

CMPA
Canadian Media
Production Association



Screen-based entrepreneurs

Oral Remarks by

Canadian Media Production Association (CMPA)

Broadcasting Notice of Consultation CRTC 2012-370

Item 1: Application by BCE Inc. (BCE) on behalf of Astral Media inc. (Astral) for authority to change the effective control of Astral, and its licensed broadcasting subsidiaries - Application 2012-0516-2

September 13, 2012

Check against delivery



Good afternoon, Mr. Chairman, Commissioners. My name is Michael Hennessy and I am the President and CEO of the Canadian Media Production Association.

As you know, the CMPA is a national organization representing hundreds of independent producers across the country.

Please let me introduce my colleagues. On my left is Marc Seguin, our Senior VP Policy. On my right is Jay Thomson, our VP Regulatory Affairs.

This is my first appearance at a CRTC hearing in my new role – and in fact my first appearance since the Commission’s vertical integration proceeding a year and a half ago.

While I have not changed the position I took then on the need for vertical integration safeguards, my argument today is that this proceeding is not about carriage, but about *content*.



The CMPA recognizes that, even if you turn down this deal, Astral will likely be sold to some other vertically integrated broadcaster. So, for us, the number one question here is whether Bell would do a better job than the next potential purchaser in serving Astral’s audiences with more and better Canadian programming.

Given what we have heard so far from Bell, the answer to that question, unfortunately, is “no”. But it is within your powers to turn that “no” into a “yes” by increasing the benefits that flow on-screen and ensuring a more balanced linguistic split.

Mr. Chairman, we appreciate that, given Astral’s history and presence here in Quebec, the natural focus of this hearing has been on how a Bell-owned Astral will better serve Astral’s French-speaking community.

But at the same time, we urge the Commission to appreciate that Astral is not solely - or even predominantly - a French-language broadcaster. Astral also serves a sizeable English-language community.



Yes, Astral’s offices are based here in Montreal. But as George Cope emphasized on Monday, this deal is about “one *national* media company buying another *national* media company.”

To our knowledge, this is the first time the Commission has had to determine how to split benefits along linguistic lines. In our written submission, we argued that the Commission should adopt the method used by Telefilm and the CMF; however, we accept that there are other methods for splitting the benefits - some better than others.

In its application, Bell relied on its valuations to determine how to allocate its benefits between Astral’s English- and French-language communities. We think that is the wrong approach. Valuation is a highly subjective exercise. It is rife with assumptions and can be broadly interpreted based on the inputs chosen.

We submit that a better approach for allocating the benefits along linguistic lines is to use subscriber numbers. Subscriber numbers objectively measure the relative size of the actual communities being served.

In this case, it is important that the Commission appreciate that the relative breakdown of total subscribers to Astral's pay and specialty services is roughly 60:40 in favour of English-language subscribers.

In other words, the English-language community that Astral serves as measured by subscribers is actually larger than its French-language community.

Since the Commission's benefits policy requires that benefits flow to the communities being served by the undertakings being purchased, this means that the benefits from this deal should flow *at least* as equally to Astral's English-language community as they do to Astral's French-language community.

Even if the Commission were to rely on valuation to determine the linguistic split, the expert advice we've received is that the market value ratio here is at least 50:50, if not actually weighted in favour of the English-language services.

The value split is *not* 60:40 in favour of the French services as Bell first argued, and it is certainly not the two-thirds: one-third split reflected in Bell's new benefits proposal.

For English-speaking audiences in Eastern Canada, Astral's TMN is their first TV source for new movies. In fact, Canadian feature films make up *two-thirds* of TMN's Canadian programming.

Consistent with this programming focus, TMN has always played a critical role in the financing and promotion of Canadian feature films. At the Premiere it sponsored at TIFF last week, Astral celebrated its 25 years of presence at the Festival and proudly pointed to its role as the largest private investor in feature film in Canada over that period. A well-deserved and well-earned boast.

For young English-speaking Canadians and their families, Astral is one of only two large broadcasters in this country that offers programming services specifically for and about them – in Family Channel and Teletoon and its other kids' and youth services.



How does Bell propose to provide incremental benefits to these communities? Frankly, it doesn't. Under its previous licence, TMN contributed at least \$1.3 million annually to the Harold Greenberg Fund for script and concept development. Bell's proposal represents less than half of that.¹ That's not an incremental benefit. It's a net loss to the system, and it will only further erode the English-language Canadian feature film industry.

Bell proposes to allocate less than 4% of its revised benefits package to English-language kids' and youth programming.² This is a token amount that fundamentally ignores the nature of the services Bell is acquiring and the kids/youth community they serve.

Mr. Chairman, as currently proposed, this is a bad deal for the English-language communities that Astral has served.

We appreciate that Bell has now properly included the jointly-owned assets in the value of this deal. But under Bell's new proposal:

¹ \$600,000/year over 7 years.

² $7/180.5 = 3.9\%$.

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- **The share of on-screen benefits for English-language programming has dropped to a mere one-third overall³;**
 - **There's no new money for films or kids programming;**
 - **There's \$40 million in public broadcasting benefits still going to subsidize private telecom infrastructure;**
 - **And now another \$20 million is allocated to a project that is completely offside the Commission's benefits policy – namely, the new proposed all-news specialty service.**

It is now clearer than ever that Bell's plan is to convince the Commission to convert its benefits obligations into a war chest to unfairly subsidize its competitive battles, primarily with Quebecor but also with the other carriers in the North.

³ Of the total of \$134.4 million in on-screen benefits, only \$45 million (33.5%) is allocated to English-language initiatives (assuming the \$3.5 million for "Mental Health" is split evenly between English- and French-language initiatives).



Mr. Chairman, we would like to support this transaction. Our members consider Bell a good business partner. We also believe that Canada needs a combination of big and strong media companies as well as smaller, independent ones. Therefore, we would rather the Commission fix Bell's benefits package than deny this application, or require, for example, that Bell divest the Astral English-language services.

How, then, can you fix Bell's proposal?

First, by requiring Bell to increase its on-screen benefits overall.

Second, by striking a fairer balance between the French- and English-language initiatives to better reflect the nature and size of the Astral assets and the communities they serve.

To get there, the Commission should require Bell to allocate *at least 85%* of its TV benefits to on-screen programming initiatives.



That's the Commission's standard obligation, which you've reinforced in recent decisions.

We also join the many others who urge you to reject Bell's proposed Northwestel telecom subsidy plan.

As well, the \$20 million proposed for the all-news channel should be re-directed to initiatives that don't depend on the Commission approving a totally separate, future application. And the funding for film festivals should be characterized as "social" benefits and replaced with benefits that would actually lead to new and better Canadian programming getting on consumers' screens.

Mr. Chairman, Commissioners: we see this Bell-Astral deal as a huge and unique opportunity to boost financial support for films and for children's programming. Despite the benefit dollars now in the system, there's clearly a benefits gap when it comes to films and kids.



Astral has been a leader in movies and children’s programming – in fact, that is the primary nature of their English-language services. Given these circumstances, it has never made more sense to use benefits to substantially increase the money in the system for films and children’s and youth programs.

We would now be pleased to respond to your questions.



CMPA Panel

Jay Thomson VP Broadcasting Policy and Regulatory Affairs	Michael Hennessy President & CEO	Marc Seguin Sr. VP Policy
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