

August 23, 2010

Via CRTC comments/interventions form

Mr. Robert A. Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Dear Mr. Morin:

Re: Broadcasting Notice of Consultation CRTC 2010-498, Item #2 – Application by Shaw Communications Inc., on behalf of Canwest Global Communications Corp. and its operating subsidiaries/licensees, for authority to transfer effective control of Canwest Global's broadcasting entities to Shaw, through a wholly owned subsidiary of Shaw known as 7316712 Canada Inc. (Application No. 2010-0550-5)

Submitted by: The Alberta Motion Pictures Industries Association (AMPIA)

1. For over 30 years, the Alberta Motion Picture Industries Association (AMPIA) has represented independent producers and members involved in all aspects of the creation of screen content in Alberta. The mandate of the association is to ensure the growth and development of the indigenous industry at the producer, technical, talent and craft levels. Central to this mandate is maintaining an environment in which Alberta producers can initiate, develop and produce screen content over which they have creative and financial control.
2. AMPIA plays an important role in this sector of the economy, representing screen content professionals, disseminating information, marketing, lobbying and advocating for indigenous production on behalf of our membership.
3. Presently, AMPIA has a total of 200 member-companies, representing a cross section of more than 2,500 industry professionals, including but not limited to: producers, directors, performers, writers, craftspeople, distributors, broadcasters, suppliers and exhibitors.
4. AMPIA would like to state for the record that this intervention was formulated without conflict of interest by any party.
5. AMPIA wholeheartedly agrees with and supports the CMPA submission on this Public Notice with the following additional comments:
6. It is clear from Shaw's application that it views the contribution of tangible benefits as a cost obligation rather than an opportunity to contribute to the quality and quantity of Canadian programming. This is surprising in light of its recent paid national advertising campaign in which Shaw was critical of the quality of Canadian programming and furthermore, given that its written comments in previous CRTC submissions have been critical of other Canadian broadcasters for seeking regulatory relief from Canadian content spending requirements. With this application, Shaw now has the opportunity to fix what it has deemed a problem in the past by more robustly supporting the creation of quality Canadian programs through providing an appropriate tangible benefits package for this transaction and by targeting those benefits toward the creation of new Canadian programming that will reflect its aspirations and bear its imprimatur of higher quality.

7. Terms of Trade. AMPIA agrees with the CMPA that given the market power of this new combined entity, a Terms of Trade Agreement between Shaw and Canadian producers to be negotiated with the CMPA should be a Condition of License and would strongly recommend that this Terms of Trade Agreement be negotiated and signed prior to and/or as a condition of granting approval for the transaction. For greater clarity, we recommend there be no conditional approval granted awaiting a conclusion of a Terms of Trade Agreement, but rather that no approval of the transaction occur in advance of a negotiated and signed Terms of Trade Agreement.
8. AMPIA agrees with the CMPA's assessment that the value of the transaction is in excess of \$2 billion and that the tangible benefits amount should be 10% of the value of the transaction. This is imperative in order to remain consistent with the conditions imposed on other broadcasters both in terms of the overall valuation and the benefits percentage, as to forgo this transparency would grant Shaw a competitive advantage over previous applicants who have met these conditions.
9. AMPIA agrees with the CMPA that a) the tangible benefits should be incremental to existing benefits, b) that the projects and initiatives that will result from these benefits would not occur in the absence of these benefits and c) that the benefits should not be self-dealt for projects incurred in the routine conduct of business but rather 85% or more should go to arms-length third parties for the creation of new Canadian content screen-based productions.
10. AMPIA agrees with the CMPA that there is no precedent or logical justification to spread the benefits out over a 10 year period. In the past, licensees have been required to expend their benefits within their license period. Furthermore, AMPIA recommends that Shaw be required as a Condition of License to expend a proportionate percentage of the benefits on an annual basis with an enforceable reporting and compliance mechanism articulated and imposed by the CRTC.
11. And finally, AMPIA would like to see Shaw, which is a Canadian regionally-based company, to channel a specific portion or percentage of the benefits for Canadian content programs toward independent productions developed and produced by regional production companies. AMPIA defines a region as a production centre outside of Toronto, Montreal or Vancouver.

Conclusion

AMPIA appreciates the opportunity to comment on the Application. A copy of this intervention has been sent to the Applicant.

All of which is respectfully submitted.

Yours truly,

Colette Switzer
Program Director
Alberta Motion Picture Industries Association

c.c.: Cynthia Rathwell Vice-President, Regulatory Affairs and Programming, Shaw Direct (via email: Cynthia.Rathwell@shawdirect.ca)

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