From humble beginnings, a sustainable ecosystem.
Designing for a resilient future.

Retransmission rights began as an idea: the simple but powerful notion that film and television producers should be compensated when their works are picked up by satellite, cable, or other telecommunications companies from broadcast signals and retransmitted to subscribers who live outside the normal over-the-air reach of these signals.

In September 2017, as I write this letter to you – more than 27 years after the Canadian Retransmission Collective was founded – retransmission rights and associated royalties are well established. But the world in which we operate has changed.

A shift in viewer behaviour is at the heart of the most recent change. People now watch programs from a proliferating range of platforms on an ever-changing array of devices. As a result – and for the first time – the number of subscribers to traditional broadcast television services has slightly declined.

At the same time, millions of Canadians continue to subscribe to and deeply value the programs they watch on over-the-air broadcast signals. In this changing climate, the CRC’s job remains the same: to ensure that royalties reflect that value and are paid to program rightsholders by the companies that sell those services.

This biennial explores how the foundation we created many years ago (including leadership and infrastructure) serves us well in today’s brave new world. And the report’s theme – the journey from seed to sustainability – echoes our maturation as an organization that is both responsive and proactive, all while delivering on our original mandate of maximizing royalties and distributing them promptly.

The industry is entering a new era. And the CRC is ready.

Carol Cooper
President & CEO
How does an organization transition from a seedling to a sustainable ecosystem? An expert, loyal team makes all the difference. Our people are driven to deliver lasting benefits while acting with integrity.

The CRC’s team – our Board of Directors, advisors, leader, and staff – are drawn from and respected by the Canadian film and television industry. Just six people – four of them full time – are responsible for our daily operations. Experience is their common denominator – their length of service ranges from four to 27 years, with an average of 16.

What is the value of this extraordinary team?

A commitment to excellence. The CRC’s Royalty Distribution System (RDS) is critically important to the accuracy and efficiency of our operations. In 2014, a new version of RDS software was successfully implemented. In 2016, as part of its fiscal oversight and quest for good governance, the finance committee of our Board of Directors requested a detailed examination of all critical RDS processes, including staff procedures and authorizations. KPMG was engaged to conduct specified auditing procedures that went far beyond those included as part of a traditional year-end financial statement audit. Preparing for this rigorous and detailed process – including responding to KPMG’s questions throughout – was a huge logistical challenge for our in-house team. The RDS review confirmed that all steps and controls were adhered to and all royalty calculations and payments were accurately processed. This exemplary result is a credit to the CRC staff and the new RDS system.

Consistent royalty distribution. Retransmission knowledge and prudent financial policy assure a sustainable royalty revenue stream for our affiliates. As of September 2017, no tariff has been certified by the Copyright Board of Canada for 2014-2018. (More about tariffs on page 7.) The Board extended the 2013 tariff on an indefinite interim basis. Should the final tariff decision call for a reduction in royalties for the 2014/2015 years distributed during 2015/2016, our analysis is that the CRC’s standard 5% reserve will cover any shortfall. This prudent approach ensured that royalties continued to flow at previous levels despite the absence of a final tariff.

Trusted advisors help us make informed moves. McCarthy Tétrault has worked with the CRC from day one and the law firm – widely regarded as experts in our industry – has been an invaluable associate. Their team capably represents the CRC and adroitly manages the delicate balance between collaboration with other collectives in areas of common interest and the protection of the interests of our rightsholders. Two of the firm’s partners have been with us from the very beginning – Peter Grant and Hank Intven. As they move toward retirement, we are transitioning to the equally skilled hands of another partner, Dan Glover.

Cost effectiveness. The principles of sustainability are integral to our work as a not-for-profit, including operating at a low cost-to-revenue ratio. In 2015, operating expenses were just 9% of royalty revenues. In 2016, they were 8.5%.
Our Board of Directors and leadership had the foresight to put in place a superstructure – consisting of principles, policies, and practices – that provides a solid foundation for our daily work, guiding new developments and allowing us to be both responsive and proactive.

