# Impact Study on the Group Licence Policy 2.5 Years Later

A report from the
Canadian Media Production Association
(CMPA)

March 2014

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# Foreword

The report presents the findings of an impact study on the Group Licence Policy (GLP) conducted with a broad selection of independent producers in Canada. 37 companies were contacted with 25 agreeing to participate in an interview. The interviews took place from February 24th to March 14th, 2014.

Overall, the responses varied depending on each producer's take on the current state of the marketplace, their understanding and familiarity with the GLP, and on the particular challenges and/or successes they faced over the past few years. While clear patterns emerged, the mixture of industry trends, Terms of Trade, influx of transfer benefits, and the implementation of the GLP made it difficult for many to pinpoint with certainty the effects of the GLP on their business. What did emerge clearly, however, was the view that the Policy has been beneficial to the broadcaster groups.

Most producers alluded to unsettling changes in the Canadian television landscape. The GLP and the flexibility it gives broadcaster groups like Bell, Shaw, Corus, and perhaps Rogers in the not-so-distant future, is changing the way decisions are made within the groups. What used to be a straightforward relationship between supplier and broadcaster is now muddled because the broadcasters now make their commissioning decisions based on their programming strategy for their entire group rather than on a service by service basis. This creates a lot more uncertainty for producers. Managing the ebb and flow of business for independent producers has become more challenging. As one producer puts it:

*"Not knowing how the decisions are made at the higher levels of the groups is the biggest impact of the GLP"*

Another consequence of the GLP and the shifting sands it creates for independent producers is the lack of protection for certain production genres like documentaries, kids, television movies, or even non-scripted series. As broadcaster groups are favouring Canadian Program Expenditure (CPE) and Programs of National Interest (PNI) spending on programming that attracts large audiences and advertisers on conventional television and high rating specialty channels, resources for their other specialty services within the groups are often seriously depleted by the movement of allocations. TV drama series and branded foreign format productions are doing fine but other genres are suffering. Producers fear that, if left unchecked, this clustering trend could have an eroding long-term effect on the independent producing community.

Let's pull back and examine today's Canadian television market trends as described by producers.

# Consolidation of the broadcast industry and implementation of the GLP

At the broadcast level, in a context where technology enables the sourcing of content from a variety of non traditional platforms and where audience viewing patterns are changing from appointment television to time shifted and binge viewing, the drive for audiences, big brands, and advertising revenues has never been so prevalent. The consolidation of the broadcast industry has created big groups of broadcasters which control various assets but all compete for a finite audience and finite advertising dollars. That competition is both internal (between channels of the same group) and external (other groups and channels as well as other platforms such as OTTs). In order to deal with this new reality and the requirements of the regulatory framework in terms of Canadian programming, the big groups lobbied for greater flexibility and were granted the GLP. The implementation of this new policy has reached the halfway mark and its impact is being felt in many ways both positive and negative.

In trying to assess the GLP's impact, it is important to consider the context in which the policy was implemented. Terms of Trade were ratified slightly ahead of the GLP grant. Shaw Media was still in year one of its transfer benefits following the acquisition of CanWest, the decision about the Bell-CTV merger had just been issued, and the Bell Media-Astral transaction was not yet approved. Most of the big broadcaster groups have had varying degrees of regulatory and integration issues to contend with in addition to the newly implemented GLP. This situation makes the assessment of the impact of the new policy less clear-cut.

# Direct effect on producers

For independent producers, the reality is that vertical integration at the broadcast level has eroded their leverage in the marketplace. There are now fewer doors to knock on to sell their program ideas. Add the GLP, where broadcaster groups have the flexibility to shift CPE and PNI spending around, and you have a situation where decision-making has become both difficult to predict and slow. This in turn has made the running of production companies a trickier exercise.

*"We're operating in unchartered territory where we don't know what to expect. We don't know where the money is going to be, where the demand is going to be."*

For many who had a measure of predictability from year to year, there is now much uncertainty. Several producers have indicated that their relationships with commissioning heads at the channel level has changed. There is now each group's overall programming strategy to contend with when it comes to available funds and triggering licence fees. Though production has never been a risk free business, the model is now more nebulous. Unless key issues are addressed, the long term effect could adversely affect the independent production sector. While some producers will do well in the circumstances, the future for many will be at the whim of the big groups.

# Fewer shows commissioned, bigger budgets. At what cost?

Many producers feel that in the current context fewer shows are being commissioned for production. On the other hand, broadcasters are pushing for higher production budgets and values. This certainly applies in dramas, foreign format adaptations, and non-scripted. Perhaps less so in children's programming. With an influx of money from transfer benefits resulting from consolidation in the Canadian broadcast space and the flexibility to allocate CPE and PNI resources as they see fit (GLP), the broadcast groups appear to be betting on high end drama series and expensive adaptation of foreign formats (*Amazing Race, Master Chef Canada, Big Brother Canada,* etc.).

One-hour character-led series are trending, be it dramas, reality, or non-scripted. TV dramas definitely attract high licence fees from Canadian broadcasters as intended with the PNI policy. Many of these series are produced in partnership with US broadcasters who provide a portion of the financing. Non-scripted productions appear to be more US driven in terms of licence fees.

