



February 15, 2012

Mr. John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Filed Electronically

Dear Mr. Traversy:

Re: **Broadcasting Notice of Consultation CRTC 2011-788:
Review of Local Programming Improvement Fund**

1. The Canadian Media Production Association (“the CMPA”)¹ wishes to provide the following comments concerning the above-noted Broadcasting Notice of Consultation (“the Notice”).
2. The CMPA requests the opportunity to appear at the April 16, 2012 hearing to expand on the proposal outlined below.
3. In this submission, the CMPA does not comment on the appropriateness or value of the Local Programming Improvement Fund (“LPIF”), or on its structure, successes or future. Instead, the sole focus of these comments is to recommend the purpose for which the current LPIF contributions by broadcasting distribution undertakings (“BDUs”) should be used *in the event the Commission determines to discontinue the LPIF*. Specifically, the CMPA responds to the following questions in the Notice:

*In the event that the LPIF is discontinued, should the BDU’s 1.5% contribution be reallocated? If so, how?*²

4. In our view, in the event that the LPIF is discontinued, the BDU’s 1.5% contribution should be reallocated to support the production, marketing and broadcast of Canadian feature films.

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.

² Paragraph 48 of the Notice.

5. As the CMPA has repeatedly highlighted - most recently in the Group Licence Renewal proceeding³ and in response to Astral's licence renewal applications⁴ ("our Astral intervention") - the Canadian feature film industry is facing a funding crisis because broadcasters in general no longer support Canadian feature films as they once did.
6. Indeed, data we submitted with our Astral intervention demonstrated a significant downward trend in the financial support provided by Canadian television broadcasters over the last eight years.⁵ Specifically, the data showed that direct broadcaster support decreased from a high of \$16.3 million in 2003-04 to just \$3.3 million in 2010-11, representing a 79% drop. In terms of the type of financial support, the data showed that equity investments decreased by 98%, from a high of \$12.8 million to just \$300,000 over the same period. A similar trend was observed with regard to the total value of licence fees. Total licence fees in 2003-04 amounted to \$3.6 million, but decreased by 88% to \$420,000 by 2009-10. In 2010-11, total licence fees regained some lost ground, rising to \$3 million.
7. Traditionally a critical supporter of Canadian feature films, Pay TV's contribution to English-language feature films decreased by 97% between 2003-04 and 2010-11, dropping from \$9.2 million to just \$300,000. Licence fees provided by Pay TV services also experienced a dramatic decline over the same period, dropping from \$2.1 million in 2003-04 to just \$320,000 in 2010-11.
8. The CMPA also filed as part of our Astral intervention a recent study we jointly commissioned with the Canadian Association of Film Distributors and Exporters (CAFDE), entitled *Examination of the Levels of Broadcast for Canadian Theatrical Films*. That study found that, while the number of theatrical film hours (both Canadian and foreign) broadcast on TV in Canada has increased significantly over the last many years, the Canadian films being broadcast are increasingly older films; moreover, the average number of repeats of those films doubled between 2004-05 and 2009-10.
9. The CMPA continues to call upon the Commission to address the critical issue of broadcaster support for feature films. In this respect, we highlight the fact that other countries recognize the important role their domestic broadcasting industries must play in ensuring domestic feature films are made and shown. For example, the UK government devoted a chapter of a recent report on its film industry specifically to broadcasters and feature films. The report, entitled *A Future for British Film*⁶, offers various recommendations to further the government's objective of ensuring "that all major broadcasters engage with and support British film in a significant way on an

³ Broadcasting Notice of Consultation CRTC 2010-952.

⁴ Broadcasting Notice of Consultation CRTC 2011-525.

⁵ See Appendix A of the CMPA's Astral intervention.

