



May 1, 2012

Mr. Matthew Miller
President and Chief Executive Officer
Association of Independent Commercial Producers
3 West 18th Street, 5th Floor
New York, NY 10011

Dear Matt:

Your letter to me of April 25 responding to the ANA white paper on state commercial production incentives was very enlightening to say the least. The leaders of ANA's Production Management Committee, ANA's senior staff and I were rather surprised at the number of judgments, conclusions, and opinions you made without the benefit of prudent fact checking and knowledgeable insights. Your assessments of the way ANA conducts business, prepares its position papers, and sets policy are blatantly incorrect. As such, I would strongly encourage you to send this response to all of your members to ensure that they have a fair and balanced perspective of this controversial topic.

We respectfully disagree with your assertions in several fundamentally important ways:

- **Independence and Objectivity**

We found your comments peculiar and remarkably off base to think that the ANA is beholden to production consultants and third parties or that we neglect to provide objective advice.

For example, the following is from your note:

"...in further reading your white paper it was made clear how ANA was led to the simplistic and naive conclusion stated in the paper. All of the acknowledgments and links to resources belong not to your members, but rather to third parties who have a vested interest in marketers holding the belief that they are not benefiting from available incentives, and that they are missing out on "found money..."

Then further elaborated:

“It seems entirely counter to ANA’s legacy and how it has operated to allow outside influences to shape policy, define positions, and augment reality.”

Matt, we really think you should reconsider your views. ANA’s position on this issue is the clear product of ANA members. It completely and totally represents their collective points-of-view—and not “third parties.” Leaders of the ANA Production Management Committee authored, crafted, and wholeheartedly endorsed the white paper. Importantly, the position has been vetted by members of other ANA committees, including the Advertising Financial Management Committee as well as our outside legal counsel, Reed Smith. The white paper specifically includes testimonials from five ANA members including the co-chairs of the ANA Production Management Committee, John Lick and Valerie Light, whom we hold in very high regard.

The vast majority of the third parties that you refer to in your note contributed perspectives but had nothing to do with the development or the details in the paper. Only Ease Commercial Services contributed to the authorship of the paper. You and your membership should be totally aware that the final product was energetically endorsed by the Production Management Committee and its experienced co-chairs. I hope this clearly puts to rest the idea that our position paper “belongs” to third parties and not to our members, as you strongly suggest. This well-considered paper was not “simplistic and naïve” but thoughtfully and carefully crafted to present a perspective that we intelligently believe is the way state commercial production incentives should work.

- **Production Management Investment and Decisions**

Production budgets are enormously important to our members. Marketers’ financial investment to produce creative in all media is quite substantial. As such, there is complete belief and ANA member support that final production decisions rest ultimately in the hands of the marketers.

In making systemic decisions, marketers consider all elements of the production process, including costs. As much as we would like to keep production inside U.S. borders, many marketers travel overseas as they seek to lower overall cost profiles while maintaining or enhancing overall quality. We believe state production incentives can work to keep more production and jobs inside the U.S. Those decisions belong to the marketers. While such decisions may be influenced by agencies, production consultants, and production companies, the final choices belong to the marketer.

To ANA, if the marketer is putting forward the financial resources to employ your membership to produce our commercials, the benefit of such investment belongs to those that provided the resources in the first place. State commercial production incentives fall exclusively in that camp.

Your response notes that incentives play a key role in the production budget.

“One of the factors that is often measured when developing and negotiating the budget (which is ultimately approved by the client as the contract price) is the existence of any incentive that may help production companies achieve both the creative goals within the (ever shrinking) financial parameters.”

It is critical that there be full transparency between the production company and the client (as well as the agency representing that client) when a production company is considering a state incentive. If a production company factors the existence of an incentive when developing and negotiating the budget, that should clearly be discussed upfront and in a very transparent way during the bidding process. If a client states its intention to exercise its right to file for the incentive, the production company should consider that in its bid.

- **Expenses That Qualify for State Production Incentives**

The AICP note says:

“...a list of 15 items, virtually all of which are items that are budgeted for, controlled and paid by the production company.”

It's important to note that the list includes a number of items that the production company does not touch in any way, including agency labor, travel costs for agency and client, talent (especially if a celebrity contract is involved), post-production work, editing, sound mixing, special effects, visual effects, audio effects, and music. It is therefore imperative that the advertiser be the one who initiates and follows through on filing so that all potential recoverable incentives are part of the process.

- **ANA/AICP Collaboration**

Your comments were puzzling to say the least.

“The spirit of our two Associations’ ongoing collaboration was in no way reflected in such a surprise action...”

Your November 16 memo to your membership was devoid of any input or collaboration by the ANA. However, AICP initiated this debate via your November memo. This was, indeed, a surprise to ANA. It, in no way, reflected the ongoing collaboration we've enjoyed over the years. In fact, that memo was not brought to our attention until many weeks later. When we received it, ANA senior staff and ANA's Production Management Committee spent substantial time discussing that memo and our response with our members. Your public document led to our public response.

We were very surprised that some of the language in your April 25 and earlier notes bordered on “insulting” to the ANA and to its membership.

“ANA was led to the simplistic and naive conclusion...”

“The problem is there is no such thing as found money, except as a child under your pillow”.

“Incentives and tax credits are meant to help American companies compete on a very grassroots level ... not to further enhance multinational corporate balance sheets.”

There is no question we disagree. However, I think it is prudent that in the best interests of all industry constituents that we work hard to keep the conversation professional and above board.

The purpose of our white paper was to: (a) build awareness and educate ANA members on the benefits of state commercial production incentives and (b) clearly state our perspective that “Production incentive rebates belong exclusively to the advertiser, not to the production company or the agency.” We continue to believe in that position. Nothing that you stated in your April 25 letter persuaded the leaders of the Production Management Committee or the ANA to think any differently about our published position.

Finally, given that your memo of April 25 was sent to the entire AICP membership, we ask that you do the same with ANA’s response. Likewise, we’ll provide our membership your November and April letters and this response.

We’re happy to discuss this in greater detail, so please let us know if you would like to have that direct dialogue.

Sincerely,

A handwritten signature in black ink, appearing to read 'BL' with a stylized flourish.

Bob Liodice
President and Chief Executive Officer
ANA

c: ANA Membership