



**HOUSE OF COMMONS  
CANADA**

**ISSUES AND CHALLENGES  
RELATED TO LOCAL TELEVISION**

**Report of the Standing Committee on  
Canadian Heritage**

**Gary Schellenberger, MP  
Chair**

**JUNE 2009**

**40th PARLIAMENT, 2nd SESSION**

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# **THE STANDING COMMITTEE ON CANADIAN HERITAGE**

has the honour to present its

## **SECOND REPORT**

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the *Evolution of the Television Industry in Canada and its Impact on Local Communities* and has agreed to report the following:





# TABLE OF CONTENTS

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INTRODUCTION.....	1
PART 1: COMMITTEE MANDATE.....	3
PART 2: LOCAL TELEVISION.....	5
2.1 The place of local television in the system.....	5
2.2 Importance of local television.....	6
PART 3: THE CRISIS IN LOCAL TELEVISION.....	9
PART 4: TESTIMONY HIGHLIGHTS.....	11
4.1 Fee for carriage.....	11
4.2 The Local Programming Improvement Fund.....	14
4.3 CBC/Radio-Canada.....	16
4.4 Licence fees under Part II of the Broadcasting Act.....	16
4.5 Local programming obligations and Canadian content.....	17
4.6 Distant signals.....	20
4.7 The shift to digital.....	22
4.8 Community Television.....	24
4.9 Aboriginal Television.....	27
4.10 Educational Television.....	29
THE COMMITTEE'S RECOMMENDATIONS.....	31
APPENDIX A: SUGGESTED STUDY THEMES.....	35
APPENDIX B: LIST OF ABBREVIATIONS.....	37
APPENDIX C: LIST OF WITNESSES.....	39
APPENDIX D: LIST OF BRIEFS.....	47
REQUEST FOR GOVERNMENT RESPONSE.....	49

DISSENTING OPINION OF THE CONSERVATIVE PARTY OF CANADA .....	51
SUPPLEMENTARY OPINION OF THE BLOC QUÉBÉCOIS .....	55

# INTRODUCTION

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The Committee would like to acknowledge the participation and generosity of the witnesses who took part in our study. Representatives of the broadcasting industry agreed, often with little notice, to appear before us and share their knowledge and expectations regarding local television. We are most grateful to them.

Though there is a debate about the nature and the extent of the changes in the Canadian broadcasting industry, the Committee reiterates the importance for Canada of having strong local media. As representatives of the people, we are in a position to recognize the role that local media play in our respective communities.



## PART 1: COMMITTEE MANDATE

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In early 2009, the effects of the world economic downturn combined with long-term structural changes affecting conventional television broadcasters, led to the closing of a number of local television stations and/or news operations. In February, CTV Television Inc. announced it would not seek to renew the licences for two A Channel stations — CKNX-TV in Wingham and CHWI-TV in Wheatley and Windsor in Ontario — when they expire at the end of August and that it would either sell or close CKX-TV in Brandon, Manitoba.<sup>1</sup> In early March, CTV cancelled A Channel morning shows produced in Victoria, London, and Barrie, and the evening, late-night, and weekend newscasts produced in Ottawa.<sup>2</sup>

Also in February 2009, Canwest Global Communications said it was considering selling some of its conventional television stations, including CJNT-TV in Montreal (Quebec), CHCH-TV in Hamilton (Ontario), CHCA-TV in Red Deer (Alberta), CHBC-TV in Kelowna (B.C.), and CHEK-TV in Victoria (B.C.).<sup>3</sup> Meanwhile, CBC/Radio-Canada said it would have to cut services, programs, and people in order to bridge a short-term financing gap brought about by the economic crisis.<sup>4</sup> On March 19, it announced it would cut executive salaries and bonuses, offer voluntary retirement incentives, and try to sell assets.<sup>5</sup>

Earlier, in June 2008, the Canada Radio-television and Telecommunications Commission (CRTC) approved the acquisition of bankrupt TV network Télévision Quatre-Saisons (TQS) by Remstar Diffusion Inc. Remstar wanted to significantly reduce news programming at TQS and, as a short-term measure, the CRTC allowed it to offer a two-hour weekly current events analysis show in Montreal and Quebec City and one hour of news each week in Sherbrooke, Trois-Rivières and Saguenay.<sup>6</sup>

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1 “CTV cuts 118 jobs at A Channel stations,” *The Toronto Star*, March 3, 2003, <http://www.thestar.com/business/article/595756>.

2 Etan Vlessing, “A Channels chop local morning and weekend news shows,” *Media in Canada*, March 4, 2009, <http://www.mediaincanada.com/articles/mic/20090304/achannels.html?s=yes>.

3 “Canwest may sell TV stations,” *CBC News*, February 5, 2009, <http://www.cbc.ca/canada/british-columbia/story/2009/02/05/canwest.html>.

4 CBC/Radio-Canada, CBC/Radio-Canada’s response to Greg Weston’s article: ‘CBC wants more. In hard economic times others cut, the public broadcaster begs’, *The Sun newspaper chain*, February 22, 2009, “26 February 2009, <http://www.cbc.radio-canada.ca/media/facts/20090226.shtml>.

5 Wojtek Dabrowski, “CBC to trim salaries, bonuses,” *The Globe and Mail* [Toronto], March 19, 2009, <http://www.theglobeandmail.com/servlet/story/RTGAM.20090319.wcbc0319/BNStory/Entertainment/home>.

6 “CRTC clears Remstar’s purchase of TQS,” *The Gazette* [Montreal], June 27, 2008, <http://www2.canada.com/montrealgazette/news/business/story.html?id=b29beed6-6343-40dc-93e4-2c9d1d30bd94>.

As a result of these events, on March 11, 2009, the Committee agreed:

That, in light of the economic downturn, this Committee conduct a study at its earliest convenience on the future of television in Canada and the impact of the economic crisis on the industry in our local communities, beginning with calling to appear on March 25, 2009 from the CRTC: Konrad von Finckenstein, Chairman, Michel Arpin, Vice-Chairman of Broadcasting, and Peter Foster, Director General of Television Policy and Applications, to provide a briefing examining:

- 1) impacts on broadcasting in terms of the following key issues that are emerging:
  - a) the upcoming transition to digital programming,
  - b) the financial pressures on local and Canadian programming,
  - c) the need to maintain diversity of voices in media markets across Canada,
  - d) the effectiveness of cultural development funds on ensuring Canadian voices are able to compete in a challenged television landscape, and
- 2) the upcoming public hearing on License Renewals for Private Conventional Television Stations listed in Broadcasting Notice of Consultation CRTC 2009-113 in light of the recent economic crisis and technological innovations, and

that the Committee report the findings of this study to the House.<sup>7</sup>

The Committee also approved a set of study themes, which included funding (financial pressures, the decrease in advertising, changing viewing habits, and revenue streams), fee for carriage, the transition to digital programming, the role of the federal government and the CRTC, and the impact of local broadcasting (see Appendix A.)

As provided in the motion, the Committee heard from the chairman and officials of the CRTC on March 25. It held further hearings on April 20, 22, 27, and 29 and May 4, 6, 11, 13, and 25. During these hearings, the Committee heard from a total of 45 people and groups, including the Minister of Canadian Heritage and Official Languages, broadcasters, distributors, producers, representatives of community channels, specialty and pay channels, Aboriginal channels, and educational channels, as well as unions and other interested groups. (The list of witnesses is provided in Appendix B.)

On May 27 the Committee held an in-camera roundtable with industry representatives, unions, and industry associations.

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<sup>7</sup> Standing Committee on Canadian Heritage, *Minutes of Proceedings*, March 11, 2009, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3745143&Language=E&Mode=1&Parl=40&Ses=2>.

