launched in 1960, is targeted at an older audience and has a broad range of programming, with a target of 53.4% local content in 2007 (it actually reached 57.3%). TVOne's foreign programming is mostly from the UK, with some US and Australian series. It broadcast 82 first-run hours of local drama in 2007, a new high.

TV2 launched in 1975 and is aimed at a younger audience. It agreed to a self-imposed target of 15% local content in 2007, and reached 17.8%. Most of its foreign content consists of US drama series. Its local content includes original NZ reality shows and drama. In particular, TV2 broadcast 140 first-run hours of local drama in 2007, including a popular local series, *Shortland Street*.

TV3 and C4 are provided by MediaWorks NZ, which is 70% owned by Ironbridge Capital, an Australian private equity firm, and 30% owned by CanWest Global, a Canadian company. TV3 began broadcasting in 1989 as the first private TV station in the country. TV3 had a target of 20.8% NZ content in 2007 (it reached 24.1%) which it largely fills with local news and current affairs programs. Its foreign schedule is a mix of US and UK drama. TV3 broadcast 39 first-run hours of local drama in 2007, including *Outrageous Fortune*.

C4 was originally named TV4 when it launched in 1997 and had a mix of foreign programs appealing to a younger demographic. However it changed to a music channel format in 2003, agreeing to a target of 26% NZ music content in 2007 (it reached 23.1%). In July 2008, it began changing into a youth oriented entertainment network. C4 broadcasts virtually no local drama.

Prime Television is owned by Sky Television (News Corp), which acquired it in 2005 from the Packer group. It was originally based on the acquisition of a number of local TV licences and was launched in 1998. It carries a mix of local and imported shows. Prime had a target of 12.6% NZ content in 2007 (it reached 11.6%).

Maori Television is owned by the New Zealand government (which provides funding) and by Te Putahi Paoho, which represents the Maori. It was set up in 2003 to revitalize Maori language and culture. It broadcasts in both Maori and English, and agreed to a local content target of 89% in 2007 (it reached 79.6%). This included 10 hours of first-run local drama in 2007.

All of the foregoing services are broadcast on terrestrial analog channels. The services (along with additional channels from TVNZ and others) are also available on Freeview, a free-to-air digital television service which became available on satellite in 2007 and on terrestrial television in 2008. However, current Freeview penetration is less than 10% of NZ homes. An eventual switch-off of analog signals is planned after 6-10 years.

Subscription Programming Services. A number of pay television channels, including UKTV, are available via satellite or cable in New Zealand. Three cities are served by cable systems. About 43% of homes in New Zealand subscribe to satellite or cable services.

Television Regulation in New Zealand. New Zealand licences TV broadcasters but since 1988 has not regulated their ownership or the amount of foreign content, although program standards are regulated by a Broadcasting Standards Authority. In 1995, the neo-conservative National government agreed to "national treatment" commitments for the New Zealand audiovisual sector as part of the Uruguay Round negotiations that created the World Trade Organisation. It was one of the few countries that did. As a result, New Zealand cannot impose NZ content rules on its private broadcasters without exposing itself to trade retaliation from the United States under the GATS agreement.

In lieu of imposing mandatory content rules, New Zealand has chosen to negotiate voluntary local content "targets" for its free-to-air broadcasters. In 2007, as noted above, TVOne had a New Zealand content target of 53.4%, TV2 had a target of 19%, TV3 had a target of 20.6%, C4 had a target of 26% and Maori Television had a target of 89%. In addition, the TVNZ Charter includes a series of public broadcasting objectives, and requires TVNZ to feature New Zealand films, drama, comedy and documentary programs. New Zealand does not require subscription services to have any local content.

Drama Production in New Zealand. This is monitored and supported by New Zealand On Air, which is a Crown entity established to promote and foster the development of culture on the airwaves. NZ On Air was originally funded by a television licence fee of NZ$100 per set, but this was eliminated in 1999 and its budget is now funded directly by the New Zealand government. In 2007, NZ On Air received NZ$107 million from the government and provided NZ$70.5 million in funding for local TV programs. 21.8% or about NZ$29 million of this went to support 103 hours of local drama. This included the third series of *Outrageous Fortune* on

TV3, comedy series like *Eating Media Lunch*, *The Unauthorised History Of New Zealand*, *Moon TV*, *Facelift* and *The Pretender,* and an animated series called *bro'Town.*

NZ On Air publishes an annual report on local content, which includes useful statistics on the performance of each station. The number of first-run hours of New Zealand drama, including children's drama, aired by each station in 2005-2007 is shown in Table 11.

Table 11

New Zealand Drama Aired by NZ Broadcasters

	No.of First-Run Hours		
	2005	*2006*	*2007*
TVOne	23	33	62
TV2	172	157	149
TV3	28	32	39
Prime	20	0	7
C4	0	0	4
Maori	0	50	100

Source: NZ On Air, Local Content 2007

As will be evident from the above table, the number of hours of local drama have increased in the last three years. Apart from the programs on Maori TV, which receives a separate stream of government support, most of these programs were supported by funding from NZ On Air. In 2007, 60% of NZ On Air funding went to TVNZ and 33% to TV3. The producers of *Outrageous Fortune* received a subsidy of NZ$5M from NZ On Air to produce 25 one-hour episodes of that program; TV3's contribution was NZ$50K.

Local TV drama in New Zealand can deliver impressive ratings. *Shortland Street* was the 10th most viewed program on TV2 in 2007, while *Outrageous Fortune* was the 7th most viewed program on TV3 (AGB Nielsen Media Research). In a major survey carried out for NZ On Air in 2007, 70% of respondents agreed that it was important for NZ On Air to fund programs such as children's programs, in-depth documentary, programs for people with disabilities, drama and children's drama.

10. Concluding Observations

In this part of the report, some general observations are made about the challenges faced by local television drama in English-speaking countries. In particular, what lessons can be learned from the experience in the United Kingdom, Canada, Australia, Ireland and New Zealand?

