



22 January 2016

Ms. Danielle May-Cuconato
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Filed Electronically

Dear Ms. May-Cuconato,

Re: Broadcasting Notice of Consultation CRTC 2015-467: Call for comments on the Commission's policies relating to Certified Independent Production CIPFs (CIPFs) - Reply Submission

1. This is the Reply Submission of the Canadian Media Production Association (CMPA)¹ in which we respond to the first phase comments submitted by various parties respecting the above-noted Notice of Consultation (the Notice).

Introduction

2. As we stated in our comments in the first phase, the CMPA supports the Commission's initiatives to advance the content funding landscape in Canada to further bolster a robust Canadian independent production sector.
3. As indicated in our first phase comments, the CMPA was an active participant in the CMF Working Groups last fall and the positions we advance in this CIPF review reflect and are consistent with the positions we have advanced in the CMF process.
4. We agree with the universal recognition in the first phase comments that the CIPFs play a vital role in financing of Canadian independent production due, in large part, to their support for a variety of genres in a manner that complements the support which the CMF and tax credits provide.

¹ The CMPA represents the interests of screen-based media companies engaged in the production and distribution of English-language television programs, feature films, and new media content in all regions of Canada. The CMPA's member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing, producing and distributing original content for Canadian and international audiences.

5. Like many interveners, the CMPA submits that the current framework for the CIPFs promotes their ability to play an important part in the financing of Canadian programming notwithstanding their small size, and thus to support the long term revenue opportunities and sustainability of the independent production sector. Therefore, like many others, we caution the Commission against making substantial changes to this framework which could negatively impact on the contributions the CIPFs can and do make to the broadcasting system.
6. In this respect, we note that many of the CIPFs indicated that they are now contemplating the possibility of a reduction in revenues. This is due in part to shifts in how consumers are accessing television content. Reductions in BDU revenues have already had an impact on those CIPFs that are supported through BDU contributions.
7. Given what we regard as general consensus amongst most of the interveners in their first phase responses respecting most of the questions presented in the Notice, the CMPA has organized our responses in this brief Reply Submission by reference to the issues we particularly wish to address rather than by reference to any specific intervener(s).² Failure to comment on any particular issue or on a specific intervener's position, however, is not to be taken as necessarily indicating our agreement with any of the comments submitted on the issue or on the intervener's position.

The ability of CIPFs to better contribute to a more robust and well-capitalized Canadian production sector that is better able to exploit longer-term revenue opportunities and partner with broadcasters (Questions 1-4, 8)

8. The CMPA appreciates those comments from interveners which acknowledged the efforts Canadian producers already undertake with the objective of being more robust and better-capitalized, and to exploit longer-term revenue and partnership opportunities. These efforts, some of which certain interveners identified, include the marketing and promotion of Canadian film and television projects to consumers, broadcasters and distributors both domestically and internationally; investing considerable resources and time (at considerable risk) in development; and attendance at international festivals and markets in the interest of furthering international co-development, co-production and co-ventures opportunities.
9. As did the CMPA, many interveners observed in their first phase comments that the CIPFs already encourage innovation in content and business models through their selective process, and that many of them provide funding through an equity position

² That being said, we strongly oppose Shaw's proposal to increase the percentage of BDU contributions to Canadian production that may be directed to CIPFs from 20% to 40%. We note that Shaw is the lone intervener to advance the notion of increasing the level of the contribution a BDU may make to its own CIPF and effectively admits the self-serving nature of the proposal by indicating it would provide "enhanced flexibility to BDUs to direct their Canadian programming contributions to certified funds that best reflect their perspectives on the evolving Canadian broadcasting system." Intervention of Shaw Communications Inc., at par. 28 [emphasis added].

which requires applicants to demonstrate a sound financial position and likelihood that their projects will produce a return on the CIPFs' investments.

