

Writers Guild of Canada

**Application by BCE Inc. (“BCE”) for authority to change
the effective control of Astral Media Inc. (“Astral”)**

**Oral Presentation to the September 10, 2012 Public
Hearing**

Broadcasting Notice of Consultation CRTC 2012-370

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BCE Acquisition of Astral

Good afternoon. My name is Maureen Parker and I am the Executive Director of the Writers Guild of Canada. With me today is Kelly Lynne Ashton, the Director of Policy of the Writers Guild. The WGC is a national association representing over 2000 professional English-language screenwriters across Canada.

[Introduction]

As a guild we exist to represent the interests of our members, Canadian screenwriters. In the context of the CRTC that means advocating for Canadian programming, so that Canadian screenwriters have work today and, if we have a sustainable domestic television industry, have work tomorrow. But cultural groups such as ourselves also act as an important balance to the large corporate groups such as BCE, whose primary concern is its financial return to shareholders. When we advocate for Canadian programming, and particularly the more expensive and difficult to produce Canadian drama, we are also advocating for Canadian audiences who want to see themselves

reflected on their television screens. Only when we have a happy audience can we have a healthy, sustainable industry. When Canadian dramas such as “Saving Hope”, “Rookie Blue”, “The Listener” and “Flashpoint”, to name just a few, are earning audiences in excess of a million viewers week after week, it is clear that Canadians want to watch their own stories. It is equally clear to us, from our experience at the CRTC, that broadcasters will not provide Canadians with the programming that they want unless they are required to do so. We have heard Bell share with pride their increased investment in Canadian programming and particularly drama but we feel compelled to remind the Commission that Bell is only making this sizeable investment because the Commission required that Bell spend benefits money on PNI – benefits money that they did not initially want to spend. So we will continue to do our job of helping the CRTC to balance the interests of the shareholders of Bell and Astral, keeping in mind the needs of the Canadian public because that is good for Canadian television and therefore for Canadian screenwriters.

The WGC supports the Bell acquisition of Astral provided that our concerns are addressed. Specifically, the WGC is

here today to talk about the media consolidation that will result from the transaction and the structure of the benefits package triggered by the television services, with a focus on the English portion.

[Diversity of Voices]

There appear to have been as many different formulas proposed for assessing the resulting media concentration in this transaction as there are interested stakeholders. We agree with the Chair that regardless of the formula used, this transaction is large enough to warrant concern and careful scrutiny. The WGC has frequently expressed concern about the impact of media consolidation on entertainment programming. It is important to the Canadian broadcasting system that there is a diversity of programming and programmers making decisions in order to provide Canadians with real choice.

To offer an example, the WGC is concerned that as part of the new larger Bell Media, TMN could cease to air edgy adult dramas such as “Call Me Fitz” and “Good God” and instead would start to commission mainstream prime time dramas similar to “Flashpoint” and “Saving Hope” that could

also air on CTV. Bell's interest in reducing the cost of programming and the cost of promoting that programming could easily lead to a homogenization of programming across its services. At this time, Astral has a separate PNI CPE. We request that the Commission make it a condition of licence that Astral maintain a separate PNI CPE to encourage separate management of programming. As well, a benefits package that targets the forms of programming that the acquired assets broadcast, such as feature films, children's and youth and 'other PNI', can effectively limit the opportunities for amortization because money needs to be spent and programs need to be commissioned. The sheer size of a benefits package promotes diversity of programming.

We do not suggest that the Commission deny Bell's application as a result of the risks of media concentration or that there are no other potential risks. We remain concerned about the impact of media consolidation on the existence of a wide variety of Canadian programming.

[Kelly Lynne]

[Benefits Package]

Before addressing some of the specifics of the benefits package, we would like to address one comment from Bell, that there is already plenty of money in the system for English language PNI because of the PNI CPE and existing benefits packages from Bell and Shaw. First, we have yet to see the reporting on the first year of the Group Licence Policy so we do not yet have confirmation that the PNI CPE was set at an appropriate level and that spending on PNI is at least on par with previous years spending. But more importantly, benefits policy is not about need but about benefit or 'bonus' to the system. For years we have argued that a Canadian independent production industry could not be built on benefits alone as they are temporary and unpredictable. This was why we needed a CPE to ensure that broadcasters were spending sufficient money on Canadian programming. Benefits money has been structured to focus on on-screen programming because targeting Canadian audiences is the easiest and most efficient way to benefit the largest number of Canadians.