## PART 2: LOCAL TELEVISION

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### 2.1 The place of local television in the system

Local television is a key component of the Canadian television system. It is defined as “a commercial television station licensed to operate in a market where the licensee is expected to provide local news and information.”<sup>8</sup> Conventional television — also referred to as over-the-air (OTA) television or general-interest television — means:

Television stations that, historically, have broadcast their signals using over-the-air transmitters. This allows their signals to be received directly by viewers with a television set and an antenna. As a result viewers can receive the signals without subscribing to a broadcasting distribution undertaking [BDU], such as cable system.<sup>9</sup>

Local broadcasting is mentioned three times in the *Broadcasting Act*. First, the Act states that “the programming provided by the Canadian broadcasting system should ... be drawn from local, regional, national and international sources.”<sup>10</sup> Second, it says that BDUs “should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations.”<sup>11</sup> Third, it provides that BDUs “may, where the Commission considers it appropriate, originate programming, including local programming ... and in particular provide access for underserved linguistic and cultural minority communities.”<sup>12</sup>

In its 1999 television policy, the CRTC set out a framework that requires, among other things, “local and regional reflection whether through news or non-news programming.” The policy establishes incentives to provide non-news programming that reflects legitimate community interests during peak viewing periods. For news programming, the policy says when conventional, local television stations apply for licence renewals, they do not have to make quantitative commitments with respect to local news programs, but have to demonstrate “... how they will meet the demands and reflect the particular concerns of their local audiences, whether through local news or other local

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8 CRTC, *Broadcasting Public Notice* CRTC 2008-4, January 15, 2008, <http://www.crtc.gc.ca/eng/archive/2008/pb2008-4.htm>.

9 CRTC, “CRTC Glossary,” <http://www.crtc.gc.ca/multites/mtwdk.exe?k=glossary-glossaire&l=60&w=33&n=1&s=5&t=2>.

10 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(i)(ii).

11 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(t)(i).

12 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(t)(iv).

programming.” If the CRTC feels these demands are not met, it has the right to impose specific conditions of licence on a case-by-case basis.<sup>13</sup> At the time, the CRTC said:

[T]here are sufficient market incentives to ensure that audiences will continue to receive a variety of local news without regulatory requirements. News programming is a key element in establishing a station’s identity and loyalty with viewers and is generally profitable. Further, licensees may not solicit local advertising in a market unless they provide local news or other local programming.<sup>14</sup>

## 2.2 Importance of local television

Witnesses generally agreed that local television is an essential part of the Canadian broadcasting system. Konrad von Finckenstein, Chairman of the CRTC, said that during CRTC public hearings, “Canadians told us in no uncertain terms how much they valued their local television news.”<sup>15</sup> This was reinforced by Charlotte Bell of Canwest Media Inc., who said: “In two separate consumer surveys conducted on our behalf since 2006, subscribers overwhelmingly said they valued local television above all other programming services.”<sup>16</sup> The importance of local television was stressed by Ivan Fecan, president and chief executive officer of CTVglobemedia Inc., who said:

Our country is so broad that a collection of voices from one central place cannot speak for all of Canada. Local is the best chance our citizens get to see themselves on the screen and to contribute to the national debate. Local television also gives a place for local debate on issues that can’t hold national attention. Local television gives local businesses a chance to speak to their customers and compete with national and multinational businesses. Local is also what Canadian audiences have overwhelmingly told us they value very highly.<sup>17</sup>

Similar thoughts were expressed by Hubert T. Lacroix, president and chief executive officer of CBC/Radio-Canada, who described the Corporation’s role in Canada’s regions:

We play a key role in the social, cultural and democratic life of this country, and we cannot do that unless we are in Canadian communities. This is how we ensure that the issues and challenges people face in one community are heard and shared by people

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13 CRTC, *Building on Success - A Policy Framework for Canadian Television*, Public Notice CRTC 1999-97, June 11, 1999, <http://crtc.gc.ca/eng/archive/1999%5CPB99-97.htm>.

14 Ibid.

15 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 11, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 25, 2009, 15:35 p.m.

16 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 18:15, p.m.

17 Ibid., 16:00 p.m.



living across the country. That identification with the lives of people in other communities is the very essence of a national identity, the very essence of our mandate.<sup>18</sup>

A number of witnesses noted the importance of local television to rural communities across the country. Sylvain Lacroix of the Alliance de la francophonie de Timmins drew attention to the importance of local television for rural communities and noted there are very few local media remaining.<sup>19</sup> Rick Arnish, president of the Jim Pattison Broadcast Group, said that for places such as Kamloops and Prince George, British Columbia and Medicine Hat, Alberta, "... the loss of local broadcasting and local reflection built around diversity of voices in our country would be catastrophic. Canadians want, need, and desire to see themselves and their local communities reflected on their television stations."<sup>20</sup>

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18 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 16, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 27, 2009, 15:40 p.m.

19 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 20, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 11, 2009, 15:35 p.m.

20 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 18:20 p.m.



## PART 3:

# THE CRISIS IN LOCAL TELEVISION

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As noted at the outset, the world economic downturn and long-term structural changes have resulted in what has been described as a crisis for conventional and local television broadcasters. In his first appearance before the Committee, Mr. von Finckenstein said: "... conventional television now finds itself under a great deal of financial pressure, which the industry claims is threatening the viability of local programming." He went on to say, "... television stations serving a population of less than one million are having a hard time maintaining the quality and quantity of their local programming."<sup>21</sup> He also noted that the success of Canadian pay and specialty channels had resulted in the fragmentation of conventional television audiences, a phenomenon that has been exacerbated by the Internet.

The Committee heard, however, different interpretations about the extent and the causes of the financial pressure. Conventional broadcasters who appeared before the Committee said the conventional television business model is broken. These included Quebecor Media Inc., CTVglobemedia, Canwest Media Inc., CHCH, CBC/Radio-Canada, Remstar — TQS, the Canadian Association of Broadcasters (CAB), the Jim Pattison Broadcast Group, and the Newfoundland Broadcasting Company, as well as the Société des auteurs de radio, télévision et cinéma.

For them, there are long-term, structural problems in the industry, which have been accelerated by the economic crisis. These include audience fragmentation that has resulted from the increasing numbers of specialty channels, declining advertising revenues, and the challenges posed by new media. To quote Pierre Dion, president and chief executive officer of Groupe TVA (part of Quebecor Media Inc.), the structural problems mean that:

[O]ur costs are increasing and that our revenues are decreasing through fragmentation. There are many different ways for advertisers to sell their products. So then, revenues are declining, costs are increasing and earnings across the country, even in major urban centres, are declining. The same trends are emerging everywhere, whether it be for national or local advertising revenues.<sup>22</sup>

For CBC/Radio-Canada, which relies to a large extent on parliamentary appropriations, the problem of declining television advertising poses particular problems, as explained by Mr. Lacroix:

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21 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 11, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 25, 2009, 15:35 p.m.

22 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 14, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 20, 2009, 16:55 p.m.

Without the financial flexibility available to other commercial broadcasters ... CBC/Radio-Canada has no access to capital markets or to commercial borrowing to manage its cashflows. In an economic downturn, that means we cannot use a simple line of credit to lessen the impact of the decline in revenue and smartly manage ourselves out of a slowdown. That means that for every dollar of revenue lost, the corporation must immediately cut a dollar somewhere in order to balance its budget in the same fiscal year.<sup>23</sup>

On the other hand, a number of witnesses told the Committee the problems of conventional television are temporary and cyclical in nature. These groups included BDUs such as Rogers Communications Inc. and Shaw Communications Inc. and groups such as the Documentary Organization of Canada, the Canadian Film and Television Production Association (CFTPA), the Directors Guild of Canada, the Association des producteurs de films et de télévision du Québec (APFTQ), the Writers Guild of Canada, the Alliance of Canadian Cinema, Television and Radio Artists, and the Alliance québécoise des techniciens de l'image et du son.

