CMPA
Canadian Media
Production Association
Screen-based entrepreneurs
ottawa | toronto | vancouver

August 7, 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 2012-366: Call for comments on the Commission's policy regarding Canadian programming expenditure over-expenditures for conventional television and specialty services from large broadcast groups

1. The Canadian Media Production Association ("the CMPA")[1] is pleased to provide these brief comments in response to the above-noted Notice of Consultation.

2. In the Notice, the Commission seeks comments regarding the impact of amending part of its group-based policy by eliminating the 5% cap on CPE over-expenditures and the obligation to expend any over-expenditure in the subsequent broadcast year.

3. The CMPA notes that, in this process, the Commission is addressing the limit imposed on *over*-expenditures only, and does not propose herein to amend its policy with respect to the limitation on *under*-expenditures. Moreover, this process concerns CPE and PNI expenditures, not benefits obligations. Accordingly, these brief comments relate only to the CPE/PNI over-expenditure policy. Should the Commission propose to re-consider its CPE/PNI under-expenditure policy, or its general requirement that benefits be expended in roughly equal annual amounts, we reserve the right to file opposing comments on those separate matters.

[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 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.

4. While independent producers appreciate a certain level of certainty regarding Canadian broadcasters' levels of Canadian programming expenditures year-to-year, the CMPA understands that producers did not have any significant problems with the Commission's CPE over-expenditure rules as they existed prior to the group licensing decisions. Accordingly, the CMPA does not oppose the Commission amending its group-based policy in order to return to the former CPE over-expenditure rules. The CMPA appreciates that the program commissioning cycle may require broadcasters to exceed their CPE/PNI spending obligations in certain years, and does not believe it would be in the overall best interest of the system to create a regulatory barrier to this generally-accepted phenomenon.

5. This being said, fairness dictates that any change the Commission may make to its CPE/PNI over-expenditure rules should only apply on a prospective basis, such that the over-expenditure limit is only removed as of next broadcast year (i.e. 2012-2013). In other words, broadcasters should not be able to retroactively claim over-expenditures incurred in the current broadcast year beyond what is permitted by the rules which have been in force during this year.

6. Moreover, the CMPA submits that a broadcaster's flexibility to over-spend must relate to, and be confined to, the broadcaster's current licence term. In other words, a broadcaster must not be permitted to overspend in the 5th year of its 5-year licence term and then claim the over-expenditure (and thus under-spend by the same amount) in the first or any subsequent year of its next, renewed licence term. Similarly, a broadcaster must not be permitted to claim back over-expenditures during any extension of its licence granted by way of an administrative renewal. To allow such spending practices would be to undermine the integrity of the licensing (and licence renewal) process where regulatory obligations are often changed.

Sincerely,

[*original signed by*]

Michael Hennessy
President & CEO

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