Need For Support. The first conclusion is unmistakeable. Without government support and/or regulation, there would be little or no indigenous television drama in these countries, with the only exception being the continuance of long-running inexpensive soaps produced on a volume basis. This is true even though drama remains the most popular genre in television and local drama production is a key driver for creative clusters in each country.

The experience in New Zealand and Canada is instructive in this regard. In New Zealand, where the country has effectively deregulated the broadcast sector, the result is that the largest private sector free-to-air broadcaster, TV3, only broadcasts 20% local content and the only reason it broadcasts the popular local drama series, *Outrageous Fortune*, is that it is heavily subsidized to do so by NZ On Air. In Canada, after the CRTC in 1999 eliminated expenditure requirements for the free-to-air sector (except for transfer and new licence benefits) and focused its scheduling requirement on a broader definition of "priority programming," the private English OTA broadcasters steadily reduced their support for Canadian drama. Simply put, if commercial broadcasters are not required to broadcast high cost local drama and/or heavily subsidized to do so, they will inevitably replace it with more profitable imported drama, even if the latter is less popular.

The case for government intervention to address this problem has historically been founded on arguments concerning the scarcity of spectrum and the public character of radio frequencies. But as noted above, equally compelling arguments can be based on the economic characteristics of broadcast programming and the problem of market size. In regard to television drama, it is clear that without government support and regulation, viewers in smaller countries would be presented with a menu of program choices largely dominated by high-cost productions acquired from larger markets, particularly the United States, at a fraction of their cost. As noted earlier, this is a phenomenon recognized throughout the English-speaking world.

In general, the popularity of drama remains undiminished despite the rise of lower cost reality programming in the last decade. But the production of new drama also continues to be challenged by the inherent unpredictability of demand for cultural products. It is a universal truth that most new TV shows fail, and this is as true in smaller countries as it is in the United States. The only way to ensure success is to have a sufficient volume of production under way to mitigate the risk of particular failures. This presents a constant challenge for funding bodies that only want to support "winners" but find that ratings can never be guaranteed. In general, however, local drama series can and do deliver impressive ratings and even in a market like Canada, where the private OTA broadcasters build their schedule to maximize simulcast opportunities with popular U.S. series, a number of local drama series have managed to achieve ratings success.

Marketplace Changes Affecting Drama. In each of the countries studied, the creation of local television drama is under stress. With the introduction of new television services, including multi-channel subscription services, viewing to the main free-to-air services has been increasingly fragmented. In the United Kingdom, according to Ofcom, the viewing share of the five OTA services (BBC One and Two, ITV, Channel 4 and Five) declined from 78% of viewing in 2003 to 64% of viewing in 2007. In Ireland, where 75% of households subscribe to cable or satellite services, local OTA services garner only 60% of viewing. In English Canada, where 89% of households subscribe to cable or satellite services, viewing of the Canadian OTA services reached a low of 36% in 2007, a decline of 2% from the levels in 2004. The impact of multichannel subscription services has been much less in Australia and New Zealand because of the lower penetration of cable and satellite services in those countries.

The migration of viewers from the free-to-air TV services to the subscription programming services has not led to as dramatic a decline in free-to-air ad revenues, largely because advertisers are prepared to pay premium rates for ad avails on popular “water-cooler” TV shows and these still tend to be the exclusive domain of the free-to-air TV services. Few if any subscription services deliver the size of audience that free-to-air TV services deliver. In markets like Canada, it also appears that the decline in viewing of OTA signals has levelled off.

That being said, in the two markets where subscription programming services have made the most inroads into OTA viewing – English Canada and the United States – the conventional OTA broadcasters have aggressively pursued consolidation. Through acquisition and consolidation, they now own most of the cable programming services that compete with them for audience, and that provide alternative platforms for their content.

The impact of new media – the Internet and mobile services -- must also be considered. Broadband penetration has steadily risen in each of the countries studied and is projected to rise still further, as shown in Table 12 on the next page.

Two years ago, IBM published a report suggesting that the Internet was going to spell “the end of television as we know it.” There is no question but that advertising spending on the Internet is increasing, as is viewing of audiovisual programming on the Internet. However, the jury is still out as to whether or to what extent this will adversely affect traditional television. Combined viewing numbers for over-the-air and subscription television services have stayed remarkably stable. Nor have mobile platforms adversely affected viewing to traditional television.

Table 12

Broadband Penetration in Selected Countries

Country	*2007*	*2012 (projected)*
Canada	65%	79%
United Kingdom	58%	74%
United States	54%	77%
Ireland	54%	n.a.
Australia	52%	72%
New Zealand	43%	64%

Source: Gartner, 2008; ComReg.

In the United States, the television industry sees the new media as important primarily as a promotion vehicle for long-form programs. Their hope is that these extra platforms, far from cannibalizing TV viewing, will actually be accretive to TV viewing. By promoting TV programs, and permitting people to catch up on missed episodes of scripted drama, these platforms can increase the “stickiness” of television. But this has to be carefully managed. In general, Internet viewers are worth only a fraction of the advertising dollars of television viewers so the more viewers a program loses to the Internet the more likely those programs will not be streamed on the Internet. A case in point is a popular U.S. TV show, *Gossip Girl*. The CW actually stopped making it available online because it was cutting into its more lucrative TV audience.

Accordingly, broadcasters in the U.S. and other markets are seeking to stream their traditional shows – both current shows and older catalog shows – in ways that do not cannibalize their broadcast revenues. For example, the U.S. commercial TV networks are offering their programming for purchase on iTunes. They are promoting their shows to drive the online audience back to the TV set and to extend their brand online. And they are trying to build destination sites themselves by creating communities of interest.

To the extent this works, the new technologies are likely to be additive and promotional, not substitutional in effect. There will be a rise in cross-platform licensing, and there will be the development of customized short-form content for mobile and Internet use. There will also be generational distinctions in usage patterns, and the use of content in short snippets when available, to supplement conventional broadcasting in places like transit, waiting rooms, lunch time, and so on. But television -- while it will change -- is likely to survive. And the ability of governments to regulate television will survive.