For example, Phil Lind, vice-chairman of Rogers Communications, told the Committee: "The system is not broken. TV is a cyclical business. It's gone through some rough patches before and recovered to earn billions of dollars for its owners. History tends to repeat itself. With the greatest respect, our advice to this committee is simple: give history time to repeat itself."<sup>24</sup>

Some of those who said the problems of conventional television are temporary argued that conventional broadcasters brought some of the problems on themselves. For instance, Peter Bissonnette, president of Shaw Communications said: "Broadcasters make business decisions to spend more than \$700 million annually on American programming. In one case, they amassed a \$4 billion debt from the purchase of non-Canadian television stations and publishing properties."<sup>25</sup> Brian Anthony, national executive director and chief executive officer of the Directors Guild of Canada, made similar points, saying, "Despite declining ad revenues, the broadcasters have continued in their determined drive to outspend each other and bid up the cost of foreign programming in the process. That, coupled with other factors such as debt load and dubious business decisions, is their problem — a problem of their own making."<sup>26</sup>

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23 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 16, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 27, 2009, 15:50 p.m.

24 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 14, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 20, 2009, 15:35 p.m.

25 *Evidence*, Standing Committee on Canadian Heritage, *Evidence*, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 17:10 p.m.

26 *Evidence*, Standing Committee on Canadian Heritage, *Evidence*, Meeting No. 19, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 6, 2009, 17:00 p.m.

## PART 4: TESTIMONY HIGHLIGHTS

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### 4.1 Fee for carriage

The adoption of a subscription fee for the carriage of OTA television signals by BDUs was raised on a number of occasions in the course of our work. Conventional television broadcasters maintain that such a fee is needed to compensate for the financial losses of general-interest television broadcasters. This request is not new and was discussed in public hearings held by the CRTC in 2006.<sup>27</sup>

CTVglobemedia, Canwest Media, Quebecor, Remstar and CBC/Radio-Canada are in favour of introducing a subscription fee for the carriage of local OTA stations by BDUs. The arguments presented by the general-interest television broadcasters can be summarized as follows: They maintain that cable and satellite companies rebroadcast programming originally created by general-interest television broadcasters and that the latter are suffering as a result. In addition, specialty channels are taking a large share of advertising revenues without creating enough original Canadian programming.

Labour unions in the broadcasting industry also testified in support of introducing a fee for carriage. That support is conditional on the revenues generated by the fee for carriage being channelled into the production of more Canadian programs in various genres (drama, documentaries, etc.).

On the other hand, the cable and satellite BDUs, such as Rogers Communications, Shaw Communications and Bell Video Group, strongly oppose the introduction of a fee for carriage. They contend that the crisis cited by television broadcasters is cyclical and that those broadcasters are partially responsible for their current plight because of poor business decisions. The BDUs doubt that the television broadcasters would reinvest the revenues generated by the fee for carriage in local programming and Canadian content. Furthermore, the BDUs maintain that if such a fee were instituted, the costs would be passed on to their subscribers, which could result in a \$6 increase in their monthly bills.

In particular, Astral Media expressed great concern about Quebecor Media's position on the fee for carriage. Quebecor told the Committee on April 20, 2009, that if it had to negotiate a fee for the carriage of general-interest television stations, that fee would be deducted from the fees that Quebecor pays to the specialty channels. For its part, the

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27 CRTC, Broadcasting Public Notice CRTC 2007-53, May 17, 2007.

Aboriginal Peoples Television Network fears that the imposition of a fee for carriage would disrupt the broadcasting system and increase the costs to the BDUs' subscribers.<sup>28</sup>

In May 2007, the CRTC decided not to introduce a fee for the carriage of OTA television stations by BDUs.<sup>29</sup> On March 25, Mr. von Finckenstein provided a detailed explanation of the CRTC decision:

The conventional broadcasters were unable to give us a solid commitment on how the fees would be used to improve Canadian broadcasting systems and specifically how they would be used to improve local programming. We also took into consideration the fact that their overall revenues had been stable in recent years, yet their expenditures on foreign programs had been climbing steadily.<sup>30</sup>

In addition, Mr. Von Finckenstein does not believe that a fee for carriage would solve all of local television's problems. It might be only a partial solution to much larger challenges.

Some members of the Committee asked various television broadcasters if they were willing to reinvest the revenues generated by a fee for carriage in local programming. CTVglobemedia clearly stated that "the money should be used to support local programming."<sup>31</sup> Remstar also said that the company "agree[s] to investing it in Canadian local production."<sup>32</sup> Quebecor's position was not as firm, in that its executives will be "ready to commit to and create the sorts of commitment to invest in Canadian programming."<sup>33</sup>

CBC/Radio-Canada clearly stated that "any amount we would receive for fee for carriage, the infamous royalty so to speak, should go toward a priority that the CRTC has identified: Canadian programming, dramas, local programming. We are willing to make that commitment, for we have said we would and we have repeated that statement before the CRTC."<sup>34</sup>

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28 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 18:00 p.m.

29 CRTC, Broadcasting Public Notice CRTC 2007-53, May 17, 2007.

30 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 11, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 25, 2009, 15:40 p.m.

31 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 16:10 p.m.

32 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 17, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 29, 2009, 16:05 p.m.

33 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 14, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 20, 2009, 17:05 p.m.

34 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 16, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 27, 2009, 16:40 p.m.

In Mr. von Finckenstein's second appearance before the Committee, he identified a number of areas that he said require structural reform. One of these areas was funding. He said,

Rather than resorting to fee for carriage, we will seek to provide revenue support for conventional television stations by:

- a) Investigating alternative support mechanisms for local programming,
- b) Protecting the integrity of Canadian broadcaster signals, and
- c) Exploring mechanisms for establishing, through negotiation, the fair market value of these stations' signals, backed up if necessary by CRTC arbitration.<sup>35</sup>

Regarding the market value of stations' signals, Mr. von Finckenstein said BDUs distribute the signals because viewers want them. Therefore, the signals have a value and he said the producers of the signals should be remunerated for their value. He said the amount of the fee would depend on the market of the station in question and that the participants in the market should negotiate the fee. He also expressed confidence that the industry groups would be able to negotiate.

Asked whether the BDUs would pass the fee on to consumers, he said the BDUs "have to be very careful how much they charge otherwise people will abandon the BDU system altogether, or the television system, and try to get their signals over the Internet."<sup>36</sup>

Mr. von Finckenstein acknowledged that BDU subscriber fees might rise as a result of such a fee. Asked whether this created a two-tier system in which BDU subscribers pay to support conventional television and those who receive their signals over the air do not, he responded that people have the choice of being BDU subscribers or not. Michel Arpin, the CRTC vice-chairman for broadcasting, added that if people left the BDU system, they would also lose their specialty channels. He said, "... there is an equilibrium somewhere where everybody has to play fair ball: the BDU, because they want to protect their base, and the television operators who want to make sure that their specialty services still keep getting their revenues."<sup>37</sup>

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35 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 22, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 25, 2009, 15:35 p.m.

36 *Ibid.*, 16:00 p.m.

37 *Ibid.*, 16:55 p.m.

## 4.2 The Local Programming Improvement Fund

In October 2008, the CRTC announced the establishment of the Local Programming Improvement Fund (LPIF). Stations operating in markets with a population of less than one million would be able to obtain funding to improve their local programming.

The LPIF will be funded through contributions by BDUs and broadcasting companies. Their contribution will be 1 percent of their gross revenues from broadcasting activities. This will raise their contribution from 5 percent to 6 percent. This one-percentage-point increase will generate revenues of about \$60 million, with \$20 million going to the French-language market and \$40 million to the English-language market.

The main objectives of the LPIF are as follows:

- ensure that viewers in smaller Canadian markets continue to receive a diversity of local programming, particularly local news programming;
- improve the quality and diversity of local programming broadcast in those markets; and
- ensure that viewers in French-language markets are not disadvantaged by the smaller size of those markets.<sup>38</sup>

The CRTC recently held consultations on the LPIF's operating rules and eligibility criteria. The first LPIF allocations will be made in September 2009.