Our new Royalty Distribution System (RDS) is a terrific example of the infrastructure at work behind the scenes. This powerful tool helps us take care of business and the new RDS, introduced in 2014, is helping us streamline our work and our interaction with affiliates. During 2015/2016, all modules and functions were successfully implemented, allowing us to retire the original RDS system after 21 years of service and create a database archive for CRC’s entire royalty distribution history.

The CRC and Retransmission
The Canadian Retransmission Collective (CRC) was founded by the industry associations that went on to become the Canadian Media Producers Association (CMPA). The CRC’s mission is to collect royalties for the retransmission of “distant signals” in Canada and distribute these royalties to our rights-holders – film and television producers who live outside the normal reach of those broadcast signals. These companies are required to compensate rightsholders for the use of their programs in these retransmitted broadcast signals.

Our policies
Clearly-defined policies and principles guide our work. For instance, our royalty distribution formula is supply-based, taking into account the actual number of hours of programming and the number of subscribers to whom programming has been retransmitted. Royalties are distributed one year in arrears, and all reserves are released within three years of the year of retransmission. (For more about our policies, please visit crc-scrc.ca/english/howmuch.html)

Our rightsholders
You’re eligible to become an affiliate if all of these criteria apply:
• You own the copyright in a program, or the owner has granted you the right to collect.
• Your rights apply to Canada, and your program has been transmitted on a retransmitted signal.
• You haven’t given away your right to collect retransmission royalties (such as through a broadcast licence agreement).

Trees are expert communicators.
Trees operate less like the individuals they appear to us to be, and more as communal beings connected by a vast infrastructure. Research shows that trees communicate with one another through their roots as well as via underground fungi. So effective is this network – and so essential to a forest’s survival – that scientists have dubbed it the “Wood Wide Web.”

Royalties from Canadian retransmission rights can be meaningful sums and an essential stream of revenue for rightsholders. The CRC ensures that our affiliates know how to collect maximum revenues in the minimum time. In 2015, the CRC was able to accelerate the release of royalties by one month – and this early release was uniformly praised by our affiliates. Repeated in 2016, we fully intend to continue this advanced payment schedule.

**Royalty Distribution**
• Royalties distributed since inception $241 million
• Royalty distributions in 2015 & 2016 $18.3 million & $15.5 million

(including final distribution for 2015 of $8.3 million and annual distributions for 2014 $10.3 million, and final distributions for 2013 $8.5 million and 2012 $10.95 million, which includes $1.95 million in retrospective royalties from delayed certification of 2008-2013 tariffs)
With skilled and committed human resources and a smart, sound infrastructure in place, the CRC consistently meets the needs of our affiliates, year after year.

About Tariffs
The Copyright Board of Canada sets the tariff – the rate per subscriber we can collect from retransmitters. The Board also determines the allocation of royalties to the nine sanctioned collectives in Canada, of which the CRC is one. Tariffs are set for a specified period, typically five years, and are intended to be fair and equitable for both copyright owners and users of copyright-protected works.

Tariff Certification
Our last biennial shared news of our big win: the 2009-2013 tariff would increase the CRC’s share from 12.03% to 14.85%, or approximately $3 million more each year. The news came at the end of 2013, and retroactive royalties were collected and distributed in 2014 and 2015. The Copyright Board has not yet certified a tariff for 2014-2018. The 2013 tariff rates and allocations have been extended on an interim basis and will remain in force until a new tariff is in place.

Tariff Rate
The interim tariff has confirmed the royalty rate for the largest retransmitters at 98 cents per subscriber per month. During 2015 and 2016, an extensive written case to increase the royalty rate was filed jointly by the CRC and the other Canadian collectives, and presented through a series of experts and witnesses in four sessions over 10 months. The case supported a rate increase: from 98 cents per subscriber per month to $2.38 over five years (2014-2018). Retransmitters argued for the opposite, saying that royalties should remain at the current level of 98 cents per subscriber. Attempts by the collectives to negotiate a settlement with the retransmitters have failed. The case is now in the hands of the Copyright Board, with no clear timeline for their decision. (For more about the Copyright Board, please see page 9.)

