



September 27, 2011

Filed Electronically

Mr. Robert A. Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Morin:

Re: Broadcasting Notice of Consultation (BNOC) CRTC 2011-525: Development of a regulatory framework for the French-language television market, licence renewals for Astral Media Inc., Quebecor Media Inc. and Serdy Media Inc., and review of certain conditions of licence for V Interactions Inc. Quebecor Media Inc.: Application 2011-0482-7 Men TV General Partnership: Application 2011-0485-1 (The Cave)

1. The Canadian Media Production Association (“CMPA”)¹ welcomes the opportunity to comment regarding the above-referenced application by Quebecor Media Inc. (Quebecor) respecting renewal of the licence for the English-language Category A specialty television service, The Cave.
2. While, subject to our comment below regarding Terms of Trade, the CMPA **supports** the renewal of the licence for The Cave, we **oppose** Quebecor’s requests:
 - a. to reduce the service’s Canadian program expenditure (CPE) requirement from 39% to 35%;
 - b. to reduce its Canadian program exhibition obligation from 50% to 40%; and
 - c. to expand the length of the “broadcast day” for the service from 18 hours to 24 hours.

¹ The CMPA represents the interests of screen-based media companies engaged in the production and distribution of English-language television programs, feature films, and new media content in all regions of Canada. The CMPA’s 400 member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing original content for Canadian and international audiences.

3. All three of these requests are intended to allow Quebecor to substantially lessen the contributions The Cave would make to Canadian programming, namely through a 10% reduction in CPE, a 20% reduction in exhibition, and the increased opportunity to schedule its Canadian programs when the viewing audience is the smallest (i.e. from midnight to 6 am).
4. Quebecor claims these changes are necessary because of competition, to help make the service more popular, and because there is a lack of Canadian programming in the service's (male-oriented) genre. It also seeks to harmonize the conditions of licence for The Cave with those it seeks for its French-language Category A service, Addik TV.
5. Quebecor provides no evidence, however, to back up any of these claims or to justify these requests. For this reason alone, the Commission should reject all three attempts to reduce The Cave's Canadian programming contributions.
6. The CMPA also notes that, in its recent renewal decisions for the major English-language broadcasters², the Commission rejected all requests for reductions in exhibition levels³ as well as the notion of harmonization between different services. In doing so, the Commission acknowledged the arguments made by the CMPA and others that Category A services benefit from important regulatory advantages, such as genre protection and access rights, that are tied to their programming commitments. Moreover, the Commission determined that a CPE level of 35% "is inconsistent with the obligations of a Category A service."⁴ These represent further reasons why the Commission should deny the three requests noted above.

Terms of Trade

7. We wish to highlight that Quebecor has not yet entered into a terms of trade agreement with the CMPA in respect of The Cave. Given the Commission's statement in BNOC 2011-525 regarding its expectations for the applicants respecting terms of trade⁵, the CMPA calls on the Commission to require Quebecor, as a condition of renewing its licence for The Cave, to enter into such a terms of trade agreement.

² Broadcasting Decision CRTC 2011-441.

³ Except in two specific "outlier" cases.

⁴ Ibid., note 2 at par. 113.

⁵ "In the event that a terms of trade agreement is not reached for each of the television services prior to the licence renewal hearing, the Commission will require the applicant to file substantive proposals as part of the record of the hearing and will then establish appropriate provisions for terms of trade as part of its determinations set out in the renewal decisions."

All of which is respectfully submitted.

Sincerely,

[original signed by]

Norm Bolen
President & CEO

cc Quebecor: reglementaires@quebecor.com

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