

175 Bloor Street East
South Tower, Suite 501,
Toronto, Ontario M4W 3R8
Telephone (416) 314-6858
Fax (416) 314-6876

175 rue Bloor est
Édifice sud, bureau 501,
Toronto, Ontario M4W 3R8
Téléphone (416) 314-6858
Télécopieur (416) 314-6876



26 March 2009

Filed Via E-pass

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

Dear Mr. Morin:

**Re: Broadcasting Notice of Public Hearing CRTC 2008-11
Canadian Broadcasting in New Media**

Ontario Media Development Corporation (OMDC) is pleased to file the attached in response to issues raised during the joint Ministry of Culture / OMDC appearance before the Commission as part of the Commission's public hearing on Canadian Broadcasting in New Media on March 9, 2009.

While many issues were raised during the appearance, this submission will focus on the following three:

1. eligibility for a new fund to support Canadian broadcasting content in new media, should the Commission decide to establish one;
2. exemption from an ISP levy for smaller ISPs, should the Commission decide to establish one; and
3. a national digital strategy.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Thorne-Stone".

Karen Thorne-Stone
President and Chief Executive Officer
Ontario Media Development Corporation

Introduction

1. Ontario Media Development Corporation (OMDC) is pleased to file the following in response to issues raised by the Commission during our appearance before you on March 9, 2009 as part of the public hearing on Canadian broadcasting in new media.
2. As we stated in both our written submission and when we appeared before the Commission, OMDC believes that while the New Media and Mobile Television Broadcasting Exemption Orders continue to remain appropriate, it is time to impose some conditions on those exemptions in order to ensure that increased funding is available for Canadian content.
3. Support for the creation and promotion of Canadian content is important across all broadcasting platforms, including new media platforms. More money is needed in the system to support professionally produced, high-quality creative content. This support should be incremental to existing funding mechanisms and should not come at the expense of the funds available for traditional broadcasting content.
4. OMDC encourages the Commission to look at the system as a whole rather than as a series of isolated parts. Conventional broadcasters and distributors are rightly required to make contributions to the creation and promotion of Canadian content and Internet Service Providers (ISPs) and mobile service providers that also benefit from delivering audiovisual content to consumers should be required to do the same.
5. It is within this broad context that we offer the following comments on some of the details raised by the Commission at the public hearing.

Eligibility for New Media Broadcasting Content Funding

6. At the hearing on March 9, the Chair asked who should have access to a new fund, should one be introduced, to support Canadian content in the new media broadcasting environment.
7. It is OMDC's position that any new funds introduced should be made available to support the full range of content that is being created in the new media broadcasting environment. High-cost, high-value traditional broadcasting content is extremely important to new media broadcasting and should continue to receive support. Ontario producers are also creating original new media broadcasting content that is unrelated to traditional broadcast properties. This content is also deserving and needing of financial support.
8. Ontario has chosen to support all kinds of interactive digital media content, including content that has high levels of interactivity and as such would not historically have been considered "broadcasting" content. It is not our intention here to suggest that highly interactive content such as digital games should be included in the definition of broadcasting content. However, we would like to point out that on any continuum that has non-interactive audio-visual content on one end and highly interactive content on the other, there is a grey area in the middle containing convergent content that combines linear and interactive features into one product. This type of content is becoming increasingly popular with Canadian audiences.
9. Ontario producers are at the forefront of producing this convergent content. They are increasingly using multiple platforms in a variety of ways to engage audiences in both the telling of stories and the use of the latest new media technologies. Some of this storytelling may include activities that are customizable by the end user. As the new media broadcasting system and the storytelling it supports

continues to evolve, we encourage the Commission to be open to the idea that there may be a need to permit a greater level of interactivity in the definition of new media broadcasting content.