The other big ticket item in the Canadian television landscape is the emergence of Canadian adaptations of established international foreign formats like *Amazing Race, Master Chef Canada* (CTV - Bell Media) and *Big Brother* (SLICE). These productions have had their share of success in terms of ratings and typically command very high budgets.

Most producers understand the desire for broadcasters to draw big audiences, advertisers, and sponsors with this type of programming. However, many are concerned that by way of the GLP these productions are diverting financial resources within a given group away from certain specialty services (Categories A & B) that are genre specific. There is also a growing unease with respect to broadcasters having greater control over the creative process and the chain of underlying rights.

*"You can erode entire genres of programming by grouping funding on a few big items. It's a smoke screen hiding what's really happening."*

According to many producers, this trend could have nefarious repercussions on several levels. The draw on resources squeezes the budget of other channels within a given group – which delays decision making and puts downward pressure on licence levels. Prioritizing certain genres over others (like dramas over documentaries, TV movies and kids) impacts the whole funding system as CMF funding tends to shift over in similar fashion. This threatens the long term viability of the non-prioritized genres. Also in the case of foreign format, the shift to fewer shows, bigger budgets diverts vital funding away from originality, innovation, ownership, and a distinctly Canadian savoir-faire and storytelling, towards a work-for-hire culture where producers merely execute on established concepts created elsewhere.

## Higher expectations often for less

The task of developing and financing series is increasingly more challenging for independent producers. In their dealings with the broadcaster groups, producers now have to contend with the demand to develop content that can play on a number of channels in a given group. Beyond the creative challenge, this trend to 'one-size-fits-all' programming may also lead to a reduction in demand for niche programming on specialty services. The expectations in terms of production values are on the high side even though the licences paid are in some cases lower. Producers are expected to bring more financing to the table by securing pre-sales in the US or international co-productions.

*"There is downward pressure on licence fees – pressure to bring in more money through distribution, and a sale in the US market, and expectation of higher production values, and bigger budgets..."*

Again, with some channels seeing their commissioning budgets seriously reduced due to group internal allocation, there has been in many instances a downward pressure on licence fees for production genres not prioritized. For many producers, survival in that context means less reliance on Canadian broadcasters and a necessity to think outside the box. Because many Canadian productions are now commissioned out of the US, the need to be relevant to an American audience is primary. Not so distinctly Canadian anymore. It was not long ago that the Canadian funding eco-system was predicated on the creation of content different from its ubiquitous American counterpart. On the one hand, producers are developing their skills and building credentials in the US, on the other there is an homogenization of content.

# Comedy in demand, less non-scripted series

There is solid demand for comedy that fluctuates with the hits and misses of new programs. The hits return for new seasons, the misses sometimes act as an excuse to temporarily move away from the genre. Comedies usually consist of half-hour series and are included in the PNI spending.

According to several producers, there has been a decline in the commissioning of factual non-scripted series that can be connected to the implementation of the GLP. Group broadcasters have used the new flexibility to allocate more resources to drama series and format reality series, but to the detriment of factual non-scripted series. With less money in their budget, certain specialty services have had to offer lower licences or simply cut down on the number of projects commissioned. This appears to be an ill-effect of the GLP although changing viewing patterns and audience decline could also share responsibility.

# Long-form documentaries, big documentary specials, television movies and kids television less in demand

From an anecdotal perspective, long-form documentaries (part of PNI policy), documentary specials and series, television movies, and kids series all appear to be less in demand although no hard data is yet available to support this view. The bulk of the spending appears to be targeted at programming and channels that can drive ratings, brand recognition, and advertising revenues. The broadcast groups' primary concern is to meet their overall CPE and PNI requirements while optimizing revenues. The flexibility provided by the GLP is used to support that objective. In the process, many specialty channels that are central to the livelihood of some producers are seeing their commissioning ability seriously impacted. In the Canadian funding eco-system, these specialty channels are often those that support the genres less in demand.

With respect to children's programming, it is still a bit early to see what the impact of Teletoon's acquisition by Corus will be but there are early indications that point towards less commissioning and downward pressure on licences for certain types of children's production. Some producers anecdotally shared their fear that Corus may internally decide to shift funding away from kids towards the older skewing women's channels. With an influx of transfer benefits pouring in over the next several years, it may be difficult to distinguish what is really going on.

## Regional challenges

The GLP cannot take full blame but it is clearly not benefiting a majority of regional producers. Its impact reinforces industry trends that have negative implications for many. Other than certain channels and genres being affected, regional production has also been declining in favour of major urban centers like Toronto, Vancouver, and Montreal. The CRTC has refrained from imposing regional production requirements on the GLP. It is more and more challenging for producers in the regions to stay current with the changes in the business. As stated previously, the decision-making process at the corporate level has made the business far less predictable.

## Specialty channels re-positioned or strengthened

In the context of the GLP, broadcast groups have been re-positioning certain brands/ specialty services and championing others. SPACE for example has been re-launched from a male centric channel to a women's focused channel. Shaw's HISTORY and SLICE have enjoyed their fair share of expensive high budget productions like *The Vikings* and *Big Brother* while other Shaw Media specialty outlets have seen serious reduction in their commissioning budgets.