These challenges to the economic model supporting TV drama were already evident by the summer of 2008. By that point, the share prices of the OTA broadcasters that were publicly traded had already fallen significantly. But the challenges have been exacerbated by the financial crisis that hit the United States and other countries around the world in the fall of 2008. Share prices have continued to fall. And to the extent the ensuing recession results in reduced advertising expenditures from major advertisers, it will undoubtedly affect the ability of ad-reliant over-the-air TV broadcasters to support expensive programming like TV drama.

Financing Drama in the Future. Notwithstanding these developments, free-to-air TV services will still be crucial for the commissioning and delivery of high-cost original television drama. In a Public Notice issued on October 30, 2008, for example, the CRTC stated that “it is the OTA [over-the-air] services that continue to be able to apply the resources necessary to acquire new Canadian priority programming – particularly drama.” In fact, in each of the countries surveyed, it is the free-to-air services that remain the key source of financing for local drama. And the demand for water cooler programs will only increase. Even though those programs cannot deliver the ratings they used to, they are still highly valued by advertisers.

In the United States, the commercial free-to-air networks have responded to the economic pressures in a number of ways. The move towards reality programming five years ago was impelled partly because of the lower cost of these programs. However, the networks have had decidedly mixed results with reality programming and even when the shows are popular, they have a very limited after-life.

As this report was being completed, NBC announced its decision to strip the Jay Leno Show at 10 p.m. Monday to Friday. The 10 p.m. primetime slot had previously been occupied by long-form drama on NBC, although no new series had been a hit in that time slot in the last four years. While the decision was impelled by a concern to keep Mr. Leno from going to a rival network, the fact that the cost of the show would be less than US$2 million for five hours a week, compared with a cost exceeding US$2 million an hour for original first-run drama, undoubtedly played a role in NBC’s decision. Observers have noted, however, that the talk show format will likely generate lower ratings for NBC, and rival TV networks are continuing to support original drama series in this time slot.

Despite all the factors noted above, it is clear that the OTA networks in the United States are still focusing on big-ticket drama. However, since the conclusion of the writer’s strike, script and concept development deals have reportedly been cut back as well as the use of expensive pilots for new drama series. In choosing new series, the U.S. networks have also increasingly turned to ideas from other markets, following on the success of *The Office* (based on the series on BBC) and *Ugly Betty* (based on a telenovela in Colombia). ABC’s one new scripted show for the 2008 fall season, *Life on Mars*, is an adaptation of the BBC detective series. NBC’s *Kath & Kim* is an Americanized version of the comedy hit run originated on ABC-TV, Australia, and now running on the Seven Network. CBS's *Worst Week* started as a British comedy series. Its *Eleventh Hour* was a British drama.

It is notable, however, that the U.S. commercial free-to-air networks are not running the original series; rather, they are buying the format and Americanizing it, just as they have previously done with many foreign-originated reality programs. Even Canada, which has an accent closest to the American accent, has only managed to sell two Canadian drama series to the U.S. commercial networks for their prime-time schedules in the last 40 years. One was the 1994-95 dramatic series, *Due South*, which was based on a successful MOW that had been bought by both CBS and CTV. (The series was set in Chicago with an RCMP character.) The second was *Flashpoint*, a drama series airing on CTV which CBS picked up in the summer of 2008 and recently renewed in view of its excellent U.S. ratings (in simulcast with CTV in Canada). These are the rare exceptions, however, and the U.S. commercial networks cannot be counted on to provide secure financing for foreign dramatic series.

Given the cost pressures, other platforms in the United States are increasingly looked to for support. A number of U.S. pay and specialty services have commissioned signature drama series, for example, and in fact Canadian series have managed to make some inroads here. (The CTV series *Degrassi: The Next Generation*, for example, is the highest rated program on Viacom's U.S. youth service, *The N*.) With the advent of the Internet, the U.S. networks are also aggressively seeking new media rights to their drama series, as noted earlier.

To support their economic model, U.S. program suppliers aggressively seek sales of their popular drama programs in foreign markets at prices that are a fraction of the production cost. This activity will likely become even more intense. This presents an increasing conundrum for the commercial free-to-air TV broadcasters in countries around the world. With the fragmentation of their audience, and potential revenue decline because of the recession, the economic pressures on those broadcasters to reduce their support for indigenous drama and buy more from the U.S. will only increase in the future. And this is particularly true in the English-language countries under study.

The role of public or state-owned broadcasters in supporting drama needs to be separately assessed. In markets like the U.K. and Australia, where the main public broadcasters (BBC and ABC) are not financed with advertising, there may be little impact from any decline in ad revenue associated with audience fragmentation. Provided they continue to receive adequate funding from licence fees or government appropriations, they can continue to support high-cost indigenous drama.

However, this is vitally dependent on continued government support. In the U.K., the BBC is supported through the licence fee system at about US$115 per capita, although the government is considering whether that support should be subject to top-slicing for the benefit of other PSBs. By contrast, Ireland provides only about US$60 per capita to support its public broadcaster, an amount that has been recently reduced. And Australia, like Canada and New Zealand, provides less than US$40 per capita in direct support for its public broadcasters.

In Canada and Ireland, their public broadcasters are also dependent in part on ad revenue, while in New Zealand, the main public broadcaster is almost wholly supported by ad revenue. So is Channel 4 in the United Kingdom. So those broadcasters will be as badly affected by any advertising revenue downturn as will the private sector broadcasters. It is no surprise, then, to see RTÉ director general Cathal Goan cautioning staff in August 2008 that 2009 is likely to be the "most financially challenging year RTÉ will experience for many years." And this was before the size and scope of the impending recession had become apparent.

The fact that audiences have migrated to subscription programming services raises the obvious question. Can these services be looked to for the support of indigenous drama? In the United States, as we have seen, a number of U.S. pay and specialty services (usually referred to as the "cable networks") are commissioning signature drama series (although usually less than 22 episodes a year). The cable networks also provide a useful rerun window for series originated on free-to-air television.

