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Via Electronic Mail: competitionreview@ic.gc.ca

Competition Policy Review Panel
280 Albert Street
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Re: Submission on Behalf of Torstar Corporation

Torstar Corporation is a broadly based Canadian controlled media company listed on the Toronto Stock Exchange (TS.B) with its head office in Toronto. Its businesses include the Star Media Group led by the Toronto Star, Canada's largest daily newspaper, and digital properties including thestar.com, toronto.com, LiveDeal.ca, Workopolis and Olive Canada Network; Metroland Media Group, publishers of community and daily newspapers in Ontario; and Harlequin Enterprises, a leading global publisher of women's fiction. In addition, Torstar also owns 20 percent of CTV Globemedia and 20 percent of Black Press. Torstar has been a public company for approximately 40 years and the Toronto Star has operated for over 110 years.

Torstar has approximately 7500 employees around the world, revenues of about \$1.5 billion and an enterprise value of about \$2.3 billion. Torstar's community newspaper and daily newspaper businesses are exclusively in Canada. Harlequin's business is principally outside of Canada as it sells books in over 100 countries and in 27 languages. Less than 5 percent of sales are in Canada. Harlequin's head office is in Toronto but it maintains major offices in New York, London, Tokyo, Paris, Milan and Stockholm.

Torstar wishes to make the following seven points:

1. Torstar endorses the broad goals of the Competition Policy Review and in particular the public policy objective "to maximize opportunity for our domestic firms to grow into global champions and for our existing champions to further expand their reach".

Torstar strongly supports increasing Canada's global competitiveness and success and wishes to contribute to it. These concerns are as relevant to media companies as other industries. The fact that media companies like Torstar are important to Canada's political independence and cultural identity does not mean that productivity and competitiveness are alien to our work or that we cannot and should not have global ambitions. The opposite is the case. Our marketplace is increasingly influenced by global competitors and we must be as competitive and productive as they are. At the same time, it is abundantly clear that Canadians can compete successfully in the global media space so long as we are not burdened by inappropriate public policies which constrain our growth.

2. Torstar supports Canadian public policies designed to strengthen Canada's cultural identity and political independence, even at some cost to foreign investment and competitiveness. However, all such policies must allow for the emergence and development of global champions within the cultural sector from a Canadian base and must fully respect the fundamental need for newspapers to be free from state regulation and control.

Torstar strongly supports advancing Canada's cultural identity and political independence. It is an essential part of our independence and identity as a nation, particularly given our history, geography and place within the North American and global economy. We therefore support public policies to pursue these goals even at some cost to foreign investment and competitiveness. However, these policies must be wisely drawn and carefully implemented. In particular, in the cultural sphere, in cultivating and supporting Canadian cultural industries, the policies must also contemplate and encourage the emergence and development of global champions from a Canadian base. Furthermore, with respect to the unique case of newspapers, any public policy concerning ownership must strictly respect the fundamental need for newspapers to be free from state regulation and control. In this area, there can be no tradeoff or compromise. It is an absolute requirement.

3. With respect to newspapers, Torstar supports maintaining the current Canadian ownership requirement implicit in Section 19 of the *Income Tax Act*, believing that Canadian ownership of newspapers is central to Canada's political and cultural identity and independence. Torstar does not support development of a more explicit Canadian ownership policy, believing a more explicit regulatory strategy would almost certainly undermine the fundamental principle of independence from state interference.

Newspapers play a central and essential role in Canadian democracy and in Canada's communities. There must be an opportunity for a distinctive voice and concern for Canada, its people, institutions and communities. A Canadian ownership requirement does not guarantee good Canadian newspapers, but it

increases the chances that our newspapers will be responsive to, and engaged with, the communities and country they serve. To remove this longstanding ownership requirement would be a mistake with substantial long-term risk for Canada. Torstar therefore supports maintaining this policy and accepts the costs it imposes of reduced foreign investment, more limited opportunities for synergies through international consolidation, a more restricted field of potential acquirers, and potentially reduced competition. These are all part of the price worth paying.

Section 19 achieves its goal indirectly by denying the deductibility of advertising expenses incurred in newspapers not owned by Canadians. In this sense, it is an implicit rather than explicit ownership policy. To be effective, it must be properly enforced and we urge attention to this.

Some have suggested we need an explicit policy directly regulating the ownership of Canadian newspapers. Torstar rejects this view, strongly preferring the current implicit policy. Any attempt to implement an explicit policy would inevitably entwine the government of Canada, directly or indirectly, in the newsrooms of the nation – an unacceptable policy direction. Canada has been well served by the current implicit policy approach. It should be maintained.

Torstar also rejects regulatory efforts to limit the ownership of newspapers by some Canadians through regulatory policies such as the CRTC's most recent policy announcement in this area. No government agency, the CRTC included, should attempt to regulate, directly or indirectly, the ownership of newspapers by Canadians except through laws of general application such as the *Competition Act*.

4. With respect to Section 19, Torstar recommends that attention be given to arresting the erosion of its effectiveness caused by the growing presence of online advertising which is systematically eroding the financial capacity of Canadian newspapers to discharge their fundamental role of news gathering and editing.

The digital revolution and the development of the Internet has made available many news sites and sources – most of which are not Canadian owned – which attract Canadian advertising and thereby divert advertising support from Canadian newspapers and other traditional media. This is eroding the effectiveness of Section 19 and undermining the ability of Canadian newspapers to devote the necessary resources to reporting, investigative journalism and editing to discharge their fundamental role effectively. Torstar urges that immediate attention be given to addressing this issue. To fail to do so will weaken the newspaper industry and strengthen the case for permitting foreign ownership. There is increasing recognition of the growing severity of this issue. We need an equal escalation in the intensity of effort dedicated to crafting and implementing an appropriate policy response.

