



Canadian Association of Stand-up Comedians

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September 27th, 2019

Mr. Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission
Ottawa, ON K1A 0N2

Dear Mr. Doucet:

RE: Application 2017-0743-1: Broadcasting license renewal for Super Channel (formerly Allarco Entertainment) – Second Phase

1. The Canadian Association of Stand-up Comedians (CASC) was established in 2017 as an association for aspiring and established professional Canadian comedians, including stand-up, sketch, and improv artists. CASC's mission is to build a thriving and dynamic comedy industry in Canada by: engaging Canadian comedians through advocacy, career opportunity, and support for programming; as well as professional development, improved labour mobility, and industry education. CASC is a federally registered not-for-profit incorporation that focuses on supporting its Members in all aspects of their career, as well as driving policy action with other stakeholders in the Canadian comedy business.

2. In this application, Allarco Entertainment 2008 Inc., carrying on business as Allarco Entertainment Limited Partnership (Allarco), is seeking to renew the broadcasting licence for the English-language pay Category A service Super Channel, which would be renewed as a discretionary service. CASC has not previously submitted comments on this proceeding.

3. Since Allarco has provided additional information that was not available in the original application, the Commission has asked for interveners to comment in this second phase, and CASC thanks the Commission for considering our intervention in the context of this proceeding to form part of the record. It appears that Allarco remains non-compliant with Super Channel's conditions of licence (COLs) and, as a result, CASC is unable to support Allarco's licence renewal application for Super Channel.

4. CASC has more than 900 members across Canada with interests in the development, production, and presentation of Canadian content that originates with Canadian creators who contribute to Canada's Cultural Sector through jobs, distribution, and intellectual property. Federally regulated broadcasting licence holders for discretionary programming undertakings like Allarco's Super Channel must be held accountable for meeting the requirements of their licence that are fundamental to a thriving landscape for the cultivation of Canadian content. Furthermore, in nurturing and advancing Canada's creative sector, it is crucial that Canadian regulators protect Canadian creators and our distinct culture from unfettered foreign ownership and influence.

5. CASC has reviewed Allarco's request to reduce Super Channel's Canadian programming expenditure requirements (CPE), and opposes any reduction from the required 30% of revenues of the previous broadcast year. CASC is also opposed to the elimination of Super Channel's COL regarding script and concept development. Furthermore, CASC supports the Commission's concerns about the manner in which the licensee interprets its regulatory obligations set out in Super Channel's COLs.

6. Having reviewed synopses of recent Statistical and Financial Summaries with respect to Super Channel, (Broadcasting Decision CRTC 2006-193), it seems Allarco has spent significantly less than its required 30% minimum on CPE during the past five years for which data is publicly available. While COL #10 may be interpreted to allow Super Channel to reconcile a mix of the accrual and cash bases of accounting in calculating its required CPE, any such reconciliation is not, to our knowledge, on public record with this proceeding, and, therefore, cannot explain this CPE discrepancy. As a result, CASC requests that the Commission enable a proper and independent examination of Super Channel's compliance with its CPE and, if necessary, impose a COL requiring assumed shortfalls to be paid in the subsequent term of its licence.

7. Moreover, while Allarco has previously agreed to maintain Super Channel's current level of CPE (30%) in response to interventions dated April 6 2018, CASC requests that the Commission impose a COL requiring that the licensee make up any shortfall expenditures on Canadian programming.

8. Super Channel is subject to COL #7, (Broadcasting Decision CRTC 2013-468), which requires that (under COL 5) they expend on script and concept development, excluding overhead costs, at least \$500,000 in each broadcast year.

9. Super Channel is also subject to COL #8, (Broadcasting Decision CRTC 2013-468), that (under COLs 5, 6, and 7) they expend as payment of the shortfall on its expenditures on regional outreach programs an amount equal to \$500,000 and \$1 million, respectively, on script and concept development in each broadcast

year until the end of the current licence term, (which expired on August 31, 2017), for a total amount to be paid equalling \$6 million.

10. Communications between Allarco and the Commission, (Response – May 23 2018 – Allarco Entertainment Response to CRTC June 18 2018, p. 3), indicated that Super Channel intended that script and concept expenditures were to be treated as loans, implying they were, therefore, in compliance with COLs #7 and #8. Allarco claimed that they had been advancing script and concept development loans since 2007 and that the recoupment of some of the loans advanced pursuant to COL #8 was not prohibited by CRTC 1993-93.

11. The Commission is on record responding by noting that loans do not qualify as expenditures meeting CPE requirements as set out in COLs #7 and #8 of Appendix 1 to BD CRTC 2013-468, as per Public Notice CRTC 1993-93.

12. CASC supports the Commission's response and therefore disagrees with Allarco that Super Channel's loans are an allowable means by which to meet these COLs. CASC also believes that it is Allarco's, the licensee's, responsibility to ensure that they are in compliance with them and any applicable Commission regulations and policies.

13. Even in the context of financial difficulty for Allarco and their discretionary service Super Channel, COLs cannot be breached by licensees, especially on a repeated basis. As a result, CASC asserts that the Commission should consider the appropriate measures to address any instances of non-compliance, which may include:

- Super Channel is still in apparent non-compliance with its past required 30% CPE.
- Super Channel is still in apparent non-compliance with its COLs with regards to script and concept development.
- Super Channel should still expend as payment of the shortfall on the above amounts on script and concept development outstanding.
- This shortfall payment should be applied as a condition of licence over the next term.

14. CASC strives to support its individual Members in all aspects of their career and drives policy action with all other stakeholders in the business of creating Canadian content. The Association is committed to stimulating the development and creation of cultural media from Canadians to present and distribute domestically and on the global market. CASC submits, therefore, that the Commission is correct in evaluating these instances of non-compliance with

COLs by this licensee as being severe, and should consider all possible sanctions in its response to this application.

The Canadian Association of Stand-up Comedians (CASC) is pleased to provide comments in this proceeding, and is grateful to the Commission for providing this opportunity.

Sincerely,

(Filed Electronically)

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