Looking at the English-language countries under study, however, the situation is not uniform. In Canada, where the CRTC imposes scheduling and expenditure requirements on Canadian subscription programming services, the track record is generally positive, particularly for niche drama, including children's programs, animation and short-run signature series. In fact, had there not been Canadian programming expenditure (CPE) rules applicable to the subscription programming services, and the levy on cable and satellite distributors to fund the Canadian Television Fund, the amount of local drama in Canada would have been a fraction of its current level.

Australia is the only other market under study where subscription programming services are required to support local programming. However, the financial contribution towards Australian drama has been relatively small, reflecting the low penetration of these services. In the U.K., where penetration is much higher and subscription programming services provided by BSkyB have significant revenue, the government has chosen not to require them to support U.K. programming.

Trade Agreements. The ability of two of the countries under study to support their local TV drama is constrained by bilateral or multilateral trade agreements. New Zealand made national treatment commitments with respect to audiovisual services in the GATS agreement in 1995. As a result, it may be precluded from imposing local drama scheduling or expenditure requirements on privately owned TV licensees or on cable or satellite distributors. Accordingly, its scope of action appears to be largely limited to mandating its state-owned broadcasters to support local drama and to providing subsidies or tax incentives for the airing of such drama on privately owned TV stations.

Australia is not as severely constrained in supporting local drama, since although it agreed to national treatment of audiovisual services in its FTA with the U.S., it grandfathered its existing regulatory measures. Under the terms of its reservations, it could increase its scheduling sub-quotas for local drama on the free-to-air broadcasters and it could increase its expenditure requirements on drama-based subscription programming services to as high as 20% of program budgets. And, as is the case with New Zealand, Australia is free to affect the supply of local drama through direct subsidies or by amending the mandate of its state-owned broadcasters, ABC or SBS.

Unlike Australia and New Zealand, the United Kingdom, Canada and Ireland do not face any significant trade restrictions in regard to audiovisual services that would preclude them from adding to or amending their current government or regulatory support for local TV drama. Canada never agreed to national treatment for audiovisual services in the *Canada-U.S. Free Trade Agreement* and its "cultural exemption" was carried forward into the *North American Free Trade Agreement* (NAFTA).

It may also be relevant to note that four of the five countries under study (U.K., Canada, New Zealand, and Ireland) have ratified the 2005 UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*. Australia abstained from voting on it in 2005 but the government changed in November 2007 and the new government has committed itself to ratifying the Convention, although it has not yet done so.

The UNESCO Convention seeks to enshrine the right of countries to adopt measures to support local cultural expression and some 93 countries have now ratified it. However, the United States has not signed it nor is it likely to do so. While the Convention would not override the existing trade obligations of Australia or New Zealand to the U.S., it does provide a powerful shield against any further liberalization of audiovisual services in the WTO. It has also served to educate countries around the world to the importance of cultural diversity and local expression as a fundamental human right and it has energized the arts and culture community in its support.

Reinventing the Cultural Tool Kit. Given the economics of television drama, it remains true that the principal support for high-cost drama will need to be the free-to-air broadcasters in each of the countries studied. They alone can deliver the audiences that this programming is designed to attract. But as we have noted, these broadcasters are finding their audiences increasingly fragmented by an abundance of viewing choices. At the same time, they are faced with the costs of converting to digital transmission and the cost of launching Internet sites to maintain their brand, costs which are not currently recoverable through increased advertising revenue.

The challenge then is to reinvent the cultural tool kit to take account of the new economics of television drama. The role of public broadcasters will be crucial and governments will need to recognize that their funding needs to be maintained if not increased to support this expensive genre of programming. But the privately owned free-to-air broadcasters are also a key part of the solution, particularly in those countries where public broadcasting financial support is weak. In regulating those broadcasters to include local drama in their schedules, regulators will need to focus on expenditure-related requirements, not just on scheduling. Otherwise, commercially-driven broadcasters will inevitably turn the cheapest forms of drama and avoid more challenging fare.

The role of subscription programming services is also important in supporting local drama. Many of these services already provide popular rerun windows for drama initiated by the free-to-air broadcasters. But where cable or satellite penetration is high, these services can also support local drama of their own, particularly in niche areas like children's, animation, and limited signature series. Without regulatory requirements for scheduling and expenditures, however, these services will tend to focus on less expensive U.S. programming and will not support local drama. The focus also needs to be on original or first-run drama not on reruns.

As noted above, however, the free-to-air television sector continues to remain the most important element in the support structure for high-cost local drama. Given the economic pressures on the free-to-air broadcasters, the need for tax incentives and subsidies will increase. There will also be increased pressure to seek financial support from the subscription programming sector, whether through a levy on cable and satellite providers to support an independent programming fund, through "fee-for-carriage," or both. Where consolidation has occurred and the OTA broadcaster has been permitted to own profitable subscription programming services as well as its free-to-air broadcasting service, there may also be merit in examining the contribution of the consolidated enterprise to the production of local drama. This makes particular sense because TV drama increasingly needs to look to multiple platforms in order to support its cost.

The suggestion is also sometimes made that domestic producers should focus more on increasing their export revenue, following in the footsteps of U.S. producers. There are a number of domestic programs in the countries studied that have achieved export success. Famous examples include the Australian series *Home and Away* and the Canadian series, *Degrassi: The Next Generation.* However, the reality is that this avenue is a very limited one. Only successful series can be exported, and most series fail. *Outrageous Fortune,* for example, was a hit in New Zealand but failed in the U.K. Moreover, the prices obtained for domestic programs in the export market are still only a small fraction of their production cost. All countries finance their indigenous programs largely from their domestic market and then sell their programs abroad (if they can sell them at all) at prices that are a fraction of cost. While the producer of a program that achieves unexpected export success will be rewarded, this is not a means to build or grow an industry.

