



Filed Electronically

November 19, 2013

Valerie Creighton
President and CEO
Canada Media Fund
4-50 Wellington Street East
Toronto, Ontario M5E 1C8

Re: CMF Policy Guidelines Review

Dear Valerie:

APTN appreciates this opportunity to submit concerns and recommendations regarding the CMF policy guidelines. While APTN did participate in the recent working groups and voiced our specific concerns at that time, the intent of this document is to emphasize our standpoint and motivations on some key topics. Namely:

- The methodology for calculating Performance envelopes, specifically the large percentage attributed to audience success and regional factor weights.
- The Aboriginal Program (AP) budget and guidelines.

As you are aware, on August 8 2013, the CRTC granted a license renewal to APTN for a 5 year term at a per subscriber monthly wholesale rate of \$0.31. The \$0.06 increase will come into effect January 1, 2014. APTN continues to be a mandatory distribution service on basic service for Canadian cable and satellite providers as a specialty Category A service. APTN is one of the only mandatory distribution broadcaster that received an increase. This increase reflects the confidence that the CRTC has in APTN's mission and our standing importance in the Canadian broadcast industry¹.

As APTN embarks on this successful licence renewal, we are aligning our programming strategies to meet our new conditions of licence.

PERFORMANCE ENVELOPES

Our major concern is the significant decrease in our Performance Envelopes, which were reduced by 54% (\$8,827,528 to \$4,049,632) in English, and 41% (\$874,620 to \$516,496) in French. According to our research and analysis, the primary reason for the reduction is due to the regional factor weight calculation, the purpose of which is to encourage broadcasters to support regional productions. This factor weight, which represented 20% of the performance factor weight calculation, credited broadcasters dollar for dollar based on the licence fee contributed.

In 2011–12, APTN made significant contributions to regional productions. Of the license fees used for triggering the English performance envelope, 91 % or \$6,235,460 was spent on regional productions. This amount triggered 91 % or \$6,136,486 from the English envelope.

In 2012 -13 APTN's commitment to regional productions was even greater; 99 % or \$6,720,133 in license fees triggered 93 % or \$7,856,288 of the English envelope funds.

¹ For more information about APTN and our licence renewal see Appendix 1 and 2.

Despite APTN's historic and continued commitment to regional productions, our envelopes were decreased by half. The understanding is that big budget regional productions from large broadcasters that are able to contribute high licence fees, are having a great influence on the calculation process.

Another challenge APTN experiences each fiscal year is the obligation to invest PE dollars in Digital Media (DM) projects. APTN has been supporting DM components since the beginning of this requirement by the CMF in 2010. However, APTN has only been able to contribute limited license fees. This license fee spending reduces the pool of funds that can go towards the creation of on-air television content, thereby diminishing the number of TV hours that can be produced.

APTN also faces a huge challenge with the audience success factors (55% of the calculation). Standard television ratings, BBM, do not measure Aboriginal audiences or northern audiences – only a general Canadian audience (non-Aboriginal) in urban centers is captured in the BBM sample size. APTN audiences are not sampled in BBM data and therefore the measurement system does not capture our primary audiences' viewing habits. As a result our ratings are disproportionately lower and our envelopes get reduced accordingly.

APTN's 2012 Viewership Survey of Aboriginal Peoples clearly shows that 44% of the Aboriginal population over the age of 18 tunes in on a regular basis. Of Canada's 1.2 Million Aboriginal individuals, APTN's main target audience, this amounts to about 360,000 or 30% of the total Aboriginal population.

BBM ratings are our primary and only source of currency data. However, with Canada's northern and remote communities, as well as Aboriginal Peoples not being included as part of the BBM sampling (as stated by BBM to APTN a few years ago), this standardized currency measurement provides an incomplete profile of the Aboriginal audience. The lack of representation of our audience within the sample prevents us from being able to use this source of data to ensure a proper analysis of our audience needs and demonstrate to the CMF that we have the audience to ensure continued access to the fund.

APTN Recommends:

- The CMF explore a tiered approach to calculating factor weights so smaller independent broadcasters are not competing with larger broadcasters that have superior budgets and greater audience market shares.
- The CMF redefines 'independent broadcaster', taking as an example the definition employed by the Independent Broadcast Group/Le groupe de diffuseurs indépendants (IBG/GDI): *Independent broadcasters are those broadcasters - in all forms of television, radio, and digital media - that are not owned by or affiliated with one of Canada's large, vertically integrated media and communications companies.*
- The English envelope factor weights be modified so that the Original First Run factor is decreased, maintain the Total Hours Tuned factor weight (as APTN and other independent broadcasters rely on repeats to try to increase their envelope calculation); increase the Regional factor weight, maintain the Digital Media Investment factor weight and reinstate the Above-Threshold licences factor weight.
- The 60% spending requirement on projects with DM components remains as is and that it be up to the broadcaster's discretion what television broadcast projects merit a digital media reach.