In his testimony to the Committee, the CRTC Chair stated that in his opinion, the LPIF is "part of the answer to the revenue problem conventional broadcasters face."<sup>39</sup>

When Mr. von Finckenstein came before the Committee the second time, he provided more detail on the LPIF. Noting the CRTC had not yet determined the final amount of money the Fund will contain, he said:

It is currently set at 1% of revenue, and in actual fact it now totals \$68 million. One question that we have talked about and looked at in greater detail is whether this level is

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38 Broadcasting Public Notice 2008-100 and Broadcasting Notice of Consultation 2009-113-1 provide additional details on the LPIF's operation.

39 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 11, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 25, 2009, 15:45 p.m.



sufficient, or whether it should be increased to 2.5% or something like that. You will get the answer once we have made our decision, in July.<sup>40</sup>

Most of the witnesses who appeared before us were in favour of the LPIF. The CAB was in favour but maintained that \$60 million is insufficient to address the pressures on local television.<sup>41</sup>

CBC/Radio-Canada requested access to the LPIF so that it can improve its programming at eight English-language stations and 12 French-language stations. In fact, the Corporation's 2009-2010 budget is based on the assumption that it will have access to the LPIF.<sup>42</sup> The Newfoundland Broadcasting Company objected to the request because the CBC/Radio-Canada would receive the "lion's share"<sup>43</sup> of the Fund.

CTVglobemedia applauded the initiative but saw it as a band-aid solution to a structural problem.<sup>44</sup> Remstar welcomed the establishment of the LPIF but wanted the rules to be made public soon and the allocations increased.

The Friends of Canadian Broadcasting (FCB), the Communications, Energy and Paperworkers Union of Canada and the Fédération des télévisions communautaires autonomes du Québec (FTCAQ) all stated that the LPIF will not be enough to meet local television's needs. The FTCAQ was critical of the fact that community television stations will not have access to the Fund, and called for the establishment of a similar fund exclusively for community programming.<sup>45</sup>

It is important to note that other witnesses expressed serious reservations about the LPIF. Shaw Communications believes that this type of fund subsidizes anti-economic behaviour.<sup>46</sup> In the opinion of Cogeco Cable Inc., the LPIF is an additional burden in that the company is required to contribute 1 percent of its cable broadcasting revenues but is

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40 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 22, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 25, 2009, 15:50 p.m.

41 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 16:45 p.m.

42 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 16, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 27, 2009, 15:45 p.m.

43 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 18:35 p.m.

44 *Ibid.*, 16:10 p.m.

45 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 16:50 p.m.

46 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 17:10 p.m.

not eligible for an LPIF allocation. Rogers Communications stated that the introduction of the LPIF would result in a slight increase in subscribers' cable bills.<sup>47</sup>

### 4.3 CBC/Radio-Canada

A number of witnesses questioned the presence of advertising on CBC/Radio-Canada's English and French television networks. The issue is not new and has been raised in many forums in the past, including the Committee's study of CBC/Radio-Canada in 2007 and 2008.<sup>48</sup>

Private broadcasters argued that it is unfair competition by a government agency that receives more than \$1 billion in parliamentary appropriations. The hope expressed by some witnesses, such as the FCB, is that CBC/Radio-Canada will withdraw from the advertising market (except for professional sports programs) and open up that market share to other broadcasters.<sup>49</sup>

The idea may seem appealing at first glance, but it ignores the unique nature of CBC/Radio-Canada's complex mandate to disseminate information to a linguistically and culturally diverse population across a large country.

As President and CEO Hubert Lacroix stated in his testimony, reducing the corporation's advertising revenues would leave it with a large budget shortfall. He said:

If the question is, Lacroix, what kind of model would you present if you took advertising revenues out of the CBC, how many dollars would you need, the answer is pretty simple in terms of what amount of commercial revenues we need to balance our budget. The number is anywhere between \$300 million and \$325 million in 2009-10 in our budget.<sup>50</sup>

### 4.4 Licence fees under Part II of the *Broadcasting Act*

The *Broadcasting Licence Fee Regulations, 1997* apply to all licensees except the types of undertakings listed in section 2 thereof. These include student, native, community and campus/community broadcasting undertakings, as well as CBC/Radio-Canada broadcasting undertakings. Every licensee covered by the Regulations is required to pay

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47 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 14, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 20, 2009, 16:45 p.m.

48 Standing Committee on Canadian Heritage, *CBC/Radio-Canada: Defining Distinctiveness in the Changing Media Landscape*, 39<sup>th</sup> Parliament, 2<sup>nd</sup> Session, February 2008, 194 p.

49 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 20, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 11, 2009, 16:00 p.m.

50 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 27, 2009, 16:10 p.m.

Part I licence fees and Part II licence fees to the CRTC each year. A portion of the fees goes to the Consolidated Revenue Fund.

Some broadcasters have filed suits in the Federal Court of Canada to challenge the legality of the Part II licence fees. In an initial decision in December 2006, the Federal Court held that the licence fees collected from broadcasters and BDUs were an illegal tax. On April 28, 2008, the Federal Court of Appeal overturned that decision. In December 2008, the Supreme Court of Canada agreed to hear the private broadcasters' case on licence fees. It is worth noting that the CRTC neither calculated nor collected Part II licence fees for 2007-2008 and 2008-2009. In 2006-2007, it collected \$121.9 million in Part II fees.<sup>51</sup>

In our study, a number of broadcasting industry representatives recommended that the federal government assist the industry by halting collection of those licence fees.

In his appearance before the Committee on March 25, CRTC Chair Konrad von Finckenstein clearly stated that resolving the licence fee issue would be good for the entire industry:

There are about \$200 million of reserves that they carry on their books. Is this not a time to cut a deal? The government won its case. They're never going to get the money anyway because these broadcasters are broke. You know that. So why not make a deal here, saying we will stop this unfair tax? If we establish the principle, we can do it, but it makes no sense. On the other hand, you, the broadcasters, give up any claim for refund.<sup>52</sup>

#### **4.5 Local programming obligations and Canadian content**

The CRTC's 1999 television policy set out a framework that requires local and regional reflection whether through news or non-news programming. The policy establishes incentives to provide non-news programming that reflects legitimate community interests during peak viewing periods. For news programming, television stations have to demonstrate how they meet the demands and reflect the particular concerns of their local audiences. The CRTC has the right to impose specific conditions of licence on a case-by-case basis.<sup>53</sup>

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51 CRTC, *2006-2007 Departmental Performance Report*, p. 42, <http://www.tbs-sct.gc.ca/dpr-rmr/2006-2007/inst/rtc/rtc-eng.pdf>

52 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 11, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 25, 2009, 16:40 p.m.

53 CRTC, *Building on Success - A Policy Framework for Canadian Television*, Public Notice CRTC 1999-97, June 11, 1999, <http://crtc.gc.ca/eng/archive/1999%5CPB99-97.htm>.

Some witnesses suggested reducing obligations for conventional television stations as a way of resolving their financial difficulties. Kenneth Engelhart, senior vice-president, regulatory and chief privacy officer for Rogers Communications, said:

[T]here may have to be some recalibration of the regulatory obligations on over-the-air television. In the past, over-the-air was a licence to print money, and the CRTC loaded them up with obligations. In some cases, they have to do many hours of local and, in addition, Canadian drama in prime time. I could see in the hearings the CRTC initiating a recalibration where more of the Canadian drama obligation falls on the specialty programs. The local television station does local and news but less than before.<sup>54</sup>

Mr. Fecan of CTVglobemedia said:

[W]hen conventional television made a lot of money, the regulator imposed many obligations for the privilege of owning conventional stations. These varied from the amount of local news a station had to produce all the way up to the number of Canadian dramas a station needed to commission from independent producers. As the conventional business deteriorated, the obligations have largely stayed put. This makes no sense.<sup>55</sup>

Regarding the situation in small markets, Mr. Arnish of the Jim Pattison Broadcast Group said:

[O]n all small market stations in populations of under 300,000, there should be no regulatory obligations at all, including the current Canadian content rules, where 50% of our programming must be Canadian in prime time, as well as 60% throughout the broadcast week. This would allow small markets to compete with all distant regional Canadian and American signals, along with foreign services and specialty and pay-per-view, which have severely impacted the tuning and revenues of our stations.<sup>56</sup>

Other groups, particularly those representing those involved in production, said broadcasters should not use the crisis in local television as an reason for reducing programming obligations. Indeed, Maureen Parker, Executive Director of the Writers Guild of Canada Writers' Guild said some broadcasters were not meeting their current obligations:

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54 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 14, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 20, 2009, 16:10 p.m..