10. The CMPA submits that, given the small size of the CIPFs, their primary focus should remain on supporting the production stage. Their existing production support often represents a critical part of completing the financing puzzle for independent producers, and so any reduction in production financing would have a detrimental impact on Canadian programming.
11. The CMPA shares the view of many of the interveners as to the importance of the discoverability and promotion of Canadian programming in an environment of seemingly endless choice. We submit, however, that the CIPFs' ability to support *production* should not be diluted by requiring or permitting them to allocate more funding than they already may do to other initiatives, including promotion and discoverability as well as international distribution.
12. Similarly, while the CMPA agrees with other interveners that funding at the development stage is important to support the on-going generation of new and innovative story ideas, we submit that the CIPFs should be under no obligation to support development if such an obligation would reduce funding available for the production stage of the process.
13. All this being said, we are sympathetic to the request from some CIPFs that they be accorded some additional flexibility respecting administrative expenses. To balance our concern about maintaining funds for production support while recognizing that the CIPFs could benefit from a reasonable increase to their administrative budgets, we support increasing the current cap on administrative expenses by 1%, from the current 5% cap to 6%.

Audience Success (Question 5)

14. As many of the CIPFs indicated in their first phase comments, they already take audience success into account as a part of their evaluation when considering whether to support a project. The definition of audience success varies between the different CIPFs and different types of projects, the team and whether it is a new or returning property. Moreover, as the CIPFs and others recognized, measuring audience success may vary greatly depending on, for example, the nature of the project and the broadcaster; also a project's success may be measured by more than audience success.
15. For these reasons, we agree with those interveners who argued that the CIPFs should not be mandated to take audience success into consideration as part of the funding approval process.

Triggering Access to the CIPFs (Question 7)

16. Many parties supported removing the need to have a licensed broadcaster onboard in order to trigger CIPF funding. Consistent with our submission to the CMF following the Fall 2015 Working Group consultations, we submit that requiring a broadcast licence to trigger access to the CIPFs can inhibit the ability of producers to finance properties in light of the changing broadcasting environment and marketplace.
17. Consolidation in the media landscape has decreased the number of Canadian broadcasters available to commission projects – and this loss of “doors to knock on” will be greatly exacerbated if the Commission approves the recently-announced Corus-Shaw Media transaction. At the same time, Canadian audiences are increasingly accessing Canadian programming on an expanding range of non-traditional platforms. As the traditional commissioning and financing opportunities shrink dramatically in Canada, the ability of independent producers to find other buyers for (and financiers of) their Canadian programming is becoming critical, making the existing triggering model for CIPF eligibility far too restrictive.
18. If the CIPFs could expand their financing triggers to include those projects that have secured a threshold level of financing from other buyers – such as foreign broadcasters and exempt digital media broadcasters whose services are available in Canada – the CIPFs could act as a critical source of completion funding for innovative and interesting projects that speak to wider audiences beyond those targeted by an increasingly limited number of Canadian broadcasters. Therefore, like many others, we support removing the licensed broadcaster trigger requirement.

6 of 10 (Questions 11 and 13)

19. Many interveners supported reducing the number of Canadian content certification points required for a project to be eligible for CIPF funding, from 8 out of 10 to 6 out of 10. In that respect, many argued that this reduction would give producers more flexibility to form international partnerships and better package and position their properties for audience success and international sales. As we advised the CMF in our submission last fall, the CMPA is currently examining the impact of possible changes to the Canadian certification points system.
20. Regardless, the CMPA strongly asserts that any reduction in the Canadian certification points should be accompanied by a requirement for majority ownership in the project by a Canadian independent producer. This would ensure that it is Canadian production companies, rather than foreign entities, that would benefit from this funding support and corporate growth and monetization.

Governance (Questions 9-25)

21. We support those submissions which cautioned against the imposition of additional administrative or governance obligations which would tax the CIPF's limited resources (particularly since no one offered evidence of substantive administrative or governance problems).
22. Nevertheless, we agree with the other interveners who asserted that stakeholders would benefit from consistent, transparent and timely reporting by the CIPFs. We note that the CIPFs generally supported a reporting requirement, although many noted that they already undertake some form of annual reporting and expressed concerns about taking on additional administrative activities given their limited resources. We are sympathetic to those concerns.

Conclusion

23. In the CMPA's view, the CIPFs can contribute to making the Canadian production sector more robust and better capitalized by maintaining their distinctiveness, by continuing to complement the CMF, and by offering independent producers the opportunity to explore flexible models and partnerships in the packaging, financing and exploitation of their projects.
24. The size and scale of these organizations means that the impact of their funding, while positive and vital for many projects, is limited. We submit that the CRTC should take this important fact into account when considering imposing any additional requirements on the CIPFs.

Sincerely,

original signed by

Jay Thomson, LL.B, LL.M
Vice President, Broadcasting Policy & Regulatory Affairs

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