



The CMF and Eligible Distribution Fees

August 25, 2010 by Paul Chodirker

You can say that weaving through the system at the CMF can be a frustrating process, but you can't say the staff at the CMF aren't helpful. After coming across a question regarding the CMF's eligibility requirements for distribution fees and having difficulty in finding an answer on their website, a staff member with the CMF was more than willing to help me with my task. In fact, this staff member seemed almost excited at the prospect of helping me. I think the staffer's motivation came from the fact that I would become one less person confused about the new rules with the CMF and therefore, one less person inclined to call their offices for assistance.

Well, friendly CMF staffer - I've decided to help you out and pass on the information.

When submitting a distribution agreement for CMF's approval, if the distributor in question is taking a distribution commission of anything more than 15%, the distribution terms will be rejected. The CMF will only allow non-eligible distributors to receive 15% of revenues. So, in order to receive distribution fees in excess of 15%, one must either be an eligible distributor or a broadcast-affiliated eligible distributor. Distribution fees for such entities include 30% of gross revenues for television (conventional, pay) and 35% for television (syndicated).

According to the CMF, an eligible distributor must demonstrate the following to the CMF:

- A level of experience and expertise
- Sufficient volume of business and financial viability
- That it regularly attends international television markets
- That it has distributed productions of a similar size and nature
- That it is Canadian-controlled within the meaning of the Investment Canada Act (for the projects it will distribute in Canada)

According to the CMF, an eligible distributor affiliated with a broadcaster, may distribute a project if it meets certain requirements of the CMF and follows various "safeguards", which include the following:

- The negotiation for traditional distribution rights are conducted separately from the negotiation for a broadcaster license fee
- There is a delay after the producer and broadcaster have completed a short form broadcast agreement and before the broadcaster-affiliated distributor and producer commence negotiations of a distribution commitment



- The broadcaster-affiliated distribution company is prohibited from accessing information from its affiliated broadcaster that would give it an advantage in negotiating with the producer.

Attached is the CMF Eligible Distributor questionnaire and checklist, which is used by the CMF to evaluate those distributors that want to be included on the CMF's list of eligible distributors. It usually takes about 4 weeks for the CMF

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