55 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 16:00 p.m.

56 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 18:20 p.m.

At the CRTC hearing, we've heard that several broadcasters are not in compliance with a number of the regulatory obligations, from hours of news to hours of Canadian content.<sup>57</sup>

Claire Samson, president and chief executive officer of the APFTQ, said that her group:

[I]s concerned about the future of our broadcasting system if the difficult economic situation becomes a pretext for relieving corporate broadcasters of their obligations. We continue to believe, very sincerely, that Canadian content must remain central to the broadcasting industry so as to meet the requirements of the *Broadcasting Act*.<sup>58</sup>

Mr. John Barrack, national executive vice-president and counsel for the Canadian Film and Television Production Association, concurred, saying, "Today, rather than addressing what we believe are relatively low regulatory obligations, private over-the-air television broadcasters are attempting to reduce or outright eliminate their priority programming requirements."<sup>59</sup>

Brian Anthony, national executive director and chief executive officer of the Directors Guild of Canada, said:

To be granted a licence by the public authority is a privilege. As that privilege is accompanied by the benefits of a protected broadcasting environment, it brings with it certain expectations and requirements, the cost of being allowed to carry out business as a Canadian broadcaster. It is our view that any lessening of current Canadian priority programming requirements would be wholly unacceptable and indefensible.<sup>60</sup>

When Mr. von Finckenstein made his second appearance before the Committee, he spelled out a number of steps the CRTC intends to take regarding programming obligations. He said "Conventional broadcasters need to refocus on the core elements of their service — local news, local programming and programs of national interest." He went on to say that rather than having different programming requirements from station to station, the amount of local programming should be harmonized depending on the size of the market they serve.<sup>61</sup>

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57 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 19, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 6, 2009, 16:00 p.m.

58 *Ibid.*, 16:45 p.m.

59 *Ibid.*, 16:50 p.m.

60 *Ibid.*, 17:00 p.m.

61 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 22, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 25, 2009, 15:35 p.m.

In exchange for harmonization of obligations and negotiated funding, Mr. von Finckenstein said it would be “necessary for broadcasters to provide firm commitments regarding local news, local programming and programs of national interest.”<sup>62</sup>

Mr. von Finckenstein also said that some sort of mechanism appeared to be necessary to restrain spending on foreign programming.<sup>63</sup>

Some Committee members asked whether the CRTC has the necessary tools to enforce commitments to local programming. In particular, they wondered whether the ability to levy monetary penalties would help with enforcement. Mr. von Finckenstein said that the lack on monetary penalties was one of the major shortcomings of the *Broadcasting Act* and that having them would make his job easier.<sup>64</sup>

#### 4.6 Distant signals

The Committee also heard that distant signals are a financial issue for conventional television. According to the CRTC, the term is, “generally used in connection with the retransmission of signals that originate in one time zone to subscribers in another time zone. The availability of such signals allows subscribers to ‘time shift,’ thus providing multiple opportunities to view a given program.”<sup>65</sup>

The problem for local stations is that BDU customers have the option to watch a given program on a station that is located in another part of the country. This can affect the advertising revenue of local stations.

In his first appearance before the Committee, Mr. von Finckenstein, addressed the issue of distant signals. He said:

[W]e settled the question of distance [*sic.*] signals, better known as time shifting. This is a popular feature that allows satellite and digital cable subscribers to watch local television stations from other provinces. We decided that conventional broadcasters should be fairly compensated for the retransmission of their signals. CTVglobemedia and CanWest estimated lost revenues from time shifting at \$47.2 million annually. We have therefore given conventional broadcasters permission to renegotiate with cable and satellite

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62 Ibid.

63 Ibid.

64 Ibid., 16:00 p.m.

65 CRTC, *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, Broadcasting Public Notice CRTC 2008-100, October 30, 2008, para. 291., <http://www.crtc.gc.ca/eng/archive/2008/pb2008-100.htm>.

companies for their use. We hope the issue can be resolved through speedy negotiation and will result in an additional source of revenues for local broadcasters.<sup>66</sup>

A number of witnesses discussed distant signals. Peter Viner, president and chief executive officer of Canwest Television identified it as an issue, saying, “Cable companies have been allowed to flood markets with three or four signals, the same signals but on different time shifting,”<sup>67</sup> André Bureau, chairman of the board of Astral Media, said that compensation for distant signals was an immediate regulatory measure that could be taken.<sup>68</sup>

Pierre-Louis Smith, vice-president policy and chief regulatory officer for the Canadian Association of Broadcasters (CAD), discussed the monetary harm to local stations caused by the distribution of distant signals. He said:

CAB estimates that the economic impact of the distribution of Canadian distant signals through the OTA sector was \$70 million in lost advertising revenue for the year 2005-06 alone, of which BDUs compensated broadcasters \$10 million to offset the loss — clearly not an acceptable level. Therefore, broadcasters have asked for the right to exercise control over the carriage of their signals out of market.<sup>69</sup>

Douglas Neal senior vice-president of the Newfoundland Broadcasting Company, said that fee for carriage and distant signals were linked and that fee for carriage would help to offset the damage caused by distant signals. He said that it should be an industry-to-industry matter, but that the CRTC mediation process or government intervention might be required to solve it.<sup>70</sup>

On the other hand, Mirko Bibic, senior vice-president for regulatory and government affairs for Bell Canada Video Group, said that if satellite companies were forced to pay even more for distant signals, subscriber fees would go up.<sup>71</sup>

In Mr. von Finckenstein’s second appearance before the Committee, he was asked whether why it would not be possible to end distant signals in order to protect local stations. He answered the simple reason is that Canadians want distant signals. He went on to say:

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66 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 11, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 25, 2009, 15:35 p.m.

67 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 19:10 p.m.

68 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 15:40 p.m.

69 *Ibid.*, 16:45 p.m.

70 *Ibid.*, 18:30 p.m.

71 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 19, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 6, 2009, 19:00 p.m.

I don't feel that it's our role to tell Canadians what they can or can't have. Let the market decide. What we're trying to do is make sure, to the extent, there is value in it and that value is being given to the broadcasters.<sup>72</sup>

#### 4.7 The shift to digital

The transition to digital mode involves converting the production, distribution and transmission of television programming from analog mode to digital mode. The shift from analog television to digital and high-definition television (HDTV) will provide Canadian audiences with better picture and sound quality. The same transition is taking place in many other countries.

It is a major change for the Canadian broadcasting and telecommunications system. For many years, over-the-air (OTA) broadcasts were the only way of receiving television signals. The arrival of cable television and, later, satellite television led to a steady decline in the use of OTA technology.

In 2007, cable, satellite and multipoint BDUs covered more than 12.4 million Canadian households.<sup>73</sup> In other words, 90 percent of Canadian households subscribed to BDUs to receive programming services. Conversely, less than 10 percent of Canadians received OTA television signals. The corresponding figure in 2000 was 16.4 percent.<sup>74</sup>

For broadcasters and BDUs, the conversion to digital means that more frequencies will be available in the broadcasting spectrum. In other words, more efficient use of the spectrum paves the way for more high-definition television channels and new wireless services.

The CRTC has decided that as of August 31, 2011, analog transmission of television signals will cease. Broadcasting licensees will be permitted to transmit only digital OTA signals. Licences will be issued or renewed accordingly.<sup>75</sup>

CBC/Radio-Canada explained that the conversion to digital was putting financial pressure on its operations. The Corporation noted that under its hybrid plan, 44 transmitters would have to be installed to reach 80 percent of the population. To date, however, it had only eight digital transmitters covering about 47 percent of the population.<sup>76</sup>

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72 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 22, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 25, 2009, 16:05 p.m.

