



July 12, 2021

CAUTION TO POTENTIAL APPLICATIONS FOR COST AWARDS

The funds available to the Broadcasting Participation Fund (“BPF”) are currently limited as described in the letter below to the Fund’s Stakeholders. This letter informs the Stakeholders that the Fund will be materially depleted in 2022 unless significant additional funds are received. The BPF strongly encourages potential costs awards applicants to take this information into account when planning interventions in Canadian Radio-television and Telecommunications Commission broadcasting proceedings. A significant risk exists that the Fund will not be in a financial position to award costs at some point in 2022.

Dear Stakeholders:

The Board of Directors of the BPF (the “Board”) wishes to provide an update to the Fund Stakeholders on certain recent developments relating to the fund administered by the Board (the “Fund”) that the Board believes will be of Interest to Stakeholders. This update relates to the forecast timeline for the anticipated exhaust of the Fund, and the Board’s actions and intended steps in relation thereto.

Stakeholders will recall that the Canadian Radio-television and Telecommunications Commission (the “Commission”) determined initial funding for the Fund shortly following establishment of the BPF in two separate decisions, \$3M in 2011 resulting from Broadcasting Decision CRTC 2011-163 and \$2M from Decision CRTC 2013-310. Subsequently, an additional 1.596M. was allocated to the Fund in Decision CRTC 2018-91 from tangible benefits resulting from a change in Sirius XM Canada ownership structure. (\$358,000 of this funding is only receivable by the Fund over the next 3 years - \$119,333 on May 24th of 2022, \$119,333 on May 24th of 2023 and \$119,333 on May 24th of 2024)

Based on the BPF’s Financial Updated at June 30, 2021, the Fund’s balance after accounting for claims received but not yet approved for payment amounted to **\$516,398**. However, the fund anticipates receiving the balance owing from the Sirius XM amounting to a total of \$358,000 in equal payments of \$119.33 over the next 3 years.

Based on the historical rate of claim disbursements from the Fund averaging \$463,000 per year plus administration costs, if no additional funding contributions are forthcoming, the Board currently projects that the Fund could be materially depleted in 2022, to the point that it is anticipated that the funding of cost awards from the Fund could cease in whole or in part prior, on or around such time, dependent upon the number and scope of Commission broadcast proceedings as well as the participation of groups seeking cost awards in those proceedings.

ACTIONS TAKEN

The issue of financing for the BPF and possible fund exhaustion has been at the front of the Board’s mind over the past couple of years. In 2020, we reached out to claimants to understand and gather data on the anticipated draw on funds in 2020 and 2021. Based on this information,

we oversaw the preparation of a financial summary outlining current and prospective claims and operating costs to show fund depletion.

Meetings were held with officials at the Commission and the Department of Canadian Heritage. A letter was sent to the Minister of Canadian Heritage underlining that by the end of 2022, the BPF would be unable to fulfill its mandate which would likely result in its probable termination. In light of Bill C-10, an Act to amend the Broadcasting Act, we requested that bridge financing be provided to sustain the operations of the BPF until the new public consultation procedures proposed in the bill are put in place.

A similar submission was sent to Ian Scott, Chair of the Commission as well as Stephen Guilbeault, Minister of Canadian Heritage, and Philippe Champagne, Minister of Innovation, Science and Economic Development. The submission was sent to all members of the Standing Committee on Canadian Heritage with a request to the Committee Clerk to appear before the Standing Committee in its study of Bill C-10. In the context of the pre-budget consultations, a submission outlining the Fund's financial situation and requesting bridge financing was made to the Minister of Finance.

On April 21st, 2021, the Public Interest Advocacy Centre ("PIAC") and the Forum for Research and Policy Communications ("FRPC") submitted a Part 1 application asking the CRTC to stabilize the funding of the Broadcasting Participation Funding. We await the CRTC's request for comments on this application.

ACTIONS TO BE TAKEN

The Board had hoped that Bill C-10 would have resulted in a source of funds for the BPF. This is now in doubt given that the Bill did not receive approval prior to Parliament's summer recess and the potential of an election call.

The Board plans to have further meetings over the next couple of months with the Commission and the Department of Heritage to determine if there are any financing options and what further action can be taken.

The Board foresees two opportunities which could be a source of funding for the BPF which Stakeholders should consider supporting at the appropriate time with the Commission.

1. One source of funds that may be available to the BPF relates to tangible benefits arising from the upcoming acquisition of Shaw Communications by Rogers Communications. If the Commission approves this transaction, Stakeholders are urged to request that a significant portion of these tangible benefits be earmarked for the BPF.
2. As mentioned earlier, PIAC and FRPC have submitted a Part 1 application asking the Commission to stabilize the funding of the BPF. Once the request by the CRTC for comments on the Part 1 is publicized, stakeholders are encouraged to provide input on the matter.

The Board will update the Stakeholders as to the results of future meetings with the Commission and the Department of Heritage and further actions to be taken, if required.

Given the forecast of Fund depletion in 2022, we want Stakeholders to be informed as to the status of the Fund (note -The BPF's Financial results are posted quarterly on the BPF's website).

For further information on the Fund, please visit the BPF website: www.bpf-fpr.ca.

Yours sincerely,

Robin Jackson, Chair
Penny McCann, Board member
William Atkinson, Board member