



September 21, 2012

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

Filed Electronically

Dear Mr. Traversy:

Re: BNOB 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 Final Comments.

1. Pursuant to the revised procedures set out in Broadcasting Notice of Consultation CRTC 2012-370-3, the Canadian Media Production Association (CMPA) provides the following final written submission.

Inclusion of the Joint Assets

2. The CMPA appreciates that BCE agreed to the inclusion of the jointly-owned services in the valuation of this transaction for the purpose of determining the benefits payable and would note that the inclusion of these channels will consequently impact total benefits, valuation, risk and audience numbers relied on heretofore.

Terms of Trade

3. The CMPA also appreciates that BCE agreed to the Astral English-language services being made subject to a condition of licence requiring them to adhere to the Terms of Trade Agreement with the CMPA. Given the above-noted agreement regarding the status of the jointly-owned services, the CMPA submits that the respective jointly-owned English-language services should be made subject to the same condition of licence.

Ineligible Benefits

4. Interveners were almost unanimous in arguing that BCE's proposed \$40 million for Northwestel does not qualify as a benefit for various reasons, including its non-incrementality and its telecommunications (rather than broadcasting) nature. Accordingly, the CMPA appreciates that BCE stated in its final oral reply on 14 September 2012 that, should the Commission rule that the Northwestel proposal is an ineligible benefit, it would redirect those funds to on-screen benefits, including contributions to the Harold Greenberg Fund. We support this as the most appropriate course to follow.
5. Numerous interveners also opposed BCE's new proposal to allocate \$20 million in benefits to a new French-language all-news channel. As the CMPA and others argued at the hearing, such a speculative proposal is ineligible as a tangible benefit. Amongst other reasons, we based our argument on the Commission's clear statement in Public Notice CRTC 1989-109:

“The Commission has generally rejected certain types of proposals as benefits. Commitments by prospective purchasers to assume existing obligations of licensees, except where continuation of the service is itself in doubt, have not been accepted nor is the Commission prepared to accept as a benefit any proposed initiative that is dependent upon approval of an application yet to be considered by the Commission.”¹

6. Accordingly, the CMPA submits that the \$20 million proposed for the all-news service should also be re-directed to eligible on-screen benefits, including contributions to the Harold Greenberg Fund.

A Revised CMPA Benefits Model

7. In our written intervention, the CMPA proposed an alternative benefits model which was designed to more appropriately allocate the benefits from this transaction to the communities served by the Astral undertakings.
8. In light of BCE's concessions, the statements above regarding the re-allocation of BCE's ineligible benefits, and the discussion during the CMPA's 13 September 2012 appearance at the hearing, we now submit the following revised model for allocating

¹ ELEMENTS ASSESSED BY THE COMMISSION IN CONSIDERING APPLICATIONS FOR THE TRANSFER OF OWNERSHIP OR CONTROL OF BROADCASTING UNDERTAKINGS, <http://www.crtc.gc.ca/eng/archive/1989/PB89-109.HTM>. Emphasis added.

the minimal amount of on-screen benefits which we submit should flow to English-language programming initiatives²:

On-Screen Benefit	English-Language Programming	French-Language Programming	TOTAL
Harold Greenberg Fund (Feature Films)	\$26.0M		
Independently-produced Children/Youth Programs	\$26.0M		
Independently-produced "Other" PNI	\$26.0M		
Canada's 150th	\$5.0M		
Mental Health	\$1.75M		
TOTAL	\$84.7M	\$84.7M	\$169.4M

9. This model is based on:

- A total of \$169.4 million in on-screen benefits, representing the \$180.5 million in total television benefits (which reflects inclusion of the jointly-owned assets) *minus* the \$6.2 million which BCE newly assigned to social benefits and the \$4.9 million BCE proposed for film festivals which should properly be assigned to social benefits;
- Re-allocation of the \$60 million of ineligible benefits BCE has proposed for an all-news channel (\$20 million) and for Northwestel (\$40 million) to eligible on-screen initiatives;
- Inclusion of BCE's new proposed funds for independently-produced documentaries celebrating Canada's 150th birthday;
- Inclusion of half of the funds BCE has proposed for mental health awareness, which it confirmed would be directed to independently-produced programs³;

² We leave it to our colleagues representing the French-language creator groups to propose a manner for allocating the benefits flowing to French-language programming initiatives.

