

February 15, 2018

Filed via Intervention/Comment/Answer Form

Mr. Claude Doucet
Secretary General
Canadian Radio–television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Dear Mr. Doucet:

RE: New Tang Dynasty Television (Canada)’s Broadcasting Licence Renewal Application for NTD Television (Application no. 2017–0807–5); Wild TV Inc.’s Broadcasting Licence Renewal Application for Wild TV (Application no. 2017–0937–0); 1490525 Ontario Inc.’s Broadcasting Licence Renewal Application for Silver Screen Classics (Application no. 2017–0820–8); and Moviola: Short Film Channel Inc.’s Broadcasting Licence Renewal Application for Rewind (formerly Movieola) (Application no. 2017–0808–3) – Intervention from the Canadian Media Producers Association

Introduction

1. The Canadian Media Producers Association (CMPA) is pleased to provide the following comments with respect to the broadcasting licence renewal applications for New Tang Dynasty Television (Canada)’s (“New Tang Dynasty”) discretionary service NTD Television, Wild TV Inc.’s discretionary service Wild TV, 1490525 Ontario Inc.’s discretionary service Silver Screen Classics, and Moviola: Short Film Channel Inc.’s discretionary service Rewind (collectively 1490525 Ontario Inc. and Moviola: Short Film Channel Inc. are referred to as “Channel Zero”).
2. The CMPA is the country’s leading member–based advocacy organization for independent producers. We represent hundreds of companies engaged in the development and

distribution of English-language content made for television, cinema, and digital media channels. The CMPA works to promote the continued success of the Canadian production sector and to ensure a future for the diverse content made by Canadians for both domestic and international audiences.

3. The CMPA supports the renewal of the broadcasting licence applications for New Tang Dynasty, Wild TV Inc., and Channel Zero’s discretionary services, subject to the following comments.

Conditions of licence relating to Canadian programming expenditures should be imposed on NTD Television, Wild TV, Silver Screen Classics, and Rewind in accordance with the Create Policy

4. In Broadcasting Regulatory Policy CRTC 2015–86 (the “Create Policy”), the Commission determined that the creation of compelling high-quality productions by Canadians requires financial investment, that Canadian programming expenditure (CPE) requirements “provide necessary incentives to create [...] virtuous cycles of production,” and that CPE requirements are important tools to fulfil the objectives of the *Broadcasting Act*.¹ In others words, the purpose of this approach is to ensure that television services contribute in an appropriate manner to the creation and presentation of Canadian programming in the broadcasting system.
5. The Commission implemented this new CPE policy in tandem with reduced Canadian content exhibition requirements to emphasize the quality of programs produced by Canadians as opposed to “where or when these programs are made available.”² Accordingly, the Commission committed to impose CPE requirements on all English- and third-language discretionary services with more than 200,000 subscribers based on the service’s historical expenditure levels for Canadian programming or, if that calculation yields a requirement of less than 10%, a CPE requirement of 10% of the previous year’s gross revenues.³ The Commission clearly found that the 10% minimum CPE level “represents an attainable floor

¹ Create Policy, paras. 213, 214.

² *Ibid.* para. 215.

³ *Ibid.* para. 221.



for any discretionary services that still ensures some contribution to the creation and presentation of Canadian programming”⁴ and set its policy accordingly.

6. New Tang Dynasty, Wild TV Inc., and Channel Zero are seeking exceptions to the Create Policy with the following requests:

- New Tang Dynasty proposes a CPE requirement of 45% of the previous year’s gross revenues for NTD Television even though its historical expenditure levels for Canadian programming provides a CPE of more than 50%;
- Wild TV Inc. proposes a CPE requirement of 15% of the previous year’s gross revenues for Wild TV even though its historical expenditure levels for Canadian programming provides a CPE of more than 15%;
- Channel Zero proposes a CPE requirement of 5% of the previous year’s gross revenues for Silver Screen Classics based on its historical expenditure levels for Canadian programming instead of the minimum CPE requirement of 10%; and
- Channel Zero proposes the minimum CPE requirement of 10% of the previous year’s gross revenues for Rewind even though its historical expenditure levels for Canadian programming provide a CPE of 12%.

7. While the CMPA appreciates the contributions of these discretionary services within the Canadian broadcasting system and their work with the Canadian independent production sector, we request that the Commission impose conditions of licence relating to CPE in accordance with the Create Policy. The principles underpinning the new CPE requirements following the Create Policy for English- and third-language discretionary services are sound and ought to be upheld.

