



January 22, 2016

Ms. Danielle May-Cuconato
Secretary General
CRTC
Ottawa, Ontario
K1A 0N2

Filed electronically

Dear Ms. May-Cuconato:

Re: Broadcasting Notice of Consultation CRTC 2015-467 – *Call for comments on the Commission’s policies relating to Certified Independent Production Funds* - REPLY

1. We thank the Commission for the opportunity to reply to comments filed for Broadcasting Notice of Consultation CRTC 2015-467 – *Call for comments on the Commission’s policies relating to Certified Independent Production Funds*.
2. We are pleased at the tremendous amount of support for the Certified Independent Production Funds (“CIPFs”) and the thoughtful responses from various parties with respect to this Call for Comments. This demonstrates not only the importance of the CIPFs but also the importance of the Commission’s determinations and decisions as a result of this proceeding, and the impact such decisions will have on the Canadian production sector overall.
3. The requests made by Shaw Rocket Fund (“Rocket Fund”) within this proceeding are made specifically to ensure that Canadian children, and children around the world, continue to have meaningful access to high-quality Canadian children’s programming where ever, and however they consume it - today and over the next 5 to 10 years. While this review covers the policies related to CIPFs in general, due to the unique nature of each CIPF, which is the inherent strength of these funds, we submit that not all of the recommended policy changes by the participants are suitable for every Fund.
4. The Rocket Fund agrees with DHX Media that children’s and family programming should be given special consideration within this proceeding.¹ Programming for children – representing 22 per cent of the Canadian population² - must have special consideration within any regulatory framework. While the Rocket Fund does not

¹ DHX Media Comments CRTC 2015-467 – para 10

² Statistics Canada 2011 Census

submit that each CIPF be directed to support children's family programming through an established envelope system as suggested by DHX Media, we believe that the Rocket Fund, which is dedicated to children's and youth programming, is in the position to assume this responsibility on behalf of the CIPFs through additional flexibility and greater allocation of BDU contributions. The Rocket Fund urges the Commission to set the stage with its decisions today for the future consumer(s) of the Canadian broadcasting system and to acknowledge the important role the Rocket Fund has in supporting and driving the Commission's goals within this proceeding for Canadian children.

5. Deemed the first global generation, Generation Z will become the largest group of consumers by 2030³ and the primary consumer of video content. While Millennials have easily adopted and embraced new technology, we believe that Gen Z will drive it – especially when it comes to video consumption. The future broadcasting system must take this into account in order to remain relevant due to the vast abundance of choice for children on their devices.
6. With this in mind, we submit the following responses to the comments provided with respect to these proceedings for CIPFs and specifically for Canadian children's and youth programming within the Canadian broadcasting system, now and for the future:
 - a. Greater allocation of BDU contributions – In a declining BDU revenue environment, a greater allocation from Shaw Communications to the Rocket Fund would guarantee more sustainable funding for Canadian children's programming. We submit that each BDU should be able to determine at its own discretion what percentage of its regulated contributions to Canadian programming is directed to CIPFs - allowing CIPFs to compete for such funding as suggested in the Rocket Fund's initial submission; or at minimum, as recommended by Shaw Communications⁴, allow BDUs to direct up to 40 per cent of their contributions toward CIPFs which is consistent with the Commission's recent decision on the allocation of 'tangible benefits'⁵.
 - b. Reduce the Canadian content point requirement to 6/10 – Opening up the point of entry for producers to receive funding from CIPFs for any program that is certified Canadian content would help fund programming that may not be eligible with the CMF but more importantly allow CIPFs to contribute to programming that best serves the Canadian audience. Specifically, this would allow Rocket Fund to support the best Canadian content available for children, resulting in a more robust and relevant broadcasting system for this generation.
 - c. Not require a broadcast licence - Looking to the future and the need for flexible funding mechanisms, we agree with the Commission's suggestion and recommend that CIPF funding not be tied to a broadcast licence requirement⁶. This would allow producers to respond to how children are viewing their video content, ensuring children and youth continue to have access to high-quality Canadian-made programming in a manner in which they demand. This forward-thinking approach would acknowledge the anticipated shift in viewing habits of children, and adults, over the next 5 to 10 years. To ensure that CIPFs valuable resources remain as benefit to

³ Rocket Fund Research Paper: Media, Technology and Consumption Among Youth

⁴ Shaw Communications Inc. Comments, para 28

⁵ Broadcasting Regulatory Policy CRTC 2014-459, paras. 19-21

⁶ Broadcasting Regulatory Policy CRTC 2015-86, para 122

Canadians if the licence requirement is removed, we recommend any content that receives funding from CIPFs must be intended for a Canadian audience and made meaningfully available to Canadians by a Canadian-owned entity.

