

CMPA
Canadian Media
Production Association



Screen-based entrepreneurs

Oral Remarks by:

The Canadian Media Production Association (CMPA)

Broadcasting Notice of Consultation CRTC 2013-106

Application by Astral Medias Inc. for authority to change its effective control, and control of its licensed broadcasting subsidiaries, to BCE Inc.

May 8, 2013

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1. Good morning, Mr. Chairman, Commissioners. My name is Michael Hennessy and I am the President and CEO of the Canadian Media Production Association. With me today is Jay Thomson, CMPA's VP Regulatory.
2. In our comments, we intend to focus on only one issue: how the benefits from this transaction should help to reverse the continuing decline in broadcaster support for English-language theatrical films – a decline which is occurring even though the Commission classifies theatrical films as programming of national importance.
3. Last week we appeared before you to voice our support for the Starlight application because we see it as part of the solution needed to address the crisis facing English-language theatrical films in this country. The support by the licensed movie channels is another part of the solution.
4. Regardless of how you rule on the Starlight application, this proceeding to consider BCE's purchase of Astral is just as important for the future of English theatrical films in this country – and certainly *more* important if you deny the Starlight application.

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5. Mr. Chairman, we are here in support of Bell's purchase of Astral. We supported the first application too, subject to Bell making important changes to its benefits proposals. Like many others, we were pleased to see that, in this application, Bell has increased the benefits it will allocate to on-screen initiatives.

 6. Still missing, however, is a substantial commitment to support English-language theatrical films – at a level commensurate with the size and nature of the Astral undertakings Bell is buying and the communities they serve. In our view, this lack of support for English-language theatrical films is the biggest deficiency in this application – a deficiency we ask the Commission to address since Bell said on Monday it is open to shifting more benefits funding to support Canadian films.

 7. In our view, Astral's English-language movie-based pay TV services are at the heart of this transaction. In saying that, I don't mean in any way to detract from the role that the Astral French-language services play. But we see TMN as the crown jewel in this transaction. We see Bell's decision to retain TMN, TMN Encore and Viewers Choice rather than to divest them (as it plans for Astral's other English services) as a clear testament to how highly Bell values those services.

8. The content of the movie services is obviously key to Bell's multiplatform plans. And, in our view, the transfer of licences of this importance requires a more important contribution to film than is on the table.

9. The CRTC's benefits policy requires that benefits flow to the communities served by the undertakings being purchased and to the broadcasting system as a whole. Central to the mandate of the Astral movie-based pay TV services is, of course, the development, licensing, promotion and exhibition of Canadian theatrical films. A large part of the community served by Astral's movie services is obviously movie fans. So it stands to reason that a large part of the Astral benefits should be directed to supporting Canadian movies.

10. Moreover, given the current funding needs that are particular to English-language theatrical films, directing support to that form of PNI would also clearly serve the broadcasting system as a whole.

11. As Bell observed quite rightly in its application, films are "the most difficult form of Canadian expression to finance". The problem here, however, is that Bell has chosen to give English-language films what can only be described in these circumstances as a token amount of its benefits package.

12. The relatively paltry level of those English film benefits – \$8 million over 7 years – is all that more unexplainable when it's contrasted with what Bell proposes for French-language film support – which is *two and a half times* what Bell has offered for English films.

13. Mr. Chairman, we recognize that Bell has allocated its English-language and French-language benefits overall based on what it claims is the relative value of all of the English and French services it is buying. We appreciate that there is a certain simplicity to that approach.

14. We submit, however, that, when you ultimately determine the allocations, you should not base your decision just on what approach is the most simple mathematically.

15. Instead, we submit, you should base your decision on what approach would make the most sense from a policy standpoint in these particular circumstances, and what would make the biggest contribution to achieving the objectives of the *Broadcasting Act*.

16. The biggest need in the broadcasting system right now is support for English-language theatrical films. Other forms of PNI have seen large contributions in the past but not English films. Given the prominence of the movie-based pay TV services in this transaction, this proceeding therefore represents the perfect opportunity for the Commission to change that.

17. Put another way, not using this proceeding to substantially boost funding for English-language theatrical films would represent a huge lost opportunity to make a real and positive difference in the broadcasting system.

18. In our written submission, we proposed a different approach than Bell did for allocating the TV benefits, and presented a number of scenarios for achieving what we submit is a more appropriate level of English film support.

19. We separated the pay services from the other services being transferred to reflect pay's unique programming mandate as well as the relative importance of the pay channels in this transaction.

20. We then proposed different ways to split the pay TV-related benefits in support of English- and French-language theatrical films, according to the relative size of the services and the communities they serve, as well as the contributions they make to Canadian programming.

21. In each case, the result is that a greater share of the pay TV-related benefits allocated to film support would go to support English-language films. The split we proposed would also reflect the greater needs of English-language films in this country.

22. In undertaking at exercise, our intent was not to end up with a scenario where, in order to increase the amount allocated to English films, the total amount allocated to French-language initiatives would be less than what Bell has proposed.

23. At the same time, we do believe that there is a high degree of possibility under the PwC valuation model that the actual quantum of benefits is understated. As we pointed out in our written submission, we remain concerned about the new increase of over \$300 million for the “excluded” assets. But we also note, perhaps more critically, that PwC itself acknowledges that valuations are not a precise science.

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24. In this case, PwC advised that its valuation conclusions have a degree of accuracy within plus or minus 7.5% – or as much as \$150 million either way.
 25. We also note, for example, that, by changing the risk levels under the EBITDA multiples, one can move millions of dollars in value between the English and French services.
 26. It is for these reasons, we believe there is ample room to increase the level of support for English-language theatrical films without impacting negatively on other benefits allocations in this deal.
 27. It is our submission that, at a minimum, and in whatever scenario occurs, English-language film support should be at least equal to the amount allocated to French-language film support – or at least \$20 million.
 28. In our written comments, we had opposed allocating benefits to support English-language films to Telefilm, preferring instead that all such funds flow to the Harold Greenberg Fund. After further thought, however, and assuming a minimum of \$20 million in benefits for English-language theatrical films, we would be comfortable with Bell's current proposal to allocate some film support funding to Telefilm's Private Donation Fund.



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29. Mr. Chairman, Commissioners: given the importance of the English movie-based services at play in this transaction, this proceeding is a unique opportunity to help Canadian English-language theatrical films in a real and substantive way. It's an opportunity that may not come again. It's an opportunity that cannot - and should not - be missed.
30. Thank you. We welcome your questions.



CMPA Panel

<p>Jay Thomson</p>	<p>Michael Hennessy</p>
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