



Broadcasting Decision CRTC 2017-253

PDF version

Reference: Part 1 application posted on 28 October 2016

Ottawa, 17 July 2017

Bell Fund

Across Canada

Application 2016-1125-2

Requests for relief in regard to the Commission's policy framework for Certified Independent Production Funds

*The Commission **approves** a request by the Bell Fund for a transition period to adapt its guidelines to the Commission's new policy framework for Certified Independent Production Funds. The Bell Fund will have until **17 July 2018** to make the necessary changes.*

*The Commission **denies** a request by the Bell Fund for an increase to the 10% cap on funding for non-programming digital content.*

Background

1. Certified Independent Production Funds (CIPFs) are production funds that have been certified by the Commission to receive funding from either broadcasting distribution undertakings (BDUs) or tangible benefits packages following Commission approval of changes in the ownership and effective control of television programming services. As part of the current funding system, the Commission mandates these contributions to CIPFs and other funds such as the Canada Media Fund (CMF) to support the work of the creative sector in producing content for Canadians.
2. In Broadcasting Regulatory Policy 2016-343, the Commission revised its policy framework for CIPFs to ensure that they contribute to the production of content for Canadians and to the development of a robust Canadian production sector in an increasingly multi-platform environment. The revised policy came into effect on 1 September 2016.
3. In Broadcasting Regulatory Policy 2010-833, the Commission noted that a maximum of 10% of CIPF funding could be directed to what had previously been referred to as “new media projects” that were unrelated to productions that would themselves be eligible for funding under the CIPF criteria. These projects included both programming content, such as webisodes or mobisodes, and non-programming content, such as video games. In Broadcasting Regulatory Policy 2016-343, the Commission expressed the view that such programming content could be better supported by the CIPFs if it were no longer subject to the 10% limit. Accordingly, it implemented a new definition for “non-programming

digital content,” which includes “innovative projects such as story-driven videogames, interactive or customizable web content, apps and all other similar types of non-programming content” and would continue to be subject to the 10% limit. All programming content, regardless of the platform on which it appears, would no longer be subject to that limit.

4. As to whether the CIPFs should support non-programming content at all, the Commission stated that while this content is not generally considered “broadcasting” as defined in the *Broadcasting Act* (the Act), it can nonetheless help in the achievement of the policy objectives of the Act and can be complementary to a television program by offering an educational component to the programming aired on television.

Application

5. The Bell Fund, established in 1997, is a CIPF that devotes a portion of its funding to Canadian independent producers who develop and produce interactive cross-platform digital content for Canadian broadcasters to complement and enhance associated television programs. In its application, the Bell Fund set out requests for relief in regard to a) a transition period for implementing the Commission’s new policy framework for CIPFs, and b) increasing the 10% cap on non-programming digital content. In regard to b), the Bell Fund did not specify a new level. Each of these requests is addressed below.
6. The Commission received numerous interventions in regard to the requests, as well as a reply from the Bell Fund. The public record for this application can be found on the Commission’s website at www.crtc.gc.ca or by using the application number provided above.

Commission’s analysis and decisions

Transition period

7. The Bell Fund argued that a transition period would allow for a gradual phasing out of its current funding programs, and permit it to consult with stakeholders over the development of new funding programs that would align with and support the Commission’s revised CIPF policy framework.
8. The Bell Fund stated that since its inception, it has provided funding for over one thousand digital media projects associated with television programs, as well as funding to half of those same television programs. It considered its contributions to be vital to financing such projects and questioned whether the level of funding it provides could be replaced. The Bell Fund indicated that, in light of its financing structure, it will have to make considerable changes to its current funding programs in order to align with the Commission’s new CIPF policy framework.
9. The Commission received numerous interventions in support of this request from various production companies, unions, broadcasters and CIPFs, some of whom proposed a

transition period of up to three years. In its reply, the Bell Fund acknowledged the support it received in regard to its request.