73 CRTC, *Communications Monitoring Report 2008*, p. iii.

74 CRTC, *Report on the Future Environment Facing the Canadian Broadcasting System*, December 14, 2006, para. 47.

75 CRTC, Broadcasting Public Notice CRTC 2007-53, para. 61.

76 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 16, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 27, 2009, 17:10 p.m.



President and CEO Hubert Lacroix made it very clear that funding is “really a big issue”.<sup>77</sup> In its 2008-2013 Corporate Plan, CBC/Radio-Canada stated that it “will not be able to roll out digital TV transmitters beyond the eight markets already delivered.”<sup>78</sup>

Private OTA broadcasters are also facing the challenge of the digital transition. It is a major challenge for the industry in terms of time and money, and the current economic situation is not ideal.

In CTVglobemedia’s view, the change was not driven by consumers or the industry. It resulted from “a bilateral agreement between the U.S. and Canada, where both governments want to auction the conventional TV spectrum for billions of dollars.”<sup>79</sup> The company says that it is unable to invest “several hundreds of millions of dollars to reach 9 percent of the marketplace, particularly when this investment produces no additional revenue in a business that is already teetering on the edge.”<sup>80</sup> Cogeco took a similar position, stating that the federal government will come out the big winner by selling off the reclaimed portion of the broadcasting spectrum.<sup>81</sup> The Newfoundland Broadcasting Company added that a government-funded television advertising campaign was needed to educate the public about the migration to digital television.<sup>82</sup>

Bell Video Group also commented on the issue. The company maintains that converting all analog transmitters to digital would be too costly. In its presentation, the company suggested that some general-interest television broadcasters transmit their signals by satellite instead of OTA, especially in sparsely populated areas. This FreeSat model would enable consumers in those areas to receive conventional television stations by satellite rather than OTA.

Last year, the CRTC established a working group composed of senior executives of broadcasting and distribution companies to find some solutions. The Working Group published its conclusions on April 20, 2009. The industry leaders asserted their position at the very beginning of their report:

The OTA broadcasters have made it clear that this Government policy and the expectations for the accelerated digital transition present an enormous challenge to the broadcasting industry given the magnitude of the digital transition, the significant costs

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77 Ibid.

78 CBC/Radio-Canada Corporate Plan Summary for 2008-2009 to 2012-2013, p. 31.

79 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 16:05 p.m.

80 Ibid.

81 Ibid., 18:05 p.m.

82 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 18:40 p.m.

involved, the short time frame remaining before the deadline and the generally unfavourable economics.<sup>83</sup>

The Working Group estimated that it would cost \$330 million to convert all existing analog transmitters.<sup>84</sup> The members of the Working Group made three recommendations:

- that changes be made in the appropriate regulations that would allow broadcasters to maintain their must-carry, simultaneous substitution and local advertising entitlements without the requirement of owning or operating a transmitter;
- that steps be taken to ensure that no additional distant signal or copyright liability is created as a consequence of implementing the hybrid model; and
- that, if it remains a public policy objective to convert from analog to digital OTA transmission, then the federal government must establish a funding mechanism (from the proceeds of the spectrum auction) for the digital migration.<sup>85</sup>

The Committee understands the industry leaders' concerns about the costs of completely converting their analog facilities. However, it believes that it is vital for Canadian citizens in every part of Canada to be able to receive conventional television station signals free of charge.

#### 4.8 Community Television

The Committee heard from several witnesses about the role of community television stations in providing local coverage. Some of these community television stations are run by BDUs, while others are independent.

The *Broadcasting Act* refers to community broadcasting twice. It establishes “community”, along with “public” and “private”, as one of the three elements of the Canadian broadcasting system.<sup>86</sup> It also states that the programming provided by the Canadian broadcasting system should include educational and community programs.<sup>87</sup>

In 2002, the CRTC released a policy framework for community-based media. The objectives of this policy are to:

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83 DTV *Working Group Report*. Issues Raised by Going Digital. April 2009, p. 1. (<http://www.crtc.gc.ca/eng/archive/2009/2009-113-2.htm>).

84 *Ibid.*, p. 2.

85 *Ibid.*, p. 6.

86 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(b).

87 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(i)(iii).

- To ensure the creation and exhibition of more locally-produced, locally-reflective community programming.
- To foster a greater diversity of voices and alternative choices by facilitating new entrants at the local level.

The policy goes on to say “the role of the community channel should be primarily of a public service nature, facilitating self-expression through free and open access by members of the community.”<sup>88</sup> During 2009/2010, the CRTC is planning to conduct a public hearing to consider its current community policy and possible changes to it.<sup>89</sup>

Several BDUs described their involvement in community television. Mr. Lind of Rogers Communications said, “Community broadcasting paid for by the cable companies is quickly becoming the most respected source of truly local television in Canada.”<sup>90</sup> This kind of programming varies by market. Where there is no other television broadcaster, the community channel may be involved in a wide range of programming, while in larger markets, it complements the conventional broadcaster by covering high school sports, and city council meetings and by offering multicultural programming.<sup>91</sup>

Mr. Bissonnette of Shaw Communications said, “The government and the CRTC must fully embrace the potential of community channels to provide a diversity of voices through local news and local programming that reaches various geographic, cultural, and linguistic communities.”<sup>92</sup> Yves Mayrand, vice-president of corporate affairs of Cogeco Cable Inc., described the activities of TVCogeco in North Bay, Ontario. He said this showed here are solutions when the broadcasters feel they no longer have a business case for local programming. He went on to say, “We could do more if we had access to our own local resources for that purpose. Oddly enough, our local advertising is restricted by regulation.”<sup>93</sup>

In addition to the BDUs, the Committee also heard from independent community broadcasters.

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88 CRTC, *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, October 10, 2002, <http://www.crtc.gc.ca/eng/archive/2002/pb2002-61.htm>.

89 CRTC, *CommuniTV.ca*, <http://communitv.ca/index.php/register/en/>.

90 Standing Committee on Canadian Heritage, *Evidence*, No. 14, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 20, 2009, 15:35 p.m.

91 *Ibid.*, 16:20 p.m.

92 Standing Committee on Canadian Heritage, *Evidence*, No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 17:10 p.m.

93 *Ibid.*, 18:10 p.m.

Sylvain Racine of the FTCAQ du Québec agreed, saying, “The independent ... community television stations are part of the range of news voices and they need better financial support.”<sup>94</sup> He said the 2002 CRTC policy framework has not forced cable companies to fund the independent community television stations, yet if a cable operator maintains a community channel, it may deduct all or part of the percentage of its gross revenue that must go to Canadian programming. As a result, the situation of community television stations is uneven. He said an appropriate way need to be found to fund local, independent community television stations, and that the solution lies in the creation of a dedicated local community and access programming fund.<sup>95</sup>

Gérald Gauthier of the FTCAQ said that independent community television stations require \$60 million — the same amount provided for the LPIF. Even if community producers have access to the LPIF, he asked: “How can \$60 million be enough to meet the financial needs of both private broadcasters and community producers?”<sup>96</sup> Mr. Gauthier also asked that community television stations be permitted to air conventional, commercial and local advertising. He said community television stations need such new income sources to enhance the amount and quality of local and access programming, as well as to keep up with technological developments.<sup>97</sup>

Michael Lithgow, research associate for the Campaign for Democratic Media, testified that local programming improvement fund should be made available for use by independent community broadcasters.<sup>98</sup>

Catherine Edwards, spokesperson for the Canadian Association of Community Television Users and Stations (CACTUS), recommended that “the \$120 million being spent yearly by cable companies on so-called ‘community programming’ be liberated for independently run community channels that are accessible to all, representative of their communities, and present in those communities.” She also called for non-cable BDUs to contribute to local reflection, for technological options to be explored so that DTH can carry local channels, that space be made on all BDU basic services for a national public access channel, and that an ombudsman's office be created within the CRTC to monitor the coherence of the CRTC's decisions and their impact on the community sector.<sup>99</sup>

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94 Standing Committee on Canadian Heritage, *Evidence*, No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 16:50 p.m.

