



October 31, 2016

Valerie Creighton
President and CEO
Canada Media Fund

Dear Valerie,

L'Alliance des Producteurs Francophone du Canada (APFC) is happy to have participated at the CMF working group on October 13, 2016 in Montreal, with René Savoie and Patrick Clément as its representatives.

The APFC wants to follow up in regards to the comments Patrick Clément made on the subject of other rights and revenue participation between producers and broadcasters. Since this information seemed to be new to you, the APFC is submitting this letter to provide some information in writing to assist the CMF in its assessment of this issue and hopefully to rectify it.

Here are the facts APFC is presenting:

- As of April 2016, TV5 Québec Canada (TV5) introduced a new clause in the "other rights" section of some of its licence agreements, obliging revenue participation between producers and TV5. In these proposed agreements, as it is the norm, TV5 is paying a large amount for Canadian broadcasting rights and a small amount for "other rights". TV5 is not making any equity investments in the projects or proposing any distribution investments.
- Per these TV5 agreements' other rights section, revenue participation means that the broadcaster is asking the producers to pay 40% of all net revenues received by the producer for all exploitation of the project in all formats in the entire world. Revenue sharing is for 7 years or up until its licence is fully recouped. Therefore, TV5 is asking for 40% of all net revenues (profits) received by the producer after he or she would have paid equity investors (like the CMF) or other distribution expenses.
- TV5 is stating that this revenue sharing is permitted under section 3.2.TV.5.3 of the CMF guidelines as an "other right".

- Despite the broad definition of "other rights" in the CMF guidelines, the APFC feels that the sharing of distribution revenues could not have been meant by the CMF to be an "other right" and this should be reflected in the guidelines.

- We feel that revenue sharing shouldn't be a right and the broadcaster shouldn't be able to add this clause to the broadcasting agreement under the other rights section (such as SVOD, electronic sell-through or in-flight). This clause means the broadcaster becomes a kind of owner of the production and gains from the distribution efforts of others while remaining inactive.

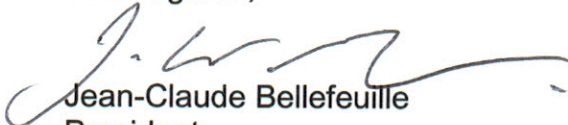
- Unlike other rights usually included in licencing agreements, once a producer is agrees to this revenues sharing clause, that shared right cannot revert back to the producer unrestricted within 12 months of the first broadcast/premiere of the Television Component which is a requirement of section 3.2.TV.5.3. The broadcaster has nothing to do and this clause remains for 7 years or up until its licence is fully recouped.

In our discussions with the CMF and Telefilm, we understand that the current guidelines do not permit, nor forbid this type of revenue sharing. The APFC and AQPM have also expressed their concerns to the broadcaster without success. In that particular case, we believe that the broadcaster is going too far in its definition of other rights and is obtaining a de facto ownership stake in these projects.

The APFC knows that the CMF's role isn't to police negotiations between broadcasters and producers, however we feel that the sharing of revenues is an extremely important subject that affects the entire Canadian television production system. The CMF should prioritize this issue and define a way to stop revenue sharing under other rights in its guidelines. However, if a broadcaster makes a capital investment or distribution expenses in a production, they should be allowed to share in the revenues of a CMF financed project.

The APFC would be happy to further discuss this issue and provide more information with the CMF, at its request.

Kind regards,


Jean-Claude Bellefeuille
President

cc Stéphane Cardin; Nathalie Clermont
René Savoie, Patrick Clément