



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

May 20, 2005

Director, Canadian Audio-Visual Certification Office
100 Sparks Street, 4th Floor
Ottawa, Ontario
K1A 0M5

Via email cavco-bcpac@pch.gc.ca

Dear Director,

Re: Public Notice – CAVCO 2005-001 – Proposed Guideline Amendments

1. The Canadian Association of Broadcasters (CAB) – the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks, and specialty, pay, and pay-per-view services – is pleased to provide the following general reply comments in response to the various submissions filed in connection with the Public Notice outlining proposed guidelines for the Canadian Audio-Visual Certification Office (CAVCO) administration of the Canadian Film and Video Production Tax Credit (CPTC).
2. The CAB is pleased to see that the vast majority of submissions support the notion that CAVCO must remain flexible and that the revised guidelines must be reflective of the commercial reality of the film and television production industry.

Equity Investments

3. Many submissions support the CAB's position that broadcasters should continue to qualify as "prescribed entities" under the *Income Tax Regulations*. The Canadian Film and Television Production Association (CFTPA), the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the Directors' Guild of Canada (DGC) and the CBC all argue that to do otherwise would discourage much needed investment in Canadian

programming. It would also be inconsistent with recent government directives, including the CRTC's Incentives for English-language Canadian Television Drama and the government's Feature Film Policy.

Acceptable Revenues

4. Again, the majority of the submissions indicated that the concept of "acceptable revenues" needed to remain flexible. The CAB notes that imposing a mandatory share for the program producer may not be consistent with the industry standard share due to equity investors and other revenue participants in a given project. Accordingly, the CAB agrees with the CFTPA and the APFTQ which specifically noted that the guidelines should remain flexible. In addition, the CAB agrees with the CFTPA's statement that reliance on a fixed threshold of net profits does not reflect commercial reality, and that the definitions of net profits and gross profits should be left to commercial negotiation.

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5. In its preliminary submission, the CAB submitted that Canadian productions based on popular formats should continue to qualify for the CPTC. The CAB notes that the CFTPA and the APFTQ have also indicated that there is no good policy reason to exclude these productions from the CPTC as they are not service productions.

CAVCO Advisory Committee

6. There is support for the creation of a CAVCO Advisory Committee and furthermore, there is specific support from the Motion Picture Production Film industry of British Columbia and the Nova Scotia Film Development Corporation for broadcaster representation on the Advisory Committee.
7. However, the CAB reiterates its position that the creation of an Advisory Committee should not diminish the need to seek comment via a public process on all proposed guideline changes.

Security Interest

8. With regard to the release of the security interest noted in paragraph 1(e) of the Annex to the Public Notice, the CAB fully endorses the comments of the Motion Picture Production Industry Association of British Columbia. Specifically, the removal of any security interest immediately after acceptance of delivery, is highly impractical and problematic, since broadcasters and other security holders require other obligations to be satisfied before any security interest may be terminated. To require otherwise would not be reflective of commercial reality.

9. The CAB appreciates the opportunity to provide its reply comments.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D. Keeble'.

David Keeble
Senior Vice-President
Policy and Regulatory Affairs

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