APTN will make no specific recommendations at this time concerning the French envelope factor weights, as APTN French is partnering with V Interactions, Groupe Serdy, Télé-Québec and TV5 and will submit our joint concerns and recommendations.

ABORIGINAL PROGRAM

A recent study commissioned by the CMF and APTN found that Aboriginal language productions have less access to financing sources beyond the CMF than other content created in Canada². In the current CMF fiscal (2013-2014), not only did APTN's Performance Envelopes decrease, but the Aboriginal Program (AP) total budget decreased for the first time since its inception.

The CMF's AP is a selective envelope that all Canadian broadcasters can access. However, APTN is the primary broadcaster which supports productions that receive funding through this program. On average, from CMF 2005-2006 to present, APTN has licenced (or co-licenced) 88% of the programs funded for production through the AP.

In the same study mentioned above, it was found that the CMF is the largest contributor of funds to Aboriginal production in Canada, beyond APTN. When a stream of funding for Aboriginal language production was initially created, the total budget was \$1 M. It increased steadily each year, culminating with a total budget of \$7 M for the 2011-12 fiscal, and decreased to 6.720 M in the current fiscal year. Between the fiscal years of 2007-2008 and 2011-2012, Aboriginal producers created an average of 350 hours of programming per year for APTN and relied on the support of APTN's performance envelope and the CMF Aboriginal Program. This in turn created upwards of 1500 industry full time equivalent jobs. A decrease in AP budget means less Canadian content and a decreasing Aboriginal presence and voice in Canadian media.

APTN Recommends:

- APTN is currently working with 91 Aboriginal producers. Given the diversity of Aboriginal culture, APTN recommends that the AP fund equal that of the Francophone Minority Program, which has a budget in excess of \$10M. APTN's producer community includes producers that fully represent the First Nation, Metis and Inuit Peoples who have 56 unique Aboriginal Languages.

The CMF's AP is designed to support independent Aboriginal production in Canada. We recognize that CMF understands the unique circumstances of the Aboriginal language television market and the Aboriginal production community, and we truly appreciate that the program is tailored to reflect those realities.

However, the current AP guidelines seem unclear and fail to define what the expected outcome of the funding is. The guidelines state that the program is intended to support the growth of Aboriginal production, but are ambiguous about whether this relates to productions created by Aboriginal producers, creations reflecting the Aboriginal reality or productions created in Aboriginal languages (or, ideally for APTN's purposes, all of the above). In particular, the guidelines do not address a minimum Aboriginal language content requirement

² De Rosa, Maria, and Marilyn Burgess *The Aboriginal Screen-Based Production Sector in Review: Trends, Success Stories & The Way Forward*, report prepared for the Aboriginal Peoples Television Network, the Canada Media Fund, the National Film Board, the Bell Broadcast and New Media Fund, Telefilm Canada, the Canada Council for the Arts and the National Screen Institute, March 2013. Page 5. Available: <http://www.cmf-fmc.ca/documents/files/about/publications/aboriginal-screen-based-production.pdf>

for the TV component and the eligibility requirements do not specify that any Aboriginal language content is required. However, Aboriginal language is noted as a factor in the CMF's evaluation grid and it is further noted in the broadcaster requirements that any Aboriginal language version should be aired during prime time.

APTN Recommends:

- APTN recommends that CMF adjust their guidelines and eligibility criteria to reflect the importance and presence of the Aboriginal language in both the TV and DM components. APTN suggests that the projects be shot with a minimum of 20% of original dialogue and/or narration in an Aboriginal language; and that the Aboriginal language version should be a complete viewing experience and must include bilingual opening and closing credits, titles, and graphics. Producers must also demonstrate that on-screen fonts of the indicated Aboriginal language are available.

To be eligible to the AP, the convergent project must have a television component and any of the following:

- a) One or more Digital Media Components;
- b) The Television Component be made available to Canadians by one or more CRTC-licensed video-on-demand services;
- c) The Television Component be made available to Canadians by a Canadian entity via non-simulcast digital distribution.