Benefit packages should therefore not be allowed to stray from CRTC policy that 85 to 100% of the benefits should be spent on onscreen programming, merely because there are other benefits in the system. While the CRTC has made exceptions to this policy in the BCE-CTV and Shaw-Canwest transactions they can be distinguished from this transaction. In the case of BCE-CTV, the exception was made in favour of improving satellite delivery of local broadcasting and for Shaw-Canwest the exception was in favour of assisting the transition to digital broadcasting. Both of these exceptions benefitted some aspect of the broadcasting system. Bell now wants an exception to the policy to fund their Northwestel proposal for wireless broadband. This is a totally inappropriate exception.

The Northwestel allocation is contrary to CRTC policy because it is not a payment to a third party, it is an infrastructure cost, it is a telecommunications cost and it is a cost to help pay for something that the CRTC has already told Northwestel to do in another proceeding. Bell is trying to justify this expenditure on wireless broadband as a broadcasting expense because it would help bring online video to northern communities and now apparently will help

northern youth and northern creators. While these are worthy causes, video is not the only use of broadband. Broadband is essential to communities now to allow for fast speeds in email, online banking and shopping, file transfers, online gaming, provision of government services and many more consumer and commercial applications. Calling broadband broadcasting because one of the things it will do is carry video would be like calling television radio because one of the things it does is play music. The WGC therefore recommends that the CRTC disallow the allocation to Northwestel and re-allocate the English share of the \$40 million, plus any increases in the benefits due to increases in valuation, to onscreen programming and specifically children's and youth television series and 'Other PNI'.

We were as frustrated as the Commission to be presented with new benefits proposals on Monday and continue to be frustrated with the lack of detail that has been provided subsequently. We do not know how the allocation to the French news service is incremental nor how it would be spent on on-screen programming. Bell has said at this hearing that the allocation to Canada's 150th Celebration will be to documentary and we would like to see that confirmed

in writing. As well, we would like to see it confirmed in writing that the Mental Health initiative is for onscreen programming other than PSAs. We ask that the Commission require more information from BCE in the Reply phase and provide stakeholders with the opportunity to comment.

The process by which these ‘rabbits’ have been pulled out of hats, along with the announcements about Bell’s ‘sort of’ version of Netflix and partnership with Cirque du Soleil have been, in our opinion, an abuse of the process of the Public Hearing. As stakeholders we do not have sufficient information or time to react in an informed manner to the new proposals. What concerns us even more is that this process of negotiating at the hearing has become the norm over the past few years. We believe that the Commission has the ability to take disciplinary measures and should in order to preserve the integrity of the process and allow stakeholders an appropriate opportunity to engage with the new information, if not in this hearing then as a warning for future hearings.

Finally, Bell initially proposed a ten-year term for payment of the benefits with the payment of 'Other PNI' backended to the last four years of the term. They have reluctantly agreed to a seven-year term but again with the bulk of onscreen programming - \$36.4 million – backended to the last two years of the term. Equal payments over the course of a benefits term provides the industry with stability and assurance that the benefits will actually be paid. Without a payment schedule, Bell is only just about to finally pay out its 2000 benefits, five years late. As well, as Vice-Chair Pentefountas pointed out, the standard 7 year term for payment of benefits was based on the 7 year term for licences though not expected to be co-terminous with them. Now that licences are five years, it is logical that benefit payment terms be reduced to five years as well. We therefore recommend that the term be limited to five years, to be paid out equally over the course of the term.

[Maureen]

[Conclusion]

In conclusion, our recommendations are focused on ensuring that any distress caused to the Canadian

broadcasting system from this transaction and the resulting media concentration, particularly in the English market, are mitigated by the benefits package and the production of Canadian programming that will be generated by it. We ask for the opportunity to comment on further information on benefits that BCE will hopefully provide in the reply stage.

We would be happy to answer any questions that you might have.