³ Assuming the other half would be spent on French-language initiatives.

- Splitting the on-screen benefits evenly between English-language and French-language programming initiatives, to reflect the communities served by the Astral undertakings (based on subscribers, our valuation analysis, revenues⁴ and average audience⁵);
- Evenly splitting the remaining English-language on-screen benefits amongst the Harold Greenberg Fund (supporting feature films), independently-produced Children's/Youth programs; and independently-produced "Other PNI", also to best reflect the communities served by the Astral English-language undertakings.

Opportunity to Respond to Any Further BCE Proposals

10. Unfortunately, at the conclusion of the hearing, there still remained uncertainty regarding the details of BCE's benefits proposal. Given the manner in which the hearing unfolded, we also anticipate that BCE may amend its benefits proposal even further in its final written reply, due 28 September 2012. In the event this happens, the CMPA requests the opportunity to respond to the amendments.

Sincerely,

[original signed by]

Michael Hennessy
President & CEO

Attach.

cc. bell.regulatory@bell.ca

⁴ As pointed out by Vice-Chair Pentefountas during the CMPA's appearance, "...there's a 52/48 [revenue] split English to French..." Transcripts, Vol. 4, line 7792.

⁵ During the CMPA's appearance, the Chairman suggested that audience figures could also be a consideration when determining the proper linguistic split. To that end, we note that the ratio between the average audience to Astral's English-language services and its French-language services is roughly 60:40 in favour of the English-language services: see Appendix.

APPENDIX

Average Audience to Astral's English-language services vs. its French-language Services (Source: CMRI)

Astral's English-language services had an average audience of 31,500 viewers in 2009-12 while its French-language services had an average audience of 20,100 viewers in the same years. The ratio is 31,500:20,100 or 61%:39%.

	People		
Broadcasters	P 2+	Lang Most Spoken - English	Lang Most Spoken - French
M (TMN1)+	17	16	1
M Excess (TMN3)+	11	10	0
M Fest (TMN5)+	4	3	0
M Fun (TMN4)+	9	9	0
Disney Junior Eng+	29	27	1
Mpix+	11	9	2
Disney XD+	11	10	0
Family+	127	117	2
Teletoon Retro Eng+	18	17	0
Teletoon Eng+	78	72	1
Average (English)	31.5	29	0.7
Disney Junior Fr+	6	0	5
Cinepop+	9	0	8
Canal D+	41	0	40
Canal Vie+	38	0	37
MusiquePlus+	9	0	9
Z-tele+	30	0	29
Teletoon Fr	34	0	31
MusiMax+	7	0	7
VRAK+	28	0	27
Historia+	22	0	21
Series+	47	0	46
Super Ecran 1+	20	0	20
Super Ecran 2+	12	0	12
Super Ecran 3+	10	0	10
Super Ecran 4+	4	0	4
Teletoon Retro Fr	4	0	4
Average (French)	20.1	0.0	19.4

APPENDIX (cont.)

Module Id: TV Analyzer
Request Name: Astral
Date Modified: 2012/08/28
Created By: Barry Kiefl
Date Range: 2009/08/31 - 2012/05/27
Date Reporting Options: Total, Individual Period
Time Adjustment: Local
Sample Date: Total : 2011/01/13, Ind. Period: mid point of period
Share Base: All Stations
Reach Qualifier: 1 Min(s)
Playback Option: Included, Live + 7 Days
Base Viewing: Both In And Out of Home Viewing

Market: Total Canada
Households: Total
Measure: AA (000s)
Program_TimePeriod: 001 MTWTFSS 02:00 - 26:00
Dates: Ttl 2009/08/31-2012/05/27

TV Data Source: BBM Canada