95 *Ibid.*, 16:50 p.m.

96 *Ibid.*

97 *Ibid.*, 17:00 p.m.

98 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 20, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 11, 2009, 15:45 p.m.

99 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 21, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 13, 2009, 15:50 p.m.

The Committee also heard from Donna Skelly, a CHCH co-host representing a group of employees trying to save the station, which Canwest said it was considering selling. She proposed community ownership, under which CHCH would be governed by a board of directors made up of “leaders and the people who understand the communities they live in.” The station would focus on news and information. Financing would involve soliciting advertising from within the local business community. She also said the local program improvement fund (LPIF) would play a critical role. In addition, she proposed that a fee for carriage be collected from all the distributors carrying CHCH, with carriage being mandatory.<sup>100</sup>

In response, Peter Viner of Canwest Television said that the proposed format would not generate enough revenue and would have fewer viewers than the current fare. Yves Mayrand of Cogeco Cable said that a community-owned station had been tried before and had not been sustainable.<sup>101</sup>

On the other hand, Lise Lareau of the Canadian Media Guild said the LPIF should be used to help support local ownership at CHCH.<sup>102</sup>

#### 4.9 Aboriginal Television

During its hearings, the Committee heard testimony from the Aboriginal Peoples’ Television Network (APTN) and Northern Native Broadcasting, Yukon. It also received a brief from the Inuit Broadcasting Corporation. They pointed out the distinctive aspects of Aboriginal television.

The *Broadcasting Act* mentions Aboriginal peoples twice. It says “the Canadian broadcasting system should ... reflect ... the special place of Aboriginal peoples within [Canadian] society.”<sup>103</sup> It also says, “programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose.”<sup>104</sup> To support Northern native broadcasting, the Department of Canadian Heritage has the Northern Native Broadcast Access Program, which, among other things, supports the production of culturally-relevant Aboriginal programming.<sup>105</sup>

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100 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 15, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, April 22, 2009, 18:20 p.m.

101 *Ibid.*, 18:45 p.m.

102 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 20, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 11, 2009, 17:50 p.m.

103 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(d)(iii).

104 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(o).

105 Department of Canadian Heritage, *Northern Native Broadcast Access Program*, <http://www.pch.gc.ca/pgm/pa-app/pgm/paanr-nnbap/guide-eng.cfm>.

Jean LaRose, chief executive officer for APTN, pointed out,

APTN is a national network. We strive to reflect all aboriginal communities—first nations, Inuit, and Métis—and we act as a bridge between aboriginal peoples and the broader Canadian population. We deliver three separate regional feeds directed to the west, the east, and the north of the country, as well as a high-definition feed.<sup>106</sup>

APTN schedules 40.5 hours each week of distinctive northern programming, which it licenses from general revenues. These revenues come from the subscription fees earned from BDUs and from advertising. The northern broadcasting societies receive additional funding for this programming from the Government of Canada through the northern aboriginal broadcasting program.<sup>107</sup>

Mr. LaRose noted that funding through that program has not changed for many years. As a result, the northern broadcasting societies have not been able to stay current with technology and increased production costs.<sup>108</sup>

Stanley James, chair of the board of directors of Northern Native Broadcasting, Yukon said that his organization is funded through the aboriginal peoples program directorate of Canadian Heritage, and the this funding had remained almost unchanged since its creation. He went on to point out the problems this causes:

Static funding can only be translated as a decrease, as the cost of living and the cost of business escalate consistently each year. The changes to industry standards, particularly in high definition and digital radio, have an immediate impact on us. We have had to lay off personnel and close down our analog television production unit, putting seven people out of work.

Although advertising has augmented the funding from Canadian Heritage, in the current economic downturn, advertising revenues have dropped faster for us than they have for others throughout the industry. Business does not view the aboriginal audience in remote northern communities as a good investment for their diminishing advertising dollars.

New media, changing viewing habits, audience fragmentation, and convergence are having their effects on us. We have not had the necessary funding to meet the needs of a fast-growing youth population who do not view the world as our ancestors did. We need to be able to produce programming that interests the youth of today, delivering the programming in the media of today. As a communications network, we need to continue to play a critical role in keeping the language, culture, and customs of the aboriginal people alive and in use.<sup>109</sup>

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106 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 17:55 p.m.

107 *Ibid.*

108 *Ibid.*

109 *Ibid.*, 18:40 p.m.

Mr. James went on to say the federal government must continue to assist local aboriginal broadcasters and to assist in meeting the cost of digital transmission.<sup>110</sup>

The Inuit Broadcasting Corporation also noted the decline in funding in real terms. It said this resulted in a decrease in the amount of programming. It also made it difficult to meet broadcasters' standards, to train staff, and to maintain adequate facilities. It called for a revitalized Northern Aboriginal Broadcasting Program.<sup>111</sup>

#### 4.10 Educational Television

The Committee heard from Michèle Fortin, president and chief executive officer of Télé-Québec, Quebec's educational network. She pointed out that educational networks are often overlooked in the debates on the future of television.

The *Broadcasting Act* includes two references to educational programming. It says that programming provided by the Canadian broadcasting system should include educational and community programs. It also says "... educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system."<sup>112</sup>

There are five provincial educational broadcasters: Knowledge Network in British Columbia, Access in Alberta, Saskatchewan Community Network, TVOntario/TFO, and Télé-Québec.

Ms. Fortin pointed out that because educational networks are not specialty channels, they do not receive the fees the latter enjoy. She said that like other broadcasters, educational networks need adequate resources to carry out their mandates and expand access to new platforms. Unlike other networks, however, educational networks cannot rely on auxiliary sources of revenue. Ms. Fortin said:

It is thus vital that the educational networks not be excluded from any program that may be set up to assist the industry. [...] It is also important that the unique features of educational networks be taken into account when new rules are formulated for funding allocation by the new Canada Media Fund.<sup>113</sup>

Regarding the distribution of educational networks, Ms. Fortin said:

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110 Ibid.

111 Inuit Broadcasting Corporation, *Brief to the Standing Committee on Canadian Heritage*, May 2009.

112 *Broadcasting Act*, 1991, c. B-9.01, s. 3(1)(j).

113 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 18, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, May 4, 2009, 17:05 p.m.

[I]t is becoming increasingly crucial to ensure: that it be mandatory to distribute educational television networks on all platforms available in their province of origin; that educational networks be able to obtain distribution throughout the country if they so wish...; that the French-language educational networks be made accessible throughout the country, given the limited supply of French-language products for the country's francophone minority communities; that Canadian networks' HD television signals be given priority distribution by satellite throughout the country.<sup>114</sup>

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114    *ibid.*, 17:10 p.m.



# **THE COMMITTEE'S RECOMMENDATIONS**

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Throughout the study the Committee has mindful that the CRTC was in the process of examining many of these same issues.

The Committee recognized that the problems in the local television industry needed to be addressed as soon as possible.

Before recommending any specific course of action, the Committee decided to set out the following general principles:

## **RECOMMENDATION 1**

**The Committee recommends that any programs designed to assist local broadcasting be open to both private and public broadcasters, including CBC/Radio-Canada, Aboriginal broadcasters, educational broadcasters, community television, and small broadcasters representing official language minority communities.**

## **RECOMMENDATION 2**

**The Committee reaffirms the importance of maintaining Canadian content and local programming obligations.**

The Committee then adopted the following recommendations:

## **RECOMMENDATION 3**

**In recognition of the structural problems facing the local television industry, the Committee recommends that contributions to the Local Programming Improvement Fund go from 1% to 2.5% of broadcasting distribution undertaking revenues commencing September 2009.**

**The Committee further recommends that the Fund be dedicated such that CBC/Radio-Canada and its affiliates receive 1% of broadcasting distribution undertaking revenues, with at least 10% of this amount dedicated to official language minority communities.**

The Committee further recommends that 1.5% of broadcasting distribution undertaking revenues be dedicated to broadcasters in small- and medium-size markets, consistent with recommendation 1.