In some instances, we, the broadcaster, might not believe that an enriched DM component is essential to the television project. We may very well believe that the best platform for the project is either licence digital distribution or VOD rights. But, by doing so, the CMF's proposal evaluation score starts at 85 points instead of 100 since up to 15 points can be allocated to the DM component.

APTN Recommends:

- The CMF adds an evaluation grid specific to convergent proposals without a rich and substantial DM component so that proposals are compared fairly with no up-front penalty of 15 points in the assessment process.

To be eligible to the AP, the convergent project must have an eligible licence fee from a Canadian broadcaster, defined as:

A Canadian broadcaster described in (b) above is a broadcaster licensed by the CRTC, including private, public, educational, specialty, pay-per-view broadcasters, and CRTC-licensed VOD services. In this Program only, as a pilot initiative, the CMF may consider a digital distributor to be a Canadian broadcaster for the purposes of providing Eligible Licence Fees to an Applicant based in northern Canada (i.e. Nunavut, the Yukon Territory, or the Northwest Territories) if the CMF determines that the digital distributor: is a company that is Canadian-controlled (as determined for the purposes of sections 26 to 28 of the *Investment Canada Act*); operates in northern Canada; provides services and/or content that is targeted to Aboriginal communities in northern Canada; and licences Eligible Projects for distribution via digital platforms. In such a case, the CMF will interpret the remainder of section 3.2.TV.5 in a flexible manner so as to allow the digital distributor to provide Eligible Licence Fees. The CMF will determine whether a digital distributor qualifies for this pilot initiative on a case-by-case basis.

It came to our knowledge that CMF is now opening this definition to include digital distributors not necessarily operating in Northern Canada and servicing or targeting northern Aboriginal communities. APTN has no objection to include other broadcasters but we want to stress the importance of our national mandate and our specific CRTC condition of licence that demands us to broadcast a minimum of 35 hours of Aboriginal language programming per week.

APTN greatly appreciates the AP for its significant contribution to the financing of our Aboriginal language programs; however, by opening this program to other non CRTC licensed broadcasters, competition for this fund will greatly increase.

APTN Recommends:

- The CMF create a separate fund with specific guidelines for digital distributors that want to licence Aboriginal language programming.

Currently, the licence fee threshold in the AP for the TV component is 10% and there is no minimum financing amount required from a broadcaster for the DM component.

APTN Recommends:

- A minimum 10% licence fee threshold for the DM component.

The CMF provides financial support for development in the AP. The current AP guidelines refer to the Development Program Guidelines for general information. Those guidelines are not necessarily clear when it comes to Aboriginal language development projects. It is not specified what the maximum contribution by the CMF is for Aboriginal language projects; there is no section for the Aboriginal language projects (similar to the English and French language projects).

APTN Recommends:

- The CMF offer more details when it comes to Aboriginal language program development. Either by adding Aboriginal language program sections to the current Development Program Guidelines or by creating a Development Program Guidelines dedicated strictly to Aboriginal Program development.

APTN is the main broadcaster that triggers the AP fund. In 2012-13 alone, APTN's licences for projects that went through the AP for production totaled 1.3M and triggered 90% in AP. APTN plays a major part in the overall success of the program. APTN proposes that licences and funding toward AP (for TV and DM projects) count in:

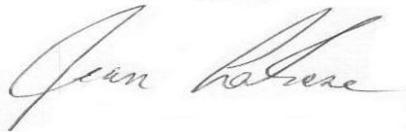
- The Digital Media Investment performance factor (similar to licences and funding toward Convergent Digital Media Incentive (CDMI) projects count in the Digital Media Investment performance factor).
- In the Historic performance factor (currently historic performance credit derived from English Production Incentive, Northern Production Incentive and Regional French Incentive program funding is included in calculations for performance envelope allocations but not from the AP).
- In the Regional performance factor, for those that do not already use PE funds (currently projects that do not use performance envelope funds, but do take advantage of the English Production Incentive Northern Production Incentive and/or Regional French Incentive are eligible for credit but not of the AP).

APTN's role in creating greater awareness in broader Canadian society about Aboriginal Peoples is often noted and underscored as a critical part of APTN's mandate. APTN has brought a unique perspective to the Canadian broadcasting system and reflects issues and points of view that would otherwise receive very little attention – if any at all.

If APTN's access to CMF funding continues to drop, the network will not be able to meet its conditions of licence and the end result could very well be a loss of confidence in the network by the CRTC at our renewal in less than 5 years. Canada, and its Aboriginal population, would lose an institution that is viewed as a model for the world in the area of Aboriginal or Indigenous broadcasting.

