

Dear John Stevenson, Secretary of the Ontario Securities Commission,

Submission: Exempt Market Review 45-710
8 March 2013

Introduction

In response to the Ontario Securities Commission's (the "**OSC**") *Exempt Market Review 45-710* dated December 14, 2012, in which the OSC requested consultation and comment from investors, issuers and other stakeholders in connection with exempt market issuances, and in particular, the possibility of equity crowdfunding in the same vein as what has been proposed by the U.S. *JOBS Act*, the authors have been requested by Astound Initiative to provide comment on some of the issues which, upon review, both Astound Initiative and the authors believe need to be addressed and encourage further dialogue with additional ministries in more detail by the OSC in advance of the implementation of any equity crowdfunding exempt market policy, if any.

The Authors

Jordan Nahmias is a lawyer licensed to practice in Ontario, who advises clients in entertainment and media.

Sandra Singer is a chartered accountant licensed to practice in Ontario who also advises both institutional and small to mid-size enterprises in the entertainment and media industries, among others.

Both have advised clients as well as been involved in activities upon which the OSC's recommendations with regards to equity crowdfunding would have a direct impact.

Astound Initiative

An initiative of the CFC Media Center , in partnership with the Ontario College of Art and Design and Hot Docs Canadian International Film Festival, Astound Initiative ("**Astound**") is a series of cross-sectorial industry workshops, collaborations and symposium of assembled investors, VCs, angel investors, creative content producers, and investor aggregators, dedicated to building new and diverse business investment models for Ontario creative content entrepreneurs working in digital media, film, television, gaming, transmedia, music and publishing. The effort of Astound is to bridging the gap and creating a common ground between the investment industry and creative content producers. Astound is financed directly by the Cluster Fund from the Ontario Media Development Coporation.

As such, Astound is uniquely positioned not only with intimate knowledge of the efforts, challenges and interests of many of those who would be most affected by any implementation of proposed new policy regarding equity crowdfunding, but also, is able to use its resources to effect innovation in new models of funding, the sharing of knowledge and community building to result in increased collaboration between investors and content creators in Ontario.

Astound efforts illustrate that there is a varied point of view that can bring additional clarity to the impact of the considered changes to the current regulatory framework as proposed in the Exempt Market Review. Astound's perspective brings to the table issues and polices that are of keen concern to additional ministries who are focused on issues such as increased

employment, economic diversification and private, sustainable financing of the creative and media industry

Our submission hopes to encourage a stronger liaising process with these ministries, agencies of the ministries (OMDC etc) and with Astound and the Authors which may encourage some future interaction and insight to this Exempt Market Review.

In that spirit, the Authors and Astound, we wanted to provide several examples of our concerns of key elements in the Exempt Market Review and share some a sample of our viewpoints.

Restrictions on Issuers, Investors, and Amounts Raised

Upon review, we noted the following under the Issuer Restrictions specific to limiting the amount of capital raised, levels of investment from a single investor and total amount of investment overall.

We find these caps to be restrictive the greater goal of crowdfunding which we identify as to provide necessary cash injection and in turn create job opportunities in Ontario. The OSC's mandate is to protect the investor; however, we feel that a limit of \$10,000.00 per individual investor is far too low to help achieve the objective of stimulating capital investment in small to medium sized enterprises ("**SMEs**"). We acknowledge that equity crowd funding is risky. With new funding systems, we can be mindful to acknowledge that risk, while simultaneously not creating significant deterrents to investment. In fact, we believe that placing strict limits on investment may create a "chill effect," by fostering a further perception of heightened risk in the mind of the investor, thereby negating substantive funding in the long run.

Another philosophical issue behind the investment caps rests in the fact that it limits the potential return for any investor. If you can only invest \$10,000.00, is it worth the time it takes to make that investment decision? Without the upside of a big return, will people really take the time to invest?

The authors question whether the OSC has considered what would happen if an investor would like to exceed their \$10,000 limit by subscribing for a different class of shares that are not 'listed'? Would the commission attempt to restrict that level of investment? Perhaps it makes sense to enforce a limit at the inception, but then to allow for graduated limits as a company moves through its life cycle.

This is one of many spaces of concern that the Authors and Astound have insight on and would hope to share in the future with the OSC.

The Limit on Advertising

We are of the opinion that the current suggestion on the limitation of advertising in connection with equity crowdfunding is shortsighted and may fail to take into consideration the nature and spirit of crowdfunding as a vehicle for investment. As producers in the creative content sector, in particular, we believe that allowing "social media" promotion while disallowing "advertising" may unintentionally demonstrate a misunderstanding of the nature of social media and audience engagement as it exists in a product's lifecycle, marketplace and society today.

We appreciate that advertising on a mass or targeted scale is dangerous for investors as well as issuers alike. Investors, particularly unsophisticated ones, are more likely to: (a) fall within the

purview of advertisements for equity crowdfunding investment opportunities as a result of the methodical ways in which advertising can be targeted, particularly in today's Internet-driven economy and marketing methods as well as sophisticated demographic information available to marketers and advertisers alike; and, (b) fall prey to misleading or convincing arguments presented by such advertisements. A limitation on advertisement works in this case – much in the same way that advertising limitations and regulation help to regulate the profession of law as well as other professions and industries.

The shortcoming in this protection mechanism, however, lies within what we deem to be a critical misunderstanding of “social media” and its role – or rather, inherent interweaving – with advertising and product development life cycle in today's day and age. The failure to define “social media” in any critical or comprehensive sense raises certain questions. For instance, what forms of social media are permitted? How can they be used? Would the hiring of a social media expert to target certain users online constitute advertising? Does social media have to be administered by both of the issuers and the funding portals? Or, can it instead be managed by one of the parties instead? And what about traditional advertising that is conveyed by social media (i.e. Facebook)?

In all these cases, there is a blending or meshing of social media in a traditional sense (as “traditional” as social media can be), and advertising in its modern form. The blurring of the lines between these two historically divergent methods of connecting with other individuals or entities thus presents an interesting and, we believe, unique conundrum for the OSC to deal with in preparing a satisfactory approach to bringing equity crowdfunding into Ontario's marketplace.

We would encourage a comprehensive exploration of the subsets of social media technologies or methods which would protect investors, issuers and portals alike while encouraging investment and growth. However, as stated above, we do believe that a critical re-examination of how social media operates *vis a vis* advertising in the continually and rapidly evolving world of digital connection and the Internet is warranted.

Summary and Conclusion

At a summary level, the authors believe that the comments and current policy recommendations by the OSC with regards to equity crowdfunding in Ontario, while surely attempted in the best interests of investors and issuers alike, may have neglected to take sufficiently into consideration the spirit of crowdfunding, and in many cases, of those who want or, in fact, need to engage in crowdfunding in order to achieve their objectives in relation to their enterprises.

Astound and the Authors are perfectly positioned to comment and offer insight to these issues mentioned above and many others described in the Exempt Market Review. Additionally, Astound can offer inter-ministerial perspectives as our activities operate in are focused on issues such as increased employment, economic diversification and private, sustainable financing of the creative and media industry

As such, we observe the current policy, Exempt Market Review appears to be an attempt to map an old method onto a new model, where, in fact, a new method needs to be engineered in order to successfully provide a safe and secure way for issuers, investors and portals to operate under the growing, new model of growth that is equity crowdfunding. Astound and the Authors can help to provide guidance on how the new model operates in our sector and across the field of investment in Ontario today.

Written and signed by:

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8 March 2013

This submission in no way reflects the opinions of the employers or related entities of the signatories and is to be taken only as commentary to the "OSC Exempt Market Review" dated December 14, 20