This economic reality was graphically shown in a recent study carried out by the Nordicity Group for the CBC. Although English-language drama in Canada had production costs of C$668 million in 2006, only C$40.7 million of that (or 6.1%) was recouped from after-market export sales. The highest recovery rate achieved from export sales was children's programming, which still only recouped 10.2% of its production cost from export sales.

Another mechanism to reduce risk and to amortize cost is through the use of co-productions. *The Tudors*, the Irish-Canadian co-production produced by Peace Arch Entertainment, which ran on BBC and CBC, is a recent example. But co-production arrangements are complex and difficult at the best of times and only appear to work for limited MOWs or mini-series, not for long-running dramatic series.

There is also room to examine the role of new media in supporting local TV drama. To date, the internet has provided a useful way of aggregating and delivering expensive audiovisual content made for other media, but it does not finance that content. Long-form drama appearing on the internet is currently financed by the traditional media, and producers have to be wary about cannibalization effects. That being said, it is increasingly recognized that the new media should be supportive of local expression.

In December 2007 the European Commission adopted a new *Audiovisual Media Services Directive*, which amended and renamed the *Television without Frontiers Directive*. Non-linear or "on-demand" programming on the Internet is subject to the following obligation in Article 3i of the new Directive:

> "Member States shall ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, production of and access to European works. Such promotion could relate, inter alia, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue of programmes offered by the on-demand audiovisual media service."

The actual measures to be applied by each member state to the website operators or Internet service providers in their jurisdiction are left to each member state to determine. It is too early to see how member states in the EU will choose to implement the Directive or if their approaches turn out to be effective. However, the Directive makes clear the importance of ensuring that local content is available on new media. It is also noteworthy that attention has been focused on the financing of local content as well as on its promotion and availability. France and Canada are already examining the possibility of imposing a levy on Internet service providers to finance local content.

In that regard, however, a key mechanism for increasing local content on the Internet must be to continue the application of the existing cultural tool kit on traditional television and subscription programming services. The reason is that the programming they finance will also show up on the Internet. And so to the extent the choices, range and varieties of expression in traditional media are expanded, that pluralism is likely to carry through to the Internet. In that sense, the Internet can serve as a "force multiplier" for policies that support diverse local content in traditional media.

We are now in a period of transition and many of these issues are now under review in various proceedings. In the U.K., Ofcom's PSB review is to conclude shortly and the Digital Britain report is also expected in early 2009. In Canada, the CRTC will be looking at the role of its free-to-air broadcasters in licence renewal hearings in 2009, as well as the role of new media in supporting local content. In Ireland, the broadcasting legislation is changing as we speak. And in Australia and New Zealand, the broadcasting industry continues to face the pressure of technological change.

Given their history and path-dependence, the structure and governance of the broadcasting systems in each of the countries studied is to some extent unique. However, they all face similar problems and regulatory approaches used in one country can be usefully examined in others.

What is abundantly clear is that the creation of popular television drama is coming under increasing stress. In the United States, the economic model supporting TV drama is already under pressure from a number of factors. But the problems facing television drama are even greater in English-language countries outside the United States.

The result is that the importance of maintaining if not enhancing government support and regulatory involvement in the support of indigenous drama has greatly increased. Unless governments and regulators recognize and adjust their actions in appropriate ways, these countries will see a decline in the production of one of the most popular genres – high-cost local television drama.

Appendix 1

A Note on Sources

This report was based on information from a variety of sources, some of them published, and many of them available on the Internet. In addition to the specific sources noted below, reference can be made to the websites of the particular broadcasters discussed, as well as to Wikipedia entries in respect to each broadcaster and to many of the drama series referred to.

The Importance of Story

The quotation from Shannon at p.5 is from Patrick Shannon, *Text, lies, and videotape: Stories about life, literacy, and learning* (Portsmouth, NH: Heinemann, 1995), at p.xi. Mr. Shannon is a professor of education at the Pennsylvania State University.

For reports relating to entertainment clusters, see KEA European Affairs, *The Economy of Culture in Europe* (Brussels, European Commission, 2006) and *Valuing Culture: Measuring and Understanding Canada's Creative Economy* (Ottawa, Conference Board of Canada, 2008). See also Hans-Joachim Braczyk, Gerhard Fuchs and Hans-Georg Wolf, eds., *Multimedia and Regional Economic Restructuring* (London: Routledge, 2001). The quote at p.7 of this report can be found at p.122. The submission of the Ontario Ministry of Culture referred to on p.7 was filed in the CRTC's broadcast distribution framework proceeding on January 25, 2008.

The Economics of TV Drama

A basic source is Harold L. Vogel, *Entertainment Industry Economics, A Guide for Financial Analysis* (Cambridge), now in its fifth edition. Also see Bruce M. Owen and Steven S. Wildman, *Video Economics* (Cambridge, M.A., Harvard University Press, 1992), Colin Hoskin et al., *Global Television and Film: An Introduction to the Economics of the Business* (Oxford: Oxford University Press, 1997), Richard E. Caves*, Creative Industries: Contracts Between Art and Commerce* (Cambridge M.A,, Harvard University Press, 2000), and Chapter 4 in Allen J. Scott, *On Hollywood, The Place, The Industry* (Princeton, Princeton University Press, 2005). Many of these sources are used in an overview of the economics of cultural products in Chapter 3 of Peter S. Grant and Chris Wood, *Blockbusters and Trade Wars: Popular Culture in a Globalized World* (Vancouver: Douglas & McIntyre, 2004).

The phrase "curious economics" appears in an article from *The Economist* in *Globalisation* (London: Profile Books, 2001) at p.88. An economic analysis of broadcasting also appears in "Market failure in broadcasting", Annex 11 to Ofcom's *Second Public Service Broadcasting Review: Phase One: The Digital Opportunity*, published by Ofcom on April 10, 2008.

