

CMPA

Canadian Media
Production Association



Screen-based entrepreneurs

Oral Remarks by:

The Canadian Media Production Association (CMPA)

Broadcasting Notice of Consultation CRTC 2013 - 488

Application to effect a change in ownership and effective control of the undertakings of TELETOON Canada to Corus Entertainment Inc.

Applications to renew the broadcasting licences for TELETOON/TÉLÉTOON and TELETOON Retro

November 5, 2013

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Michael Hennessy:

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 written submissions, the CMPA addressed the various applications before you today: Corus's application to purchase TELETOON, including the proposed benefits package; the TELETOON and TELETOON Retro renewal applications; and the Corus application to purchase the French-language services, Historia and Séries+.

3. At the conclusion of this oral presentation, we would, of course, be pleased to respond to any questions you may have about any aspect of our interventions. But we would like to use our time now to focus our remarks on the Corus-TELETOON application, and specifically on the need for enforceable associated safeguards, should the Commission approve the application.

4. Mr. Chairman, if this Corus-TELETOON application is approved, the Canadian broadcasting system will lose yet another independent broadcasting voice and buyer of programming. Another independent source of programming for Canadian audiences will disappear. Another independent door for Canadian producers to knock on will close.

5. It is important for the Commission to appreciate that, while TELETOON has been jointly owned by two large, horizontally-integrated broadcasters in Astral and Corus, it has truly operated as an independent. This has been due in large part – if not entirely – to the fact the Commission has always required that TELETOON assign responsibility for its programming decisions to persons who were not employees or principals of any of its shareholders.

6. If this application is approved, the competitive children’s programming market that we had in Canada will be replaced with a near-Corus-monopoly. With TELETOON under Corus’s full ownership and control, Corus’s share of the overall children’s television audience to Canadian English-language programs will rise to 70%. In terms of the children’s audience to Canadian English-language *animation* programs, Corus’s share will rise to over 85%.

7. With respect to the *overall* children's audience: after Corus's 70% share, the remaining 30% of children's viewing will be dispersed over different services, owned by a number of organizations, both public and private. Based on historical figures, the company eventually buying the Family Channel assets will have somewhere around a 12% share; everyone else, including the CBC, will come in at low single digits or less. And with CBC moving away from children's programming, its presence in the market will only get smaller.
8. So, while there are other players in the field, no one company or service will come anywhere close to the children's audience share Corus will control.
9. With respect to children's *animation* viewing: after Corus's 85% share, the next in line will be TVO, way down at 7%, with the rest split amongst two other public broadcasters, the CBC and Knowledge Network, as well as the Family Channel assets.
10. It is clear, then, that, with the purchase of TELETOON, Corus will gain a near-monopoly over the children's and animation markets. Such market dominance raises many, many red flags for Canadian consumers, citizens and creators.

11. In 2012, the Commission denied BCE's first application to purchase Astral. You did so because of your concerns about what that deal would mean for competition, ownership concentration, vertical integration and the exercise of market power.

12. Then, earlier this year, you approved a revised BCE application. But you only did so because of the significant safeguards you put in place to address your earlier concerns. Those safeguards are intended to ensure a continued dynamic marketplace and a healthy and competitive broadcasting system.

13. Admittedly, the Corus-TELETOON deal is much smaller than the BCE-Astral deal. There are fewer broadcasting services at play, and the total, overall audience impact is arguably less substantial. But the concerns about what this deal will mean for competition, ownership concentration and the exercise of market power are just as big and just as serious. And the corresponding need for enforceable safeguards to ensure a continued dynamic marketplace and a healthy and competitive broadcasting system is just as real.

14. When you assess the impact of this transaction, it is important to recognize that no single broadcasting company has a near-monopoly over sports programming. Same with news. No broadcaster has a near-monopoly over drama shows. Or lifestyle programs. Or shows that target women. Or that target men.
15. But with approval of this transaction, one single company – Corus – will have a near-monopoly over children’s programming. *And* animation.
16. With approval of this transaction, Corus will own 3 of the four most popular children’s services. Seven of every ten children tuning the family TV to watch their shows will get those shows from Corus. When those kids look for cartoons, over eight of every ten will tune to a Corus channel.
17. The Commission has long considered children to be a unique and underserved audience. The *Broadcasting Act* specifically references the importance of children’s programming in the Canadian broadcasting system. The Act specifies that children of all ages, interests and tastes should have access to programming that is varied and comprehensive, and provides a balance of information, enlightenment and entertainment.

