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FILED ELECTRONICALLY

September 4, 2009

Mr. Louis L. Roquet, Chair of the Board of Directors
Mrs. Valerie Creighton, President and CEO
Mr. Stéphane Cardin, Vice-President, Policy & Stakeholder Relations
Canadian Television Fund
50 Wellington Street E, 4th Floor
Toronto ON, M5E 1C8

Re: September 4, 2009 CMF Industry Consultations

Dear Mr. Roquet, Mrs. Creighton and Mr. Cardin,

Since the CRTC's New Media hearings in 1999, the Canadian broadcasting and audio-visual industries have been anticipating the inevitable convergence of television and new media. Although the CRTC's New Media hearings of 2009 maintained its exemption on new media, the Department of Canadian Heritage chose to adapt to the changing media environment by consolidating the Canadian Television Fund and the Canadian New Media Fund into the Canada Media Fund (CMF).

Under the CMF, content will be developed on multiple platforms promising new and interactive projects that will engage Canadians. Moreover, innovators experimenting with platforms and means of expression will have a chance to be recognized for the risks they take as they create and disseminate content in innovative ways. This is indeed an exciting time for creators and all Canadians.

With the arrival of CMF exists the opportunity to address media production holistically and assess strengths and weaknesses in the existing system. In some cases, improvements will only be possible by increasing available funds to redress the current omissions. In addition there will be much pressure to have the fund *be all things to all people*, clearly an untenable position with the existing funds. Therefore, it is DOC's hope that the CMF's envelope be increased in the near future.

DOC views this as a turning point for the audiovisual production industry. Although the production cultures of the television and the interactive industries have yet to blend - and it remains to be seen to what degree they will - the combination of the two holds the promise to yield impressive and outstanding results.

However, before moving ahead with such new relationships between the two industries, issues concerning the current reality of documentary production need to be addressed as they have long been neglected from a policy perspective. This submission addresses these issues and recommends solutions and strategies to consider when developing the new CMF guidelines as a core aspect of the Canadian media environment in the traditional audio-visual sector.

DOC sees the creation of the CMF as an opportunity to redress current systemic weaknesses with the aim of establishing a structure that will benefit from increased strength and stability.

We look forward to working with the CMF board of directors and staff to further refine details about how to structure the new guidelines.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tina Hahn', enclosed within a large, horizontal oval shape.

Tina Hahn, Co-chair

A handwritten signature in black ink, appearing to read 'John Christou', consisting of a long horizontal line above the letters 'JCH'.

John Christou, Co-chair

Executive Summary

The overarching principle governing the CMF should be to foster a healthy, vibrant and competitive business sector where stakeholders have reasonably equitable bargaining power. If it is appropriate to reward good performance, the converse is also equally true and consequences should exist for poor conduct.

Although DOC's submission is heavily weighed on matters pertaining directly to documentary production, it is our belief that documentarians and the public have much to gain from the opportunities afforded by CMF.

Convergent and Experimental Stream allocations

DOC proposes:

- 84% for the convergent stream of the allotted \$346 million dollars;
- 16% for the experimental stream receive of the allotted \$346 million dollars;
- the creation of a \$7M Theatrical and Educational Documentary Program to help promote theatrical documentaries, non-broadcast educational and institutional documentaries, allocating \$5M and \$2M respectively to each strand.

DOC recommends changes to the special incentives including:

- Decreased versioning;
- Increases to the regional productive incentive, the program for French language production outside of Quebec, the development program, and the aboriginal language program;
- Allocating 1.01 % of the CMF fixed allocation budget for gaming in the experimental stream.

Convergent Content

All new platform components should meet three basic criteria:

- the new platform component must enhance the user's experience;
- the new platform component must be interactive;
- the new platform component must have original content (new material).

DOC proposes a minimum license fee per platform for all broadcast projects that would:

- a) cover additional platform expenses in the budget;
- b) add, in addition, at least 15% to the OTA license fee;
- c) have a limited term for web projects;
- d) include an equitable share of revenue, the model remaining to be determined, but that should be part of the guidelines.

It is essential that the new platforms have sufficient budgets and not cause undue strain on the producers.

VOD and Eligible Entities

All new eligible entities should be judged on the following criteria:

- prior Canadian content commitments / future plans to support Canadian independent production
- regional production commitments;
- promotion of Canadian content / future plans to promote Canadian content;
- intangible benefits resulting from the programming (public value);
- what the entity can offer that others do not that could include specific genre commitments, and different kinds of linguistic productions such as third language and aboriginal language productions;
- agreed upon terms of trade guidelines with independent producers;
- have the finances to support a licence fee;
- be Canadian owned and controlled;

New methodologies of analyzing audience numbers and demographics for VOD, and other entities will need to be developed.

DOC advises that the CMF hold entities from corporate groups on a higher level of scrutiny than others, especially when two entities of the same corporate group pay licence fees for the same production.

Audience Success and Return on Investment

DOC recommends that the CMF expand its analysis of audiences to take into account new audience viewing habits, international sales, educational and institutional audiences, and new platforms. Furthermore, we propose that the current quantitative and financial model for measuring return on investment should be widened to

consider more intangible and qualitative aspects of media production.