5. With respect to the application of the *Competition Act* to the newspaper industry, Torstar urges that the reality of the digital revolution be recognized by accepting that online entrants in advertising and news be included in any consideration of market definition. Absent such recognition, appropriate economies of scale and scope in the domestic market will be frustrated and the ability of newspapers to discharge their fundamental role will also be curtailed. The alternative way to obtain these economies would be to permit foreign investment, a less attractive alternative from the perspective of the Canadian public interest.

For purposes of market definition pursuant to the *Competition Act*, it is essential that the reality of the digital revolution be fully taken into account. Traditional market analysis views the printed newspaper industry in isolation from its digital substitutes and alternatives. This is blind to the reality of choices for both consumers and advertisers and leaves the newspaper industry facing global and local digital competitors, but denying the industry the opportunity to achieve efficiencies through consolidation. The perversity of this approach is magnified by the implicit prohibition on foreign ownership in Section 19 which prevents newspaper companies from gaining these same efficiencies through consolidation by foreign newspaper companies.

This is an unacceptable outcome. Denied the efficiencies of domestic consolidation, foreign consolidation, and, most recently by virtue of the CRTC's new policy direction, full cross-media consolidation, newspaper companies are still expected to compete head-on with the new digital entrants, many of which rank among the world's largest media companies. Disadvantaging Canadian newspaper companies in this way is virtually certain to undermine their ability to discharge their fundamental role in our society and will compel a re-visiting of the current prohibition on foreign ownership. A better direction is to encourage a more enlightened and expansive view of market definition that better reflects the reality of the digital revolution and permits greater domestic consolidation.

6. With respect to book publishing, Torstar supports public policies including subsidies to encourage the domestic industry dedicated to publishing Canadian authors, stories and educational materials relevant to Canada's cultural identity. For firms engaged in these activities that receive subsidies or other support pursuant to these policies, distinctive Canadian ownership requirements such as those found in the Baie Comeau Policy can be an appropriate policy adjunct. However, in the interest of encouraging global champions, it is essential that these policies not be overly broad in their application. Book publishing firms not engaged in activities relevant to Canadian cultural identity and not receiving subsidies should be subject to the same foreign ownership policies as other Canadian companies in any field and not be subject to a more restrictive regime such as the current Baie Comeau Policy. Absent such an approach, Canada will be an unattractive location for head offices for firms of this kind, thus discouraging investment and jobs in Canada and denying Canada global

champions that would otherwise emerge. This result would be contrary to the Canadian public interest.

Book publishing is a relatively small but important Canadian cultural industry. Canadian authors have contributed significantly to Canada's cultural identity and increasingly many of them have come to attract a global following. Public policy has encouraged the development of the Canadian book publishing industry in numerous ways including subsidies and prohibiting foreign ownership and control. These policies are known as the Baie Comeau Policy, a policy statement administered by Canadian Heritage pursuant to the *Investment Canada Act*.

Torstar supports the fundamental policy objective of encouraging and supporting a vibrant and successful Canadian book publishing industry including providing subsidies to support Canadian authors and publishers. However, Torstar believes the current Baie Comeau Policy is overly broad in its reach and is insensitive to the need to build global champions in book publishing from a Canadian base. For firms like Harlequin which receive no subsidies, which publish virtually no Canadian authors or stories, which sell the vast majority of their books outside Canada, and which have little if any direct relevance to Canada's cultural identity, the framework of the Baie Comeau Policy makes little sense. Firms of this kind should be subject to the general net benefit requirement of the *Investment Canada Act* and not the special requirements of the Baie Comeau Policy.

Torstar urges that the current policy be reviewed to ensure it is achieving its core objectives and is focused on them alone. The current, overly broad policy approach makes Canada an unattractive base for firms with global ambitions, thus discouraging investment and jobs in Canada and discouraging global growth by Canadian-based companies. This is a particularly perverse result in an industry in which firms can choose to locate virtually anywhere they can find the necessary talent and a hospitable policy framework.

7. More generally, it should not be assumed that Canadian firms in the cultural sector are unable to build global businesses. Instead, they should be encouraged to do so and thus create jobs and opportunities in Canada and beyond for Canadians in the global economy. To do so requires considerable sensitivity and discretion in the design and application of cultural protection policies, including foreign ownership requirements, to ensure that they do not have unintended perverse consequences of discouraging the growth of Canadian champions in this area.

Some think of cultural industries as local, domestic and modest in size with few prospects for global growth and success. This is the wrong image and aspiration for Canada's cultural industries. Instead they should be viewed as firms that can

aspire to compete and succeed on the global stage and grow large, drawing on the talent and ambitions of Canadians. As we invest in building domestic successes, we should also be encouraging these firms to reach higher and further. To do so, however, we must ensure that policies designed to protect Canadian culture, including foreign ownership requirements, do not have the unintended perverse consequence of discouraging the growth of Canadian global champions in this area. As a result, a review of policies in this area should be undertaken expeditiously to ensure that the policies are both effective and as narrowly drawn as possible so as to maximize the opportunity for global champions to emerge. A failure to proceed in this way will not stop global champions in the cultural sector from emerging, but will greatly reduce the likelihood that these firms will choose, or maintain, Canada as the location for their head offices and principal base of operations. This would represent a clear loss of opportunity for Canada and Canadians.

Torstar Corporation's seven submissions, individually and collectively, are important but do not require a radical overall of Canadian public policy. All of them could be implemented through focused policy adjustments that would strengthen Canadian economic performance and require no expenditure of public funds. We hope the Review will endorse our recommendations accordingly.

On behalf of Torstar Corporation,

J. Robert S. Prichard
President and Chief Executive Officer

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