The quotation from McQueen at pp.14-15 is from Trina McQueen, *Dramatic Choices: A Report on Canadian English Language Drama* (Ottawa: CRTC, 2003) and is used by permission. For a report on the French market, see Guy Fournier, What About Tomorrow? A Report on Canadian French-Language Drama (Ottawa: CRTC, 2003). The quotation from the 2005 Graham study at pp.15-16 is from David Graham and Associates Limited, *Impact Study of Measures (Community and National) Concerning the Promotion of Distribution and Production of TV Programmes Provided for Under Article 25(a) of the TV Without Frontiers Directive* (Audiovisual, Media and Internet Unit, Directorate-General Information Society and Media, European Commission, May 24, 2005) at pp. 68-69.

The impact of new media is explored in a number of sources. They include Terry Flew, *New Media: An Introduction*, 3rd edition (Oxford University Press, 2008). For a Canadian report, see CRTC, *Perspectives on Canadian Broadcasting in New Media* (Ottawa: CRTC, May 2008)

Comparisons Between Countries

Sources specific to each of the five countries examined are noted further below. However, a number of sources are useful in addressing comparisons between countries. Peter S. Grant and Chris Wood*, Blockbusters and Trade Wars*, noted above, includes many comparative references up to 2003.

A study done in 2002 continues to be a useful source for European comparisons: see *Eurofiction: Television Fiction in Europe* (Strasbourg: European Audiovisual Observatory, 2002). More recent numbers for the European TV industry can be obtained from the European Audiovisual Observatory, at www.obs.coe.int. The following three sources from the Observatory are particularly helpful: (1) European Audiovisual Observatory, Yearbook, Vol. 1, *Television in 36 European States, 2007* (Strasbourg: European Audiovisual Observatory, 2007); (2) European Audiovisual Observatory, Yearbook, Vol. 2, *Trends in European Television, 2007* (Strasbourg: European Audiovisual Observatory, 2007); and (3) André Lange and Tim Westcott, *Public funding for film and audiovisual works in Europe – A comparative approach* (Strasbourg: European Audiovisual Observatory, 2004).

Useful comparisons of the funding of public broadcasting around the world can be found in a 2006 study for the CBC: see Nordicity Group Ltd*., Analysis of Government Support for Public Broadcasting and Other Culture in Canada* (Ottawa: Canadian Broadcasting Corporation, June 2006); updated numbers from that study are presented in Appendix 2 of this report. An earlier study by the same firm also provides some comparative data on regulations and viewing: see Nordicity Group Ltd*., Summary of Broadcasting Regulations and Television Viewing for Selected Foreign Countries, Final Report* (Department of Canadian Heritage, March 28, 2003).

Comparative advertising and subscription revenue numbers for media sectors broken out by region can be found in PricewaterhouseCoopers, *Global Entertainment and Media Outlook: 2007-2011* (New York: PWC, 2007).

A useful comparison of ratings for drama, particularly in the U.S., U.K., Australia, France and Italy, is contained in Canadian Media Research Inc., *International TV Programming and Audience Trends, 1996-2001* (Ottawa: CRTC, May 2003).

United Kingdom

Basic regulatory information can be obtained from the Ofcom website at www.ofcom.org.uk. Of particular note is Ofcom's *Second Public Service Broadcasting Review: Phase One: The Digital Opportunity*, published on April 10, 2008, which includes useful statistics on the BBC, ITV1, Channel 4 and Five.

For an earlier study focusing on the BBC, see Oliver & Ohlbaum Associates Limited*, UK Television Content in the Digital Age: Sustaining the UK's TV Content Creation Sector in the Globalised 21st Century – The Role and Importance of the BBC* (London: BBC, 2003).

For the websites of the broadcasters, see www.bbc.co.uk; www.itv.com; www.channel4.com; and www.five.tv. Reference can also be made to www.freeview.co.uk.

Canada

Statistical information on the Canadian television sector, as well as relevant regulatory policies and documents, can be obtained from the CRTC website at www.crtc.gc.ca. Current information is set out in *Communications Monitoring Report 2008*, which was published by the CRTC on July 31, 2008. Regrettably, the Commission does not always provide information broken out as between the English-language TV market and the French-language market in Canada. In the absence of specific numbers, the best way to estimate the commercial English-language over-the-air

TV market is to subtract the Quebec numbers from the all-Canada numbers and multiply the remainder by 105% to take account of the English-language TV stations in Montreal.

The following studies are useful in reviewing the Canadian situation: (1) Nordicity Group Ltd., *2008 Profile: An Economic Report on the Canadian Film and Television Production Industry* (Ottawa: CFTPA, 2008); (2) Coalition of Canadian Audio-visual Unions, *Review of Certain Aspects of the Regulatory Framework for Over-the-Air Television* (Toronto: CCAU, September 27, 2006); (3) Nordicity Group Ltd*., Canadian Television: Why the Subsidy?* (Ottawa: CBC, January 2008); and (4) Nordicity Group Ltd. *Analysis of Canadian Broadcaster Financial Performance and Programming Expenditures* (Ottawa: CFTPA, 2005).

For the websites of the broadcasters, see www.cbc.ca for the CBC; www.ctv.ca for CTVglobemedia; www.canwestglobal.com for Canwest Media; and www.citytv.com for the CITY group of stations owned by Rogers Broadcasting. For the website of the Canadian Television Fund, see www.ctf.ca. For the website of the Canadian Film and Television Production Association, which publishes annual statistics on the sector, see www.cftpa.com.

Australia

Statistical information on the Australian television sector, as well as relevant regulatory policies and documents, can be obtained from the Australian Communications and Media Authority website at www.acma.gov.au. For particular studies, see Chapter 5 of the *ACMA Communications Report, 2007-08*, released on December 5, 2008; ACMA, *Australian drama format factor and licence fees*, December 2007, and ACMA, *Commercial Television Financial Trends 1978-79 to 2005-06*.

Statistics on film and TV production are available from Screen Australia, formerly the Australian Film Commission, at www.screenaustralia.gov.au. See in particular, Australian Film Commission, *National survey of feature film and TV drama production, 2006/07*.

For the websites of the broadcasters, see www.abc.net.au for ABC; www.yahoo7.com.au for Seven; www.ninemsn.com.au for Nine; www.ten.com.au for Ten and www.sbs.com.au for SBS.