- d. Stand-alone digital content – We ask for full flexibility and the removal of the cap. This flexibility would allow the Rocket Fund to support producers when responding to the changing viewing habits of children by producing relevant programming that will reach audiences on any platform. Should the Commission determine that a cap of BDU contributions be required for stand-alone digital content, we would agree with the recommended 20 per cent in the beginning. However, we recommend incremental increase by 10 per cent each year to respond to changing realities.
 - e. Not encumber the funds with policy that is more appropriate for large public funds such as the CMF and Telefilm Canada – Continue to allow the CIPFs to have funding flexibility so CIPFs can use their minimal (and declining) valuable resources to fund the best possible Canadian-made programming rather than having to adopt public policy funding requirements.
 - f. Allow up to 2 per cent of BDU contributions to be directed towards industry initiatives and discoverability – Build on each of the CIPFs dedicated and proven support of the industry to offer discoverability initiatives to help producers showcase their Canadian programming nationally and on a global scale.
 - g. Not encumber the CIPFs with unnecessary reporting - Annual reports are a sufficient reporting mechanism for the CRTC and the wider public. The CIPFs governance and funding structure ensures that the CIPFs maintain good business practice pursuant to its governing policies.
7. The broadcasting community offered many suggestions regarding the CIPFs that understandably are self-interested such as: establishing a set percentage of total CIPF contributions for development, designating regional spends, designating language spends, spends for marketing, spends for producer travel, funding for distributors, increasing content points rather than a reduction, reduced stand-alone digital spends and detailed reporting requirements. While these requests may appear in themselves reasonable, collectively such requests would render the CIPFs ineffective. Due to the size and nature of CIPFs and in an environment with declining BDU contributions, we respectfully submit that the CIPFs cannot satisfy all of these requests and still be an effective funding partner and maintain their current support of the industry.
 8. We surmise that many of the requests are a result of the belief that this proceeding regarding CIPFs will set precedent for any policy changes made to the Canada Media Fund (CMF). In Broadcasting Regulatory Policy CRTC 2015-86 the Commission states that it will work in collaboration with other government stakeholders to achieve its goals including a recommendation to remove the requirement of a broadcast licence for funding for the CMF, and with this view the Commission would review the policies of CIPFs⁷. It is important to remember that CIPFs are very different from the CMF: in scale - each CIPF being 1 to 4 per cent of the size of the CMF⁸ with respect to funding and administration resources; in nature - being niche and funding specific types of Canadian programming; in structure -

⁷ Broadcasting Regulatory Policy CRTC 2015-86, para 122 - 123

⁸ <http://www.cmf-fmc.ca/funding-programs/overview>

being private; in governance - where the Board makes all funding decisions and such decisions are subjective; and in impact – targeted support for specific genres and content. While common policy makes sense for consistency, common policy is not always effective especially when dealing with public vs private matters, and the CIPFs.

9. CIPFs were initially conceived to *ensure that there was a mechanism that can respond to some of the legitimate funding demands which do not currently fit within the framework of the CTCPF (now CMF)*⁹ based on the Commission's own determination. We recommend this be considered when the Commission makes its decision regarding the CIPFs.
10. We urge the Commission to build on the success of the CIPFs as they exist today, respecting the uniqueness and collective benefits that the CIPFs bring the production community. By proceeding with a more flexible system with CIPFs, we are confident the Commission's desired outcomes may be achieved without further regulation. The Commission itself stated: *Where regulatory intervention is warranted, such measures should be as simple as possible, proportionate, easily administered and adaptable to change.*¹⁰
11. The Canadian broadcasting system will continue to evolve with or without changes to regulation. While we agree that BDU contributions that are derived from the regulated system should in turn benefit the regulated system, we believe the recommended forward-thinking changes to CIPFs policies and criteria will enable CIPFs to drive Canadian programming effectively into the future to the benefit the entire broadcasting system. This is especially true for Canadian children's programming.

We have the following specific Responses regarding this Call for Comments, CRTC 2015-467:

Increase BDU Contributions for CIPFs

12. On July 22 1997, the CRTC determined that the appropriate split of BDU contributions between the CMF (formerly known as the CTCPF) and CIPFs was 80/20 in the favour of the CMF. Nineteen years ago, this split was appropriate. In 2016 we submit that it is time for change considering the current broadcast environment and the evolution of CIPFs. CIPFs have become valuable, meaningful partners to producers and broadcasters for the benefit of the broadcasting industry as a whole.
13. On September 5, 2014 the Commission determined that any non-discretionary "tangible benefits" resulting from any broadcasting transaction would be split in the following manner: *60 per cent is to be allocated to the CMF and no more than 40 per cent to the CIPFs unless a compelling case is made that another allocation or formula could better meet the public interest.*¹¹ Taking from this, we submit that establishing sustainable programming for Canadian children is a compelling reason to allow Shaw Communications to determine what percentage of its non-discretionary contribution to Canadian programming is allocated to the Rocket Fund. We at minimum support Shaw Communications recommendation, where at least 40 per cent of Shaw's contribution be allocated to a CIPF, however we strongly recommend full flexibility for Shaw to have the ability to allocate what

⁹ Public Notice CRTC 1997-98

¹⁰ Broadcasting Regulatory Policy CRTC 2015-86, Section 5

¹¹ Broadcasting Regulatory Policy CRTC 2014-459, paras. 19-21

percentage it deems appropriate towards the Rocket Fund and children's programming.