We are hopeful that the CMF will recognize the importance of APTN and our mission and reflect a commitment similar to that of the CRTC in what was a continued strong endorsement of another 5 year licence mandate and increase in funding of \$0.06 per subscriber.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jean LaRose".

Jean LaRose
Chief Executive Officer

cc: Stéphane Cardin, VP, Industry and Public Affairs
Nathalie Clermont, Director of Program Management

APPENDIX 1

APTN – a tremendous success for Aboriginal Peoples in Canada and for Canada

The launch of APTN in 1999 was transformative for Aboriginal Peoples in Canada and their relationship to mainstream television media. With the exception of North of 60, there was very little national presence of Aboriginal People on television, apart from APTN's predecessor Television Northern Canada and very few programs on CBC North.

APTN is owned, operated and controlled, at all levels, by Aboriginal Peoples. The board includes representation by Aboriginal Peoples from all regions throughout Canada – East, West, North and South. This direct control by Aboriginal Peoples ensures that APTN remains focused on the fundamental role APTN plays in representing Aboriginal perspectives and building a bridge between Aboriginal and non-Aboriginal Canadians. APTN is now a force in the expression of Aboriginal cultures and in eradicating misconceptions and stereotypes.

The fundamental purpose for APTN has not changed since APTN launched in 1999. APTN's mandate reflects the implementation of key objectives in the *Broadcasting Act*. These include the objective in section 3(1)(d)(i) that the broadcasting system should:

. . . serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Aboriginal Peoples within that society. (emphasis added)

Moreover, section 3(1)(o) of the Act provides that “programming that reflects the Aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for that purpose.”

With the growing population of Aboriginal Peoples in Canada, especially the rising proportion of youth, it is more important than ever that Aboriginal Peoples see themselves and their experiences and aspirations reflected in mainstream media. It is also more important than ever that the cultural bridge between Aboriginal Peoples and non-Aboriginal Canadians be strengthened.

APTN's role in such an environment is to produce and broadcast high quality and distinctive programming that reflects Aboriginal perspectives and that would not otherwise exist in the broadcasting system. This programming has to be engaging and informative to capture audiences on a national level.

APPENDIX 2

APTN's license renewal

On August 8 2013, the CRTC granted a license renewal to APTN for a 5 year term at a per subscriber monthly wholesale rate of \$0.31. The increase comes into effect January 1, 2014. APTN continues to be a mandatory distribution of the service on the basic service of Canadian cable and satellite providers but is now designated as a specialty Category A service.

As per the Broadcasting Decision CRTC 2013-383, CRTC describes APTN as follows:

As the only television channel by and for Aboriginal Peoples of Canada, APTN is exceptional in its contribution to Canadian expression, cultural sovereignty and regional reflection. It provides programming that is broadcast in both official languages and in 30 different Aboriginal languages and dialects, and that reflects the attitudes, opinions, ideas, values and artistic creativity of Aboriginal Peoples, which would otherwise not be seen on television. Devoted to providing a positive window on Aboriginal life for all Canadians, APTN represents the only outlet for most of the independent Aboriginal production industry.

APTN's objective for the next license term is to play a more prominent role as the lead broadcaster of high-quality, signature Aboriginal programming from a wide range of programming categories suitable for a national network and competitive with comparable programming offered on other national networks. APTN will offer this programming across multiple platforms and using enriched digital media applications and tools.

With the renewal of its license comes specific condition of licences. Among others APTN shall:

- Caption 100% of English- and French language programs airing over the broadcast day.
- Provide described video for a minimum of four hours per broadcast week, of which two hours must be broadcast in described video for the first time on the service.
- Devote at least 75% of the broadcast year and at least 75% of the evening broadcast period to the broadcast of Canadian programs.
- Broadcast a minimum of 35 hours of programming in Aboriginal languages in each broadcast week.
- Broadcast a minimum of 20 hours of French language programming in each broadcast week.
- Broadcast at a minimum, an average of eight hours of Canadian programs between 7 p.m. and 11 p.m. in each broadcast week.
- At least 80% of the programming broadcast on the service, other than news (program category 1), current affairs (program categories 2(a) and 3) and sports (program category 6) shall be produced by independent production companies not related to the licensee.
- Provide a high-quality, general-interest television service offering a broad range of programming that reflects the diverse perspectives of Aboriginal peoples, their lives and their cultures. The service will provide a positive window on Aboriginal life for all Canadians, whether living in northern or southern Canada. The schedule will include programming in English, French and various Aboriginal languages.