## Re-run specialty services

With reduced budgets and unchanged Canadian programming exhibition requirements, several specialty services may primarily become re-run channels within the groups. The broadcast groups are already asking producers to develop content that can play across multiple channels. These demands may also contribute to weakening the appetite for niche programming from the specialty services.

## Reporting very thin – a need for accountability

As part of their Group Licence conditions, the broadcast groups are required to report annually on their overall revenues and how money is spent to meet their requirements on CPE and PNI. To date, not enough information is made available in the reports to help producers understand spending trends and the direction of business. Some producers worry that part of this murkiness may be deliberate but there are also indications that the broadcast groups themselves are in the process of figuring out the new reality of the GLP, the challenges of integration following acquisition, and the burn of their transfer benefits.

# In Summary

### PRODUCERS' VIEWS ON THE IMPACT OF THE GLP – KEY POINTS

- Broadcaster groups have used the flexibility inherent to the GLP to optimize CPE and PNI spending on television programs driven by viewership, brand recognition, and advertising revenues.
- Big budget drama series and expensive successful foreign format adaptations have benefitted from the flexibility of the GLP.
- The bundling of CPE and PNI spending has depleted the resources of other specialty services within the groups. Many producers have shaped their business providing content to these specialty services and are negatively impacted by the bundling of spending.
- By focusing more resources on certain types of programs, less productions appear to have been commissioned overall.
- The focus on drama and foreign format adaptation is beneficial for a few producers but detrimental to many because of the flow and concentration of money in the system.
- Foreign format adaptation does more to support a culture of work-for-hire than nurture a culture of innovation and independence.
- Straightforward relationships between producers and commissioning heads at the specialty channels are impacted by the groups' priority programming strategies.
- The shifting of funds within broadcaster groups creates delays and uncertainty which impact producers in their ability to efficiently run their businesses. Business in general is not as predictable.
- GLP may have allowed broadcasters to re-position certain specialty channels or bolstered others changing the terrain for producers.
- The available annual reporting on CPE and PNI spending has made it very difficult for producers to observe trends and predict business.

# Next Steps

What follows are suggestions made by producers as to what to consider in moving forward:

### KEEPING IT REAL

It is very doubtful at this point that the CRTC and broadcaster groups will agree to move back the clock on the GLP. Efforts should be focused on tweaking some aspects of the policy as much as possible to prevent too much expenditure shifting towards certain types of productions or channels.

### BASELINES FOR GENRES AT RISK

To ensure that the flexibility enjoyed by the big broadcaster groups doesn't degrade the broadcast landscape at the level of the specialty services (which tends to be more genre specific), certain minimum baselines of CPE per channel should be maintained. The possibility to allocate 100% of funds from specialty channels to one conventional TV channel or one specialty service should be reviewed.

### ACCOUNTABILITY: NEED FOR MORE DETAILED ANNUAL REPORTING

For the broadcast groups, the flexibility provided by the GLP seems to support corporate culture focused on profitability. To have strong and healthy broadcasters is ultimately good for producers as long as the commitment to work with the independent sector is there. To make sure the GLP doesn't become a one-sided affair, more accountability and transparency will be needed on the part of the groups. This starts with the required annual reporting on CPE and PNI spending and a clear demonstration that transfer benefits are incremental expenditures. Producers interviewed indicated that the reporting has been thin to date.

### CONNECTION GLP - TERMS OF TRADE

Given that the sticky issues of the Terms of Trade agreement need to be ironed out, producers should consider the gains made on GLP by the broadcasters when negotiating.

### BUNDLING VS UNBUNDLING

Given the early trends observed with the impact of the GLP on specialty channels, what will happen if/when the offering of the broadcast groups gets unbundled? Will there be more channels in trouble? How will this impact producers?

## BALANCE A CULTURE OF DISTRIBUTION SYSTEMS WITH A CULTURE OF INNOVATION AND CREATION

Given the current trends, the Canadian television landscape appears to be moving towards a culture of work-for-hire where producers execute in the service of distribution system masters. More and more production financing models require Canadian producers to find funding south of the border or bid for service work on successful foreign formats handed down to them by the broadcasters. The GLP has to be reviewed and tweaked to find a balance between the imperatives of broadcast groups and the interests of a vibrant independent production sector.

# About Louis Fournier

A well-known and respected industry executive, Louis is now an independent media consultant specializing in international distribution and co-production, creative development, and production financing. From animation development to interactive content distribution, his worldwide network, wealth of experience and industry insight covers a wide spectrum.

During his career he has spearheaded the international distribution of award-winning children's television series *The Cat in the Hat Knows a lot About That!, Arthur, Caillou,* and *Are You Afraid of the Dark* among others. He also played a key role in the international distribution of Canadian dramatic mini-series, non-scripted lifestyle series, and movies.

Previous posts include: VP Sales & Acquisitions at Portfolio Entertainment; VP Business Development at Tribal Nova; President at Galakids; VP Distribution at CINAR; and President of the Youth and Animation Unit at TVA International.

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