Marketing and Promotion

DOC suggests documentarians be able to recoup the marketing and promotion costs available to producers of other genres as well as other costs such as:

- Webmaster / website costs
- Creation of streaming / download files
- Publicist
- DVD duplication
- Press and web advertising
- Marketing staff
- Advertising materials / design
- Festival costs

DOC supports the creation of an independent promotion and marketing fund, as long as marketing and promotion costs are not required for all applications.

DOC would also like to change current guidelines that give the broadcasters too much control over marketing and promotion, and exploitation rights.

Funding Allocations by Genre

DOC believes that genre allocations be protected and that documentary be given genre-specific rules pertaining to the way in which development, financing, production, distribution and marketing occur and put forward suggested guidelines to that effect.

We recommend that all the genres be given a fixed allocation of the BPE envelopes as we do not consider it to be wise to allow the envelope holders to have control over the allocations of the eligible genres.

Given documentary's declining share within the overall CTF budget, we put forward recommendations to stop the erosion of the genre's financing.

DOC suggests the following framework for funding allocations:

- Documentary 33.69% of the BPE allocations
- Drama 45.04% of the BPE allocations
- Children's 15.96% of the BPE allocations
- VAPA 5.32% of the BPE allocations

In regards to the total fund, the breakdown would be:

- Documentary 27.43% of the total fund
- Drama 36.67% of the total fund
- Children's 12.99% of the total fund
- VAPA 4.33% of the total fund

Documentary Production

In order to prevent slippage of the documentary definition, DOC proposes a more stringent interpretation of the definition and rejects the proposal for a special envelope for reality and lifestyle programming. DOC is further concerned about the entry of documentary broadcaster affiliate and in-house producers to CMF.

In addition in this section, we go beyond the scope contained in the Briefing Notes to address many outstanding issues faced by documentary producers with the CTF.

DOC recommends a higher ratio of broadcast license to CMF funding and that it be set at 1.5 instead of 1.25:1 for all docs.

DOC proposes modifying the current CTF POV guidelines:

1. to reflect the present conditions of documentary production;
2. reserve 15% of the entire documentary BPE for POVs;
3. have one arbiter judging if a doc meets POV criteria or not;
4. consulting further with DOC to draft the POV guidelines.

While establishing CMF regulations, many guidelines pertaining to documentaries need to be revised to better reflect the genres' distinct production realities including producers' ability to adequately invest in the development stage of production.

Guidelines regulating what are recoupable costs for personnel and equipment need to be adapted to reflect the genre's business practices.

DOC wants the BPE system modified so that the broadcasters' performance is taken into account at the time of allocation.

Canadian Elements

Because of the genre's unique production aspects, DOC proposes genre specific Canadian Elements. The CAVCO points required for documentary would be based on the production team and not its location and subject matter evaluated for its relevance and interest to the Canadian public.

CAVCO points required:

- 2 points for Director
- 2 points for Writer (if there is one)
- 1 point for Editor
- 1 point for Composer (if there is one)

Third Language Production

DOC proposes that \$1M be allocated to third language production divided evenly between both streams where a dominant portion of the fund should be independent.

In-house Production

DOC provides an extensive review of all the terms of trade related issues with broadcasters.

DOC believes that no more than 1% of BPE should be allocated. Of that amount 65% should be restricted to production of Variety and Performing Arts (VAPA), with the remainder devoted to the other genres.

DOC is of the opinion that the current definitions for in-house and affiliate production companies are sufficient and appropriate.

Audience Success and First Run Original Programming

DOC would like to see the following modifications made to the definition of "prime time":

- that prime-time be defined as taking place between Sunday and Thursday, which are the most popular viewing days;
- that prime-time be defined as between 8pm and 11pm for the Sunday to Thursday slot;
- that the programs be evenly spread throughout the year, with no more than 25% of programming aired during the months of June, July and August.

DOC believes that re-runs should receive a weighting of factor of 1, while first run and original programming would receive the weighting factor of 2, allowing for multiplication.

English Regional Production

Consideration should be given to have Vancouver and Montreal be recognized as Regions and have regional incentives apply.

The regional incentive licence credits of a BPE should be reinvested into the regions based on the guidelines of the Production Incentive Pilot Program wherein the regions having experienced the largest drops would receive the highest percentage of the BPEs regional incentive licence credits. Additional credit would be given to broadcasters who consistently invest in a region and who commission new and original programming.

These incentives would be complemented by a system encouraging regional investment in underrepresented genres and we put forward a multiplying credit system to that effect.

We suggest increasing the Production Incentive Pilot Program from \$10 to \$14 million.

Finally, eligibility for regional status should be solely based on the ownership of the production company when applying to the experimental and convergent streams.

In conclusion, DOC is confident that the current changes are ushering a time when Canada's broadcast and entertainment industry can be global competitors in the digital age while fostering a healthy media industry at home.

This is why it is imperative the sector thoughtfully consider policies to be implemented in a manner that does not jeopardize existing players and builds on our strengths while fostering the development of strong connections between new stakeholders. Although many of our recommendations are documentary specific, we believe that broad and flexible guidelines will best serve innovation and competition across the field.