Useful historical perspectives can be found in Graeme Turner and Stuart Cunningham, eds., *The Australian TV Book* (St. Leonards: Allen & Unwin, 2000)

New Zealand

For the website of NZ On Air, see http://nzonair.govt.nz. For a useful recent study, see NZ On Air, *New Zealand Television Local Content 2007* (Wellington: NZOnAir, May 2008).

Ad revenue and ratings are available from the New Zealand Television Broadcasters Council, at www.nztbc.co.nz. For the websites of the broadcasters see www.tvnz.co.nz for NZTV; www.tv3.co.nz for TV3; and wwwe.maoritelevision.com.

For background on the impact of the WTO agreements, see Jane Kelsey (Professor, University of Auckland, NZ), “Lessons from New Zealand: The Saga of the GATS and Local Content Quotas,” Paper for the Conference on Cultural Diversity, Paris, 2-4 February 2003.

Ireland

For the website of the Broadcasting Commission of Ireland, see www.bci.ie. See also *Irish Communications Market, Quarterly Key Data Report*, Commission for Communications Regulation (ComReg), September 10, 2008, Doc. No. 08/75, at www.comreg.ie. Other useful information can be derived from the European Audiovisual Observatory studies noted earlier.

For the websites of the broadcasters, see www.rte.ie for RTÉ and www.tv3.ie for TV3.

Appendix 2

Per-Capita Funding of Public Broadcasters

The numbers comparing the per-capita funding for public broadcasters at p.18 were based on a report entitled *Analysis of Government Support for Public Broadcasting and Other Culture in Canada,* with numbers updated to 2007. This report was originally prepared for the Canadian Broadcasting Corporation by Nordicity Group Ltd. in June 2006 and is available on the CBC website at http://cbc-radio-canada.ca/submissions/crtc/2006/BNPH_2006-5_CBC_RC_Public_Broadcaster_Comparison.pdf. The original report used 2004 numbers. However, Nordicity has recently updated the numbers and the 2007 numbers are presented below.

The key elements of the actual calculations made by Nordicity can be described as follows. To construct the comparison of per-capita funding for public broadcasters, the amounts of public funding in 2007 for each country's public broadcasters was collected and totalled. All types of funding that are determined by some branch of the government were included, including television/radio licence fees and any forms of direct government aid or grants.

The public-funding amounts were then converted to Canadian dollars using the average exchange rate for 2007, except in the case of the U.S. data, which were for 2006. This Canadian dollar amount was then divided by the population of each country. This process yielded a per-capita comparison of the level of public funding for public broadcasters in the 18 countries. The data and calculations for this exercise can be found in the tables below. To convert the Canadian dollar numbers in the last column of Table 2 to U.S. dollars, multiply them by 0.93 (the average conversion rate in 2007) except in the case of the U.S. numbers, which should be multiplied by 0.88 (the average conversion rate in 2006).

Table 1 Data for public funding of public broadcasters

	Government Appropriation (000 000s)	Licence Fees (000 000s)	Government Aid or Grants (000 000s)	Other Public Income (000 000s)	Total Public Funding, 2007 (000 000s)
Australia	A$1,018.8	--	--	--	A$1,018.8
Austria	--	€450.1	--	--	€450.1
Belgium	--	--	€447.9	--	€447.9
Canada - CBC	C$1,114.0	--	--	--	C$1,114.0
Denmark	--	Kr 3,784.0	--	--	Kr 3,784.0
Finland	--	€385.4	--	--	€385.4
France	--	--	€2,733.0	--	€2,733.0
Germany	--	€7,298.0	--	--	€7,298.0
Ireland	--	€195.7	--	--	€195.7
Italy	--	€1,588.0	--	--	€1,588.0
Japan	--	¥664,400.0	--	--	¥664,400.0
New Zealand	--	--	NZ$51.4	--	NZ$51.4
Norway	--	Kr 3,739.0	--	--	Kr 3,739.0
Spain (2006)	--	--	--	€900.0	€900.0
Sweden	--	Kr 6,217.9	--	--	Kr 6,217.9
Switzerland	--	SFr. 1,122.1	--	--	SFr. 1,122.1
U.K.	--	£3,242.9	--	--	£3,242.9
U.S. (2006)	US$1,070.2	--	--	--	US$1,070.2

Sources: See Table 3 for list of data sources

Table 2 Calculation of per-capita public funding levels

	Total Public Funding (000 000s)	Exchange Rate (C$ per foreign currency)	Total Public Funding in C$ (000 000s)	Population	Public Funding Per Capita 2007 (C$)
Australia	A$1,018.8	0.8982	$915.1	21,000,000	$43.58
Austria	€450.1	1.4691	$661.3	8,300,000	$79.67
Belgium	€447.9	1.4691	$635.5	10,600,000	$62.08
Canada - CBC	C$1,114.0	1	$1,114.0	32,976,026	$33.78
Denmark	Kr 3,784.0	0.1972	$746.2	5,500,000	$135.67
Finland	€385.4	1.4691	$566.2	5,300,000	$106.83
France	€2,733.0	1.4691	$4,015.1	61,700,000	$65.07
Germany	€7,298.0	1.4691	$10,722.8	82,300,000	$130.29
Ireland	€195.7	1.4691	$287.5	4,400,000	$65.34
Italy	€1,588.0	1.4691	$2,332.9	59,300,000	$39.34
Japan	¥664,400.0	0.009121	$6,060.0	127,700,000	$47.45
New Zealand	NZ$51.4	0.7892	$40,.5	4,035,461	$10.05
Norway	Kr 3,739.0	0.1832	$685.0	4,700,000	$145.74
Spain	€950.8	1.4237	$1,281.3	45,300,000	$28.29
Sweden	Kr 6,217.9	0.1589	$988.0	9,100,000	$108.57
Switzerland	SFr. 1,122.1	0.8946	$1,003.8	7,500,000	$133.84
U.K.	£3,242.9	2.149	$7,541.1	61,000,000	$123.62
U.S.	US$1,070.2	1.134	$1,213.6	302,200,000	$4.02
				Average	**$75.79**

Sources: Public funding data obtained from various sources; see Table 3 for list of data sources; exchange rates from Bank of Canada; population data from Population Reference Bureau.