18. How can it be right, then, that this specifically- identified, underserved audience – children – could become the only audience in the Canadian broadcasting system whose viewing opportunities will be under the near-monopoly control of one single company?

19. In answer: the sad reality is that there are very few broadcasters who want to do kids' programming these days. To Corus' credit - and we do sincerely give them credit for this – they have demonstrated over the years that they *are* committed to children's programming and are successful at it. And we were pleased to hear them reinforce their commitment this morning.

20. But even this admirable commitment and track record does not change this fact: approval of this transaction will mean one single broadcaster will control the fate of children's and animation programming in this country. One single broadcaster will decide what the large majority of Canadian children will get to see on TV.

21. For the most part, that one single broadcaster will decide if new, original children's and animation programs get made. And what those programs will be. And how much will be spent on those programs. And who will make them.

22. That is why, should this transaction be approved, we urge the Commission to attach strong, enforceable safeguard's to TELETOON's licence to promote a range of independent voices. Those safeguards, we submit, are necessary to ensure a continued diversity of children's programming in this country - by making sure there is a place for truly independently-produced and original shows in TELETOON's schedule.

Jay Thomson:

23. Mr. Chairman, Commissioners: it is clear that we have many concerns about the impact of this transaction. But you will also note that, despite all these concerns, we still support it.

24. There's a simple reason for that support. It's a matter of: if not Corus, who else?

25. We acknowledge that, given their existing 50% ownership of TELETOON, Corus would seem to be the natural choice to acquire the remaining 50%. And, as we have noted, Corus has a long and successful track record in children's programming. We also appreciate that Corus has confirmed that they will accept the Terms of Trade Condition of Licence for the TELETOON services.
26. Just as important, we also recognize that, in the current market, there seem to be no well-capitalized or serious alternative buyers for TELETOON.
27. And we agree that neither independent producers nor Canadian television audiences would benefit from a protracted period of further uncertainty regarding TELETOON's ownership and management.
28. What this all means is: we are faced with the unfortunate reality that a deal by which Corus will acquire a near-monopoly over Canadian children's and animation programming appears to be the lesser of two evils.

29. Given this reality, it is therefore critical that, if the Commission approves this application, you establish safeguards, enforceable as Conditions of Licence, to mitigate the negative impact on the diversity of programming available to Canadian children that will otherwise result from this transaction.
30. We fully described in our written submission what those various safeguards need to be. In addition to TELETOON maintaining an independent programming team, they include:
- i) To preserve funding for children’s programming, TELETOON and TELETOON Retro should be excluded from the spending flexibility provisions of the Group Licensing Framework;
 - ii) TELETOON should be required to ensure that a minimum of 75% of all *expenditures* on original, first-run Canadian programming is directed to independent production companies. It should also be required to ensure that a minimum of 75% of all such original programming *broadcast* on the service is acquired from independent production companies;

- iii) Like YTV, TELETOON should be required to broadcast a minimum of 90 hours of original, independently-produced Canadian programming each year;
- iv) Like Treehouse, TELETOON should be limited in its ability to broadcast any program shown on any of Corus's other children's or animation services.

31. We also ask the Commission to confirm that the Corus-owned Nelvana does not qualify as an independent production company in terms of these safeguards.
32. Given Corus's statements that they will generally maintain the status quo at TELETOON with respect to independently-produced programming, they should have no trouble accepting these reasonable, enforceable obligations and limitations.



Michael Hennessy:

33. Mr. Chairman, if you impose the safeguards we have proposed, we can support this application; absent them, however, any rationale for our support would completely disappear. Without these safeguards, we cannot see how approval of this application could possibly be in the public interest. It would be BCE-Astral #1 all over again.

34. Thank you. We'd be pleased to respond to your questions.



CMPA Panel

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