14. The Shaw Rocket Fund, being the preeminent fund for children's programming with its proven success in supporting and driving high-quality Canadian programming for kids, warrants a greater allocation of BDU contributions today.

Canadian Content Certification

15. The certification of Canadian programs is set out by the CRTC itself under its certification guidelines.¹² This process does not differentiate or have a scale of "Canadian-ness" depending on the points allocated. Simply, a production must meet a minimum 6/10 Canadian content points to be certified and recognized as a Canadian program. As such, we submit that the CIPFs should have the flexibility to fund any program so long as it is certified Canadian.
16. As noted in the Rocket Fund's initial submission, the Rocket Fund bases its investments on the best Canadian-made programs for children. Some of our highest-rated programs such as *The Next Step* meet 10/10 Canadian content points. As the Board of Directors makes all funding decisions as opposed to an allocation through an envelope system such as with the CMF, we submit that there is much less risk for the majority of CIPF funding going towards programs that meet minimal Canadian content points. In the case of the Rocket Fund, high-quality relevant content for children is the primary focus of our investments, as demonstrated by the variety of programs we support which can be seen in our Annual Reports. Reducing the point of entry to 6/10 will enable the Rocket Fund to invest in the best available Canadian programs for kids.

Removal of the broadcast licence requirement

17. While the removal of the broadcast licence requirement would appear that the lion's share of the CIPF funding would then go to programming that doesn't serve the broadcasting system, we submit that this will not, and cannot be the case especially today. In respect to children's programming, producers cannot fully finance high-quality programs through the Rocket Fund or other CIPFs alone. They rely on partners including public and private broadcasters, distributors, tax credits as well as other funds. Furthermore, television remains the number one device of choice for children and their families in Canada, and around the world – which can be seen by the continued international exploitation success of Canadian children's programming.
18. However, forward-thinking regulation must account for the shift in viewing habits especially in children, as demonstrated in the research provided as part of the Rocket Fund's Phase 1 submission. The removal of the broadcast licence requirement would allow CIPFs to adjust to how content is financed as the broadcasting system evolves in the coming years, without the need for additional regulatory process.

Stand-alone digital content:

19. CIPF regulation states that funds for new media projects are to be used for *innovation projects such as story-driven videogames, webisodes mobisodes, and interactive web content*. All of these are extremely relevant sources of entertainment content for children. While these types of programs start online,

¹² <http://www.crtc.gc.ca/canrec/eng/guide1.htm>

some have effectively secured a fanbase and then became successful linear programs (i.e *Almost Naked Animals*, *Ruby Sky P.I.*).

20. Furthermore, pursuant to Broadcasting Regulatory Policy CRTC 2010-833, the Board must ensure that all monies are directed to fund the types of productions contemplated in Contributions to Canadian Programming by Broadcast Distribution Undertakings, Public Notice CRTC 1997-98, and further Public Notice CRTC 1999-29¹³. While the evolution of programming, especially for children, doesn't always take a traditional form, CIPFs must continue to support programming that meets this requirement.
21. We submit that the removal of the cap will allow CIPFs to adjust to changes in the broadcasting system over the next 5 to 10 years without further regulatory process. Should the Commission determine that a cap is still relevant, we would agree to the recommended 20 per cent cap, and further recommend an incremental increase to this cap of 10 per cent, per year.

Funding policy and additional regulation

Mandated allocation of funds for Quebec, Regions and Languages:

22. The Rocket Fund invests in programs in both official languages, as well as Aboriginal languages and other minority languages if the program meets the Rocket Fund's eligibility and investment criteria. The Rocket Fund has a bilingual website where producers can submit applications in both official languages and on average, 20 per cent of the productions the Rocket Fund invests in annually are from Quebec. We have supported a number of high quality French language productions as listed in our Annual Reports such as the very successful preschool series *Toc Toc Toc*, *Le Chalet* - Vrak's high-rated youth series, and the internationally successful series *Toopy & Binoo* from Echo Media - which has been sold in 179 countries, is dubbed into 30 languages, has successful cross-Canada live stage shows as well as seen merchandising success.
23. It has been suggested by some interveners that the CIPFs be mandated to allocate one-third of their contributions towards Quebec productions with other interveners suggesting an allocation for the regions and specific languages. As explained earlier, CIPFs are very different in nature than the CMF, a publicly funded organization that administers \$375.2M as compared to CIPFs, which manage from \$1M to \$15M. Considering that a) CIPFs are private funds; b) they are very small in size relative to the CMF; and c) the CIPFs have targeted support of niche programming - allocating a set percentage of each CIPFs limited and declining contributions towards a specific province or region, or to a specific language would dilute the available funding and limit the programs CIPFs support, which would not meet the Commission's objective to build a robust sustainable broadcasting system.
24. In regards to regional spends, the Rocket Fund invests in the best Canadian-made programs for children regardless of where they are produced within the country. We aim to finance programs that children can enjoy across the country, in every province. While we encourage production in the regions, we do not believe the CIPFs can effectively have regional obligations due to the size and nature of these funds. While we respect the public policy considerations surrounding this, we believe that this is not the responsibility of the CIPFs.

