



November 24, 2011

Mr. John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Filed Electronically

Dear Mr. Traversy:

**Re: TELETOON Canada Inc.: Part 1 Application to amend a condition of licence
Application No. 2011-1406-6**

1. The Canadian Media Production Association (“the CMPA”)¹ wishes to provide the following comments concerning the above-noted application by TELETOON Canada Inc. (“TELETOON”).
2. As the Commission is aware, in April of this year, the CMPA and the five major English-language broadcaster groups completed good faith negotiations on a binding Terms of Trade Agreement (“the Agreement”) which now governs the signatory broadcasters when dealing with independent producers in the development, production and exhibition of Canadian audiovisual works intended to be broadcast in Canada.
3. Indeed, the Commission has been a strong and long-time supporter of the CMPA’s efforts to conclude the Agreement with the broadcasters, repeatedly pointing out in its decisions and notices that such an Agreement would provide stability and clarity for both producers and broadcasters and would be in the broadcasting industry’s interests as a whole.² It is for those reasons that the Commission imposed adherence to the Agreement as a condition of the licences it renewed following the Group Licensing Hearing held earlier this year.³

¹ The CMPA represents the interests of screen-based media companies engaged in the production and distribution of English-language television programs, feature films, and new media content in all regions of Canada. The CMPA’s 400 member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing original content for Canadian and international audiences.

² See, for instance, Broadcasting Decision CRTC 2011-441, at paragraphs 115 and 119.

³ See Broadcasting Decisions CRTC 2011-444 to 2011-447.

4. Two of the signatories to the Agreement are Astral Television Networks (A Division of Astral Broadcasting Group Inc) (“Astral”) and Corus Entertainment Inc. (“Corus”). Astral and Corus are co-owners of TELETOON.
5. It is the CMPA’s position that, as signatories to the Agreement, Astral and Corus are bound to adhere to it not only with regard to their respective wholly-owned services but also with respect to TELETOON as a service they own jointly.
6. The management at TELETOON was obviously aware that its co-owners were at the table representing their company’s corporate interests during the negotiations leading to the ground-breaking Terms of Trade Agreement. The CMPA was therefore shocked to learn recently that the management of TELETOON takes the position that TELETOON is not subject to the Agreement. Moreover, relying on this position, TELETOON is now pressuring independent producers to accept contractual terms that clearly contravene both the letter and spirit of the Agreement.
7. The CMPA’s shock at learning of TELETOON’s refusal to adhere to the Agreement was further heightened by the fact that TELETOON’s co-owners, Astral and Corus, and the other broadcaster signatories to the Agreement insisted that the Agreement require independent producers, in their dealings with *any* Canadian broadcaster (i.e. including TELETOON) to ensure that any development or licence agreement they enter into with the broadcaster conforms with the Agreement.⁴ In other words, TELETOON’s co-owners require independent producers dealing with TELETOON to ensure that TELETOON adheres to the Agreement, yet their jointly-owned subsidiary, TELETOON, refuses now to accept the reciprocal obligation.
8. The CMPA appreciates the Commission’s support for the Agreement. The CMPA also acknowledges that the Commission expects the parties to the Agreement to pursue any related disputes as per the terms of the Agreement and/or through the courts, before seeking any Commission assistance on matters within the Commission’s jurisdiction.⁵
9. Nevertheless, the CMPA believes it is important for the Commission, in considering the present application by TELETOON for regulatory relief, to be made aware of the fact that the applicant is behaving in a manner that undermines the clarity and stability the Commission wishes the Agreement to provide, and thus is acting contrary to the broadcasting industry’s best interests as a whole.

⁴ Terms of Trade Agreement, s. 1e).

⁵ Ibid., above note 2 at par. 119.

10. In light of the above, and to address these unfortunate circumstances in a timely manner, the CMPA therefore requests that the CRTC take the opportunity presented by this current application to impose upon TELETOON a condition of licence requiring it to adhere to the Agreement.

Yours truly,

[original signed by John Barrack]

John Barrack
Chief Operating Officer and
Chief Legal Officer

cc Len Cochrane, President, TELETOON (lenc@teletoon.com)