10. The Commission agrees that a one-year transition period would allow the Bell Fund to properly consult with the industry and stakeholders on the best way to develop new guidelines in order to meet the provisions outlined in the CIPF policy framework. It would also provide existing and new recipients with sufficient time to adjust their proposals and business models in order to meet the Bell Fund's new guidelines for accessing funding.
11. In light of the above, the Commission **approves** the Bell Fund's request for a transition period to adapt its guidelines to the new CIPF policy framework. Accordingly, the Bell Fund will have until **17 July 2018** to fully adapt its funding programs to that policy framework.
12. As set out in Broadcasting Regulatory Policy 2016-343, all CIPFs must file with the Commission an annual report, including audited financial statements, by no later than three months after the end of the fiscal year, for their activities of the previous year. Although the Bell Fund is being granted a one-year extension to implement the new CIPF policy framework, the Commission requires it to adhere immediately to that reporting requirement, by filing its annual report with the Commission in the same specified timeframe as for all other CIPFs. As set out in the new CIPF framework, this report should specify the amount of funding provided to non-programming digital content.

Increase to funding cap

13. The Bell Fund also requested that the Commission increase the 10% funding cap for non-programming digital content, but did not propose a new level. It submitted that the "non-programming digital content" redesignation along with the 10% cap would have a significant impact on the industry and how it provides support to these projects. The Bell Fund added that an immediate loss of financial support across multiple platforms (television and digital) could be financially and creatively devastating to the independent production community, broadcasters and Canadian audiences. It stated that its support of convergent digital media content would be diminished, from approximately \$14 million per year to \$1.4 million per year.
14. The Canadian Media Producers Association (CMPA), among others, supported an increase to the 10% limit. The CMPA stated that non-programming digital content aids in the sale and international distribution of broadcast programming content (especially for children's programming, but also for documentaries and other programs) where they are often contingent on the delivery of content for both broadcast and digital platforms. Other interveners argued that there should be no limit at all for related/affiliated projects, given that the limit hinders the creation of more innovative, interactive content and the ability to create cross-platform entertainment to compete in international markets.
15. The Canadian Broadcasting Corporation (CBC), on the other hand, considered an increase to the 10% cap on non-programming digital content to be premature. It argued

that the absence of details in the application would not allow parties to properly consider the impact of such a proposal. The Association québécoise de la production médiatique (AQPM) proposed that the 10% limit be re-evaluated based on market practices and needs.

16. In its reply, the Bell Fund stated that the industry response to its application demonstrates the interdependencies across funders, producers and broadcasters that have brought about award-winning Canadian content that enhances and benefits the Canadian broadcasting system. It argued that the support received further substantiates the Commission's finding in Broadcasting Regulatory Policy 2010-833 that "there is little cause for concern over permitting the funding of new media projects linked to television programs as any new media content created as a result of such funding would still serve to support traditional television production."
17. In Broadcasting Regulatory Policy 2016-343, the Commission indicated that CIPF funding should generally be reserved for audiovisual programming content that will enhance and benefit the Canadian broadcasting system. Imposing a 10% limit on funding for non-programming digital content would ensure that CIPF funding is allocated to programming, pursuant to the policy objectives of the Act.¹ While provisions in the policy were made to give flexibility to promotion and discoverability, the focus was not intended to be placed on ancillary non-programming projects that are designed solely for the support or promotion of programming.
18. Furthermore, there are other closely-linked funding sources for digital media projects.² While the reduction in funding could be detrimental to the success of these projects, the role of CIPFs, as mentioned above, is to provide support for the creation of programming and not to provide support for the creation of apps, games and interactive content.
19. In the Commission's view, the Bell Fund and interveners did not provide sufficient evidence that an increase in the 10% cap on funding for non-programming digital content would further the objectives of the Act.
20. In light of the above, the Commission **denies** the request by the Bell Fund for an increase to the 10% cap on funding for non-programming digital content.

Secretary General

¹ Section 3(1)(e) of the Act sets out that "each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming." Contributions made by BDUs to production funds are treated under regulation as one of the principal ways in which this element of the broadcasting system contributes to the creation of Canadian programming.

² These include the CMF, which has a convergent funding stream and an experimental funding stream; various federal and provincial tax credits, such as the Ontario Interactive Digital Media Tax Credit and the Interactive Digital Media Tax Credit in British Columbia; provincial funding programs for digital media such as those administered by the Ontario Media Development Corporation (OMDC) and Creative B.C.; broadcast licence fees; and foreign distribution advances/guarantees.

Related documents

- *Policy framework for Certified Independent Production Funds*, Broadcasting Regulatory Policy CRTC 2016-343, 25 August 2016
- *Contributions to Canadian programming by broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2010-833, 9 November 2010