Notes:

Australia includes funding for ABC and SBS
Belgium includes funding for Flemish-language public broadcaster (VRT) and French-language public broadcaster (RTBF)
Germany includes public funding for ZDF and ARD
Spain includes public funding for RTE and estimates for public funding of public broadcasters for the autonomous regions

Table 3 Data sources for international comparison

Country	Data Sources
Australia	Australian Broadcasting Corporation, *Annual Report 2006/07* Special Broadcasting Service, *Annual Report 2006/07*
Austria	Wikipedia
Belgium	VRT - http://www.vrt.be/vrt_master/over/vrt_aboutvrt_financing/index.shtml RTBF- RTBF 2006 Annual Report and contract with Belgian government
Canadian	CBC
Denmark	Nordicity calculations based on data from Denmark Ministry of Culture (Danish Public Service Broadcasting Contract) and Danish Radio.
Finland	http://www.yle.fi/fbc/YLE_vsk_englanti07.pdf
France	France National Assembly « *loi de finances pur 2007* »
Germany	http://www.gez.de/
Ireland	RTE, *Annual Report,* 2007
Italy	http://www.bilancio2007.rai.it/uk/bilancio/cons02.htm
Japan	NHK Annual Report 2008
New Zealand	http://www.nzonair.govt.nz/the_organisation.php
Norway	http://www.medienorge.uib.no/english/?cat=statistikk&medium=tv&queryID=237
Spain	Estimate derived from European Audiovisual Observatory report: Andre Lange, *Comparative analysis of the financing of public audiovisual sector in the European Union*, July 2008.
Sweden	Nordicity calculation based on 90% of households with licence fee and rates found at http://www.radiotjanst.se/
Switzerland	http://www.srg-ssr.ch/fileadmin/pdfs/ZDF_2008_e.pdf
United Kingdom	BBC, *Annual Report 2006/07*
United States	Corporation for Public Broadcasting http://www.cpb.org

Appendix 3

About the Author

Peter S. Grant is Counsel at McCarthy Tétrault LLP, one of Canada's largest law firms, and past chair of its Technology, Communications and Intellectual Property Group. He is also Adjunct Professor at the Faculty of Law, University of Toronto.

Mr. Grant is an expert on communications law, copyright law, and cultural and trade policy. He has pioneered the field of communications law in Canada, and his practice is substantially devoted to this field, including broadcasting and cable television, pay and specialty programming services, new media, copyright collectives, and cultural industries, both in Canada and abroad. He is an experienced copyright lawyer, with multiple appearances before the Copyright Board of Canada. He has also acted on matters affecting book and magazine publishing policy, film and television production and the music industries.

Mr. Grant is the author of numerous articles and publications, including the *Canadian Broadcasting Regulatory Handbook*, the ninth edition of which was published in April 2008. The handbook is the standard reference in Canada on the *Broadcasting Act* (Canada) and the regulations and policies of the Canadian Radio-television and Telecommunications Commission (CRTC).

In February 2004, Douglas & McIntyre published *Blockbusters and Trade Wars: Popular Culture in a Globalized World*, a book co-authored by Mr. Grant and Chris Wood. The book focuses on the economics of popular culture, the efforts to provide diversity of expression around the world and the impact of technology and trade law on the dissemination of cultural products. The book has been called “brilliant and sweeping” by the *Toronto Star.* It was short-listed for the Donner Prize, awarded to the best book on public policy published in Canada. A paperback edition of the book was published in 2005. A French-language edition of the book was simultaneously published in 2004 by Les Éditions du Boréal, under the title, *Le Marché des étoiles: culture populaire et mondialisation*.

In the period from 1974 to 1978, Mr. Grant was loaned by McCarthy Tétrault to the CRTC under an Executive Exchange Agreement. During this period, Mr. Grant acted as a Special Counsel to the Commission and performed duties as counsel in numerous broadcasting and telecommunications regulatory proceedings. Mr. Grant returned full-time to private practice in 1978. Mr. Grant has acted as a consultant to UNESCO, Paris, on the Declaration on the Role of the Mass Media and was a member of the Canadian delegation to UNESCO, Paris in 1974, and to the G-7 conference on the Information Society in Brussels in 1995.

Since 1993, Mr. Grant has acted as the Broadcasting Arbitrator for Canada under the *Canada Elections Act*, having been appointed to this post by the Chief Electoral Officer, following unanimous agreement of the parties in the House of Commons. As the Broadcasting Arbitrator, his responsibilities included the allocation of paid and free time to political parties in federal general elections.

Mr. Grant was a long-time member of the Sectoral Advisory Group on International Trade (SAGIT) for Cultural Industries, which advised the Canadian Minister of International Trade. In that capacity, he co-authored a report in 1999 entitled “Canadian Culture in a Global World: New Strategies for Culture and Trade.” This report was the first to recommend the creation of a new international convention on cultural diversity. Support for this idea eventually led to the adoption of the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* by UNESCO in 2005. The convention has now been ratified by 93 countries around the world.

Mr. Grant is an expert on cultural industries and international trade policy, and has spoken widely on cultural policy issues in conferences around the world, including London, Brussels, Rabat, Cape Town, Valencia, Berlin, Montego Bay, Washington, Port of Spain, Hong Kong, Sydney and Auckland. He has also advised a number of foreign governments and public broadcasters on broadcast matters, including the BBC (Britain) and RAI (Italy). In 1999, he was retained by the Government of Sri Lanka to recommend the form of new broadcasting legislation in that country. His report was tabled in August 1999.

Mr. Grant appears in the 2008 edition of *Chambers Global: The World's Leading Lawyers for Business* as a leading lawyer in the area of telecommunications and broadcasting law as well as appearing in the 2007 edition in the area of technology, media and telecommunications.