8. The Create Policy was developed after years of unprecedented consultation by the industry and the Canadian public. It was released less than three years ago and provides deeply considered policy rationale based on the state of the broadcasting industry. There is no good reason to deviate from the Commission’s fact-and data-based policy decision on CPE in these licence renewal proceedings. Moreover, New Tang Dynasty, Wild TV Inc., and

⁴ *Ibid.*



Channel Zero have not introduced any reason that would warrant changes to the Create Policy when setting CPE requirements for their services.

9. Based on the Create Policy, the Commission should impose the following CPE requirements in the new licence term: a CPE based on historical levels for NTD Television and Wild TV,⁵ 10% for Silver Screen Classics, and 12% for Rewind.

Transparent reporting by broadcasters is integral to the public interest

10. The CMPA wishes to draw attention to the critical importance of transparent public reporting by applicants in the licence renewal process. Generally speaking, the release of financial information related to conditions of licence allows the public to monitor broadcaster compliance and instills public confidence in the regulation of the broadcasting system. More specifically, the confirmation of historical CPE levels of individual television services during the licence renewal process allows interveners to provide informed feedback regarding the applications and allows the Commission to make fact-based, informed decisions based on reliable data. In this case, Channel Zero provided figures regarding its discretionary services' historical CPE levels over three years to demonstrate an average CPE level for each service. However, New Tang Dynasty simply stated that its service's historical CPE levels are greater than 50%. We note that the Commission requested that New Tang Dynasty provide historical CPE levels in order to validate its proposal for CPE in the new licence term,⁶ but that the applicant failed to do so. As well, Wild TV Inc. failed to provide full financial disclosure, including historical revenue information and CPE expressed as a percentage of previous year's revenues, in its application and likewise stated that its historical levels are greater than 15%.⁷ Due to this lack of financial disclosure and

⁵ Please note that we are unable to recommend actual CPE figures for NTD Television and Wild TV because the applicants failed to confirm the historical CPE levels for these discretionary services as part of their applications.

⁶ New Tang Dynasty licence renewal application form, section 7.1 Canadian programming expenditures.

⁷ The CMPA also notes that Wild TV may not have met its Canadian content exhibition requirements in the 2013-14, 2014-15, and 2015-16 broadcast years. We understand from the Wild TV Inc. Response Letter dated November 3, 2017, that the Commission is reviewing Wild TV's updated programming logs to ensure that this service actually met its Canadian content exhibition requirements in the current licence term. We cannot comment on appropriate sanctions should any non-compliance with respect to the condition of licence relating to Canadian content exhibition be revealed because we do not know the quantity or recurrence of any non-compliance – but we wish to take this opportunity to stress the seriousness of any licensee's failure to meet conditions of licence relating to Canadian content and urge the Commission to impose appropriate sanctions in such circumstances.



transparency, we are unable to comment on the actual CPE levels required by NTD Television and Wild TV pursuant to the Create Policy.⁸ It is imperative that this type of information is available to the public by broadcasters during this process to ensure fact- and data-based analysis by interveners and evidence-based decision-making by the Commission.

Conclusion

11. For all of the above reasons, the CMPA requests that the Commission impose CPE requirements in accordance with the Create Policy as follows: based on historical levels for NTD Television and Wild TV Inc., the minimum floor of 10% for Silver Screen Classics, and the historical level of 12% for Rewind.

12. The CMPA appreciates the opportunity to share our comments regarding the licence renewal applications for New Tang Dynasty, Wild TV Inc., and Channel Zero in this proceeding. Should the Commission require any additional information regarding this intervention, please do not hesitate to contact me directly.

Sincerely,

[Filed electronically]

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cc. Joe Wang, President, New Tang Dynasty Television (Canada), joew@ntdtv.ca;
Scott Stirling, Chief Operating Officer, Wild TV Inc., scott.stirling@wildtv.ca;
Jessica Parkinson, Compliance Officer, Channel Zero, crtc@tvchannelzero.com.

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⁸ We note that the Individual Discretionary and On-Demand Services – Statistical and Financial Summaries 2012–2016 provide the CPE levels for NTD Television and Wild TV but that it is not clear whether this information will result in the correct calculation of historical levels.