Tariff Allocation
An interim tariff has confirmed the CRC’s share of royalties at 14.85%. The percentage of royalties each collective receives is stipulated in an agreement negotiated among the collectives, which expired on December 31, 2015. Work to determine allocation for 2016-2018 is underway. Two of the collectives – FWS, representing major league sports and CCG, representing large U.S. rightsholders – have initiated a viewing study to formally evaluate the allocation of royalties amongst collectives (the CRC conducted its own study for the last tariff). When the results of this study are published, the collectives will discuss whether its findings can be used as a basis for settlement discussions or whether the results will need to be litigated before the Copyright Board.

Trees provide more than shelter.
Human societies have long relied on them to provide refuge from the elements, but trees play a role far beyond shelter. Canada’s Algonquin First Nations, for instance, turned the sap from maple trees into a source of delicious syrup and sugar, and the maple leaf became an important design motif in their beadwork.

Like trees, the CRC is an integral part of a complex and ever-changing landscape. The change that gets ample media attention – traditional cable and satellite subscribers cutting the cord – is on our radar. It is true that numbers have declined, but only slightly. From 2013 to 2014, BDU subscribers decreased for the first time by 0.98% or 112,759 subscribers. The following year, the drop was 1.38% or 157,922 subscribers. However, with nearly 11 million subscribers across the country (representing 78% of Canadian households), and with Canadians watching 27.2 hours of traditional over-the-air TV per week, it’s clear that subscribers value these services and programs and retransmission royalties will continue well into the future.
With the fundamentals securely in place and our royalty distribution system working smoothly, the CRC team can focus on emerging challenges and opportunities. This work helps create and refine the ecosystem that will sustain us well into the future. As always, we continue our work to actively protect retransmission rights and royalties, increase tariff rates and the CRC’s share of the pool, and provide insight and information that will help streamline the Copyright Board of Canada’s process.

Reform of Canada’s Copyright Board
The Copyright Board of Canada provides a necessary and valuable service. At the same time, the Board faces significant criticism of its process, including the long delay between submission of a case and their decision. For instance, the presentation of the 2014-2018 tariff rates was completed in August, 2016. And as of this writing (September 2017), there has been no decision.

Stakeholders are considering how the system might be reformed. In February, 2015, the Copyright Board released a discussion paper inviting public comment. The CRC made a submission (as did other interested parties), but this internal review did not result in any changes in the Copyright Board process. In 2016, a Senate Review Committee was authorized to study the operations and practices of the Copyright Board. The Committee recommended that the 2017 statutory review of the Copyright Act include a thorough examination of the Board’s mandate, practices, and resources. In August 2017, the Department of Innovation, Science and Economic Development, along with the Department of Canadian Heritage and the Copyright Board of Canada jointly released a discussion paper on options for reform of the Copyright Board. They also solicited submissions, and the CRC will respond.

After Terms of Trade
On behalf of Canadian independent producers, the CMPA reached a “Terms of Trade” agreement with the five major English-language Canadian broadcasters that came into force in June 2011. Among other provisions, Terms of Trade meant that broadcasters could no longer obtain routine assignments of retransmission royalties.

In March, 2015, the Canadian Radio and Television Commission eliminated the enforcement of Terms of Trade as a condition of a broadcaster’s licence, stating that Terms of Trade had achieved its goals and was no longer necessary to ensure a level playing field between producers and broadcasters. Producers disagreed and, in 2015, appealed this decision to Canada’s Federal Court. Their appeal was dismissed, and Terms of Trade ended on August 31, 2017.

The CRC Board responded to these developments in two key ways. First, by ensuring that we are doing all we can to protect retransmission rights and maximize royalties. And by making a renewed commitment to communicate with producers to ensure that they understand their retransmission rights, the value of these rights, and how to protect them.
seasoned, principled, respected

CRC Board of Directors
Elected at the Annual General Meeting, January 26, 2017
Annual Meeting
The Annual General Meeting was held January 26, 2017 at 12:20 p.m. at the offices of McCarthy Tétrault LLP, Toronto, Canada.

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