¹³ Broadcasting Regulatory Policy CRTC 2010-833, Appendix, Page ii, section b) Funding Decisions

Development Funding:

25. We believe there are better and more sustainable methods to provide development funding than mandating each CIPFs to allocate a set percentage towards script development. CIPFs alone cannot address the issue of development in our industry. While the Rocket Fund continues to encourage development through its investment practices and through its initiatives, we believe - as suggested in Rocket Fund's Phase 1 submission - giving CIPFs flexibility rather than additional regulation would allow CIPFs to fund programming in the best manner suitable for the industry, which in many instances does include development. Encumbering the CIPFs with a development mandate out of declining BDU revenues with limited administration resources would take away from the focus of some CIPFs, and from funding the production of content. Furthermore, a set allocation of funds towards script development doesn't itself guarantee success. We submit that CIPFs be left to respond to producers and market with respect to script development.

Industry Initiatives and Discoverability

26. CIPFs are uniquely positioned to showcase the programming they fund nationally and internationally, and to support the development of industry building initiatives. The Rocket Fund has provided a significant and valuable contribution towards the promotion of the Canadian children's production sector through initiatives such as its Shaw Rocket Prize, the International Kids Emmy Awards and the Canada Screen Awards. In addition, the Rocket Fund also actively develops specific industry initiatives to strengthen Canadian children's and family programming such as its internationally focussed writers program - a direct result of the Rocket Fund's international round-table discussions and currently in development with the National Screen Institute. The value of such support offered by Rocket Fund is clearly demonstrated in DHX Media's submission for this proceeding¹⁴.
27. We believe it is more important than ever for the Rocket Fund to continue to provide this much-needed support on behalf of the children's production community, however such support is proving to be more difficult with declining BDU contributions. To that end, we submit that CIPFs' criteria be amended to allow for up to 2 per cent of BDU contributions be directed towards industry and discoverability initiatives. Such an allocation would provide a greater benefit to the industry overall versus diluting CIPFs' contributions into various streams of funding.

Reporting Requirements:

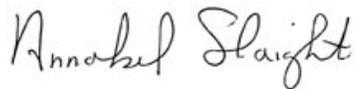
28. CIPF's governance and obligations differ from public funds such as the CMF and Telefilm. Rocket Fund publishes annual reports on its website which demonstrate its total spend per year: provincially, by target audience, and genre and outlines each production supported as well as the supporting broadcaster (s). Our annual reports identify our Board and initiatives which are also highlighted on our website. As the Board oversees all funding decisions with decisions being made by majority vote - and no more than 1/3 of the Board are BDU representatives - safeguards are in place. Furthermore, as a not-for-profit organization, the Rocket Fund is audited annually by a third party audit firm to ensure its business practices meet Board and regulatory requirements as well as follow generally accepted accounting principals. Disclosure of confidential information should not be made part of CIPF reporting. The primary strength of the CIPFs lies within its subjective nature, and agreements made with producers should remain confidential.

¹⁴ DHX Media Comments CRTC 2015-467 – para 20 - 22

Conclusion

29. A true flexible funding system in itself will allow Rocket Fund to better contribute to a changing Canadian production sector allowing producers and funding to adapt to the viewing habits of children over the next 5 to 10 years. A more flexible funding system, not one with added regulation, would help the Rocket Fund build on its existing strengths and help drive producers forward to meet the demands of the Canadian kids audience - representing almost a quarter of our population. A more flexible funding system will also help build the global footprint of Canadian-made content in support of sustainability.
30. We believe that with the right balance of regulation and flexibility, the Rocket Fund will be in a position, through its support of the Canadian kids production sector, to serve the globally connected, interactive young consumers who will shape the Canadian broadcasting system.
31. We thank the Commission for the opportunity to provide these comments and we look forward to further discussions on these very important matters that will help frame the future of the Canadian broadcasting system, for the benefit of all Canadians including children and their families.

Sincerely,



Annabel Slaight
Chair



Agnes Augustin
President & CEO

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