10. Therefore, any new fund that is introduced to support Canadian new media content should go to support the production of all kinds of new media content, whether or not it is associated with a traditional broadcasting format. This includes (but is not limited to) original direct-to-online or mobile audio-visual content, ancillary content associated with traditional television or film productions, and, of course, music content.
11. As we stated before the Commission, we also feel that this support should go to professionally-produced new media content. OMDC's programs have a number of requirements that speak to the professionalism of the applicants. For example, in the OMDC Interactive Digital Media Fund, applicant companies are required to demonstrate that they:
 - are a screen-based company that is involved in the creation of complete content products (i.e., a company that can demonstrate that at least 25% of its revenue averaged over a two-year period can be attributed to the creation of complete screen-based content);
 - have in-house expertise in the creation of content for interactive platforms, networks or devices;
 - are incorporated in Ontario or federally or willing to incorporate immediately if their application is successful; and
 - are in a sound financial position at the time of application and are able to be deemed to be an ongoing entity with a plan to continue creative interactive digital media content products.

Applicants are also required to demonstrate that the product that is receiving support is intended for a consumer audience. These requirements assist OMDC in ensuring that applicants demonstrate a level of professionalism and that investments in Ontario's content creation industries are solid. They may also assist the Commission in its efforts to define "professionalism" for CRTC purposes.

12. The OMDC Film Fund and the Tax Credits which support screen-based content creation (i.e. the Ontario Interactive Digital Media, Computer Animation and Special Effects, Film and Television and Production Services Tax Credits) all have similar requirements. While there are too many of these requirements to list in this short submission, they are all publicly available on the OMDC website at www.omdc.on.ca.
13. Finally, it is important that any new fund created by the Commission to support content creation respect the requirement contained in Section 3 of the *Broadcasting Act* that programming in the Canadian broadcasting system include a significant contribution from the independent production sector. Independent producers should therefore be the major beneficiaries of any financial and/or regulatory incentives that are introduced to support the creation, promotion and visibility of Canadian content in the new media broadcasting environment.

Exemption from ISP Levy

14. During the public hearing, OMDC and other interveners were asked about the possibility of exempting smaller ISPs from the requirement to pay any levy that is introduced to support the creation of Canadian new media broadcasting content.

15. OMDC agrees with those who have submitted that such a levy should only apply to the largest ISPs and mobile service providers and that services with subscriber levels below a certain threshold should be exempt from this levy, similar to the exemptions in place for smaller traditional broadcasting distribution undertakings (BDUs).
16. We submit that smaller ISPs, particularly those in rural areas who provide only dial-up service to their customers, are not benefiting in any way from the delivery of audio-visual content to their customers and should not, in their current form, be required to make a contribution to the creation and promotion of Canadian content.

A National Digital Strategy

17. The National Film Board and the Canadian Interactive Alliance, among others, identified the importance of a full range of programs to support digital content creation and promotion as part of an overall national digital strategy. Suggestions have included the adoption of a wide variety of support mechanisms, the creation of incentives for advertising on Canadian-based new media platforms and to leverage private investment in the industry, consolidation of regulation and programs to support convergence, and the introduction of industrial incentives to support digital media content creation.
18. The Commission's regulatory decisions have an impact on other federal and provincial programs, and this continues to be true in the context of the current review. While we have asked that the Commission take a leadership role in this area by ensuring that the regulatory framework supports innovation, we also acknowledge that all federal and provincial bodies have a role to play in working together and being aware of one another's programs and decisions in order to ensure there are fully integrated broadcasting policies across all media platforms.
19. For all of these reasons, OMDC is very supportive of the idea of a national digital strategy. We look forward to working with the Commission, as well as other federal and provincial partners, to contribute to the development of such a strategy and to ensure that support to the creative media industries succeeds in consistently leveraging Canada's creative assets to build strong, viable media businesses.

Conclusion

20. Until such time as a national digital strategy is introduced, OMDC feels that the best way to recognize the ongoing convergence of technologies and platforms is by ensuring that all players in the broadcasting environment, including ISPs and mobile service providers, make a contribution to the creation and promotion of Canadian content and that the support for the development of this content reflect the changing technologies and consumer demands as new media broadcasting continues to evolve.
21. All of which is respectfully submitted.

** end of document **