⁶ *A Future For British Film: It begins with the audience'*: Report on the Film Policy Review Survey

http://www.culture.gov.uk/images/publications/DCMS_film_policy_review_report-2012.pdf. See Chapter 5:

Television Broadcasters and British Film, pp 55-58.

ongoing basis” and that UK broadcasters “show a good proportion of British films, including recent British films, as part of the overall mix on their TV channels, and...invest in acquisition and production.”⁷

10. The recent UK report also made special note of the mechanisms other countries employ to ensure their broadcasters support their respective domestic film industries:

In France, broadcasters have long been required by law to invest directly a percentage of their annual revenues in film, resulting in an investment totalling over £420m in French film in 2010. In Spain a new audiovisual law imposes similar obligations on broadcasters. In Germany, public and private broadcasters are required to contribute percentages of their advertising turnover to the government-backed Federal Film Agency (as happens also in Sweden, Denmark and Austria), and public broadcasters are required to back the appropriate regional film fund. In Italy public service broadcasters and the main private broadcasters are required to support film according to Government quotas.⁸

11. In light of the above, the CMPA recommends that, should the Commission discontinue the LPIF, some or all of the BDUs’ current 1.5% contribution should be reallocated to support Canadian feature films.
12. The CMPA envisages different ways in which this proposal could be implemented. One method could be to require BDUs to direct their current LPIF contributions to the Canadian Media Fund (CMF), which would allocate that particular stream of contributions to a revised feature film program. The CMPA would be pleased to work with the CMF on this concept.
13. Based on the figures provided in the Notice, the six largest BDUs contribute approximately 96% of the funds to the LPIF. Each of those BDUs operates a licensed VOD service or, in the case of the two DTH providers, a licensed PPV service. While the Notice does not identify the various terrestrial BDUs which collectively contribute the remaining 4% of funds to the LPIF, the CMPA assumes that each is also licensed to operate a VOD service.
14. It is now widely accepted that, when it comes to television content, consumers expect to be able to access what they want, when they want it, and that this phenomenon is both driven by and served by video-on demand platforms. Indeed, as reported last month, CTAM Canada recently released research results showing that viewership of

⁷ Ibid., p. 55.

⁸ Ibid., p. 52. Footnotes omitted.

almost all types of VOD programming was up in 2011, led by viewership to movies (70% compared to 50% in 2010).⁹

15. In the CMPA's view, re-allocating the BDUs' contributions to supporting Canadian feature films would represent a win-win-win situation. Canadian producers would of course benefit from the infusion of much-needed funds for feature film production. Canadian consumers would also benefit from the resulting increase in the number and quality of Canadian films. At the same time, the BDUs themselves would directly benefit from the CMPA's proposal because more and better Canadian feature film content would be available to add to their own VOD/PPV program libraries. With the right amount of marketing support, this new and better content would make those BDU-owned VOD/PPV services more competitive with unlicensed online VOD services (such as Netflix).
16. In 2008, the Commission determined that BDUs should direct their increased financial contributions to Canadian programming to the LPIF. It is open to the Commission in this current review process to determine that contributions to the LPIF are no longer needed or appropriate. If the Commission makes that determination, it should nevertheless maintain the same level of financial contributions from BDUs to Canadian programming.
17. As the Notice points out, Canadian BDUs continue to experience considerable growth in revenues, strong operating margins and healthy levels of profitability. It is clear therefore that BDUs can afford to continue contributing the additional 1.5% of revenues to support Canadian programming. Moreover, given their dominant financial strength within the Canadian broadcasting systems, BDUs *should* continue to contribute those funds to areas of Canadian programming most in need, and which benefit their distribution business by making their services more attractive and more competitive with non-regulated providers.
18. The CMPA has repeatedly highlighted in recent regulatory proceedings that Canadian feature films are facing a funding crisis due in large part to reduced broadcaster support. As the broadcasting environment continues to evolve and the viewing patterns and demands of Canadian audiences increasingly shift to on-demand options, the importance of the BDUs' own VOD/PPV platform for Canadian feature films will continue to grow. Given these developments, the CMPA submits that the next and natural progression for BDU contributions to Canadian programming should be the re-allocation of their current 1.5% contribution from the LPIF to supporting Canadian feature films.

⁹ <http://www.cartt.ca/news/12990/Cable-Telecom/Movies-TV-series-lead-surg-ing-video-on-demand-viewership-CTAM-Canada-report.html>.

19. If the Commission chooses to discontinue the LPIF, a re-allocation of BDU contributions to support Canadian feature films should be implemented now. If, however, the Commission instead chooses to maintain the BDUs' current LPIF contributions, the need for the Commission to implement other methods of ensuring broadcaster support for Canadian feature films will become all that more urgent. Absent Commission intervention, this issue is not about to go away.

Sincerely,

[original signed by]

Norm Bolen
President & CEO