#### **RECOMMENDATION 4**

The Committee recommends that the Canadian Radio-television and Telecommunications Commission ensure that the budget of the Local Programming Improvement Fund is used exclusively for new, original local programming in small- and medium-size markets.

#### **RECOMMENDATION 5**

The Committee recommends that that Local Program Improvement Fund governance structure include representatives of the local station employees and that broadcasters provide annual reports to the Canadian Radio-television and Telecommunications Commission to show they are using the funds for new investments in local programming.

#### **RECOMMENDATION 6**

The Committee reiterates its support for public television by calling for stable, multi-year, and predictable financing for CBC/Radio-Canada. It also calls on the Government of Canada to consider reducing the reliance of CBC/Radio-Canada on commercial advertising.

#### **RECOMMENDATION 7**

The Committee recommends to CBC/Radio-Canada that it actively participate in the strategic review process, identify cost-saving measures and viable reinvestment ideas, and that the Government of Canada do not recover these funds so that they may be reinstated to support the future plans and priorities of CBC/Radio-Canada.

#### **RECOMMENDATION 8**

The Committee recommends that the Government of Canada consider eliminating Part II licence fees.

#### **RECOMMENDATION 9**

The Committee calls on the Canadian Radio-television and Telecommunications Commission to address the growing discrepancy between foreign and Canadian program spending.

#### **RECOMMENDATION 10**

**The Committee calls on the Government of Canada to examine regulatory or legislative changes that would provide the Canadian Radio-television and Telecommunications Commission with the ability to impose Administrative Monetary Penalties on broadcasters or broadcasting distribution undertakings deemed not in compliance of their licence.**

#### **RECOMMENDATION 11**

**In the interests of accountability, the Canadian Radio-television and Telecommunications Commission should include in its annual monitoring report statistics on the hours of original local news and non-news content originated and broadcast by each over-the-air television station.**

#### **RECOMMENDATION 12**

**As the Canadian Radio-television and Telecommunications Commission conducts its review of licence terms for private conventional television broadcasters, the Committee calls on it to consider the impact of the concentration of media ownership on the broadcast sector and to re-examine the balance between conventional and specialty television.**

#### **RECOMMENDATION 13**

**The Committee recommends that the Government of Canada ensure that independent producers have access to the Canada Media Fund and are consulted on its administration.**

#### **RECOMMENDATION 14**

**The Committee recommends that the Canadian Radio-television and Telecommunications Commission enforce the carriage by satellite carriers of local signals that are carried on cable systems.**

#### **RECOMMENDATION 15**

**The Committee recommends that public, community, Aboriginal, and educational channels be part of the basic cable package, that CBC/Radio-Canada be available outside major urban centres, and that beyond the basic package, subscribers be free to choose channels individually.**

#### **RECOMMENDATION 16**

**The Committee calls on the Government of Canada to work with broadcasters and broadcasting distribution undertakings on a plan to meet the deadline for the transition to digital and recommends that the government consider options for assisting the transition.**

#### **RECOMMENDATION 17**

**To protect the integrity of local markets, the Committee recommends that the Canadian Radio-television and Telecommunications Commission either stop the distribution of distant signals by broadcasting distribution undertakings or restrict them such that a prime-time show may not be viewed in any region before the local affiliate has had the opportunity to broadcast it as per their local schedule.**

#### **RECOMMENDATION 18**

**The committee recommends that the Canadian Radio-television and Telecommunications Commission relax the restrictions on local advertisements on community television.**

# APPENDIX A

## SUGGESTED STUDY THEMES

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### FUNDING

What are the financial and other pressures on local broadcasting?

How is the decrease in advertising affecting local broadcasting?

To what extent are New Media, changing viewing habits, audience fragmentation, and convergence affecting local broadcasting?

What additional revenue streams are available for local broadcasting?

### FEE FOR CARRIAGE

Would fee for carriage for over-the-air television signals help local broadcasting?

### TRANSITION TO DIGITAL PROGRAMMING

What are the costs to local broadcasters associated with the transition to digital programming?

Should the federal government assist local broadcasters in meeting the costs of digital transition, and if so, how?

### ROLE OF THE FEDERAL GOVERNMENT

How could the federal government address the situation of local broadcasting?

How could cultural development funds ensure the survival of local broadcasting?

Will the Canada Radio-television and Telecommunications Commission's Local Programming Improvement Fund meet the needs of local broadcasting?

Would changes to the regulatory system be effective in meeting the meet the needs of local broadcasting?

## **IMPACT OF LOCAL BROADCASTING**

What impact does the loss of local broadcasting have on the diversity of voices?

## APPENDIX B LIST OF ABBREVIATIONS

<b>APTN</b>	Aboriginal Peoples Television Network
<b>APFTQ</b>	<i>Association des producteurs de films et de télévision du Québec</i>
<b>BDU</b>	broadcasting distribution undertaking
<b>CAB</b>	Canadian Association of Broadcasters
<b>CBC</b>	Canadian Broadcasting Corporation
<b>CBC/Radio-Canada</b>	Canadian Broadcasting Corporation/Radio-Canada
<b>CFTPA</b>	Canadian Film and Television Production Association
<b>CRTC</b>	Canadian Radio-television and Telecommunications Commission
<b>FTCAQ</b>	Fédération des télévisions communautaires autonomes du Québec
<b>FCB</b>	Friends of Canadian Broadcasting
<b>HDTV</b>	high definition television
<b>LPIF</b>	Local Programming Improvement Fund
<b>OTA</b>	Over-the-air
<b>SRC</b>	Société Radio-Canada





## APPENDIX C LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p><b>Canadian Radio-television and Telecommunications Commission</b></p> <p>Konrad W. von Finckenstein, Chairman</p> <p>Michel Arpin, Vice-Chairman, Broadcasting, Chairman's Office</p> <p>Scott Hutton, Executive Director, Broadcasting</p> <p>Stephen Delaney, Director, Industry Analysis</p>	2009/03/25	11
<p><b>Quebecor Media Inc.</b></p> <p>Pierre Karl Péladeau, President and Chief Executive Officer, Quebecor and Quebecor Media Inc.</p> <p>Pierre Dion, President and Chief Executive Officer, Groupe TVA</p> <p>Serge Sasseville, Vice-President, Corporate and Institutional Affairs</p>	2009/04/20	14
<p><b>Rogers Communications Inc.</b></p> <p>Anthony Viner, President and Chief Executive officer, Rogers Media</p> <p>Phil Lind, Vice-Chairman</p> <p>Kenneth Engelhart, Senior Vice-President, Regulatory and Chief Privacy Officer</p> <p>Colette Watson, Vice-President, Rogers Television</p>		
<p><b>Canwest Media Inc.</b></p> <p>Peter Viner, President and Chief Executive Officer, Canwest Television</p> <p>Charlotte Bell, Senior Vice-President, Regulatory Affairs</p>	2009/04/22	15
<p><b>CHCH-TV</b></p> <p>Donna Skelly, Co-host</p>		
<p><b>Cogeco Cable Inc.</b></p> <p>Yves Mayrand, Vice-President, Corporate Affairs</p> <p>Maureen Tilson Dymont, Senior Director, Communications and Programming</p>		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>CTVglobemedia Inc.</b></p> <p>Ivan Fecan, President and Chief Executive Officer, Chief Executive Officer CTV Inc.</p> <p>Paul Sparkes, Executive Vice-President, Corporate Affairs</p> <p>Elaine Ali, Senior Vice-President, CTV Stations Group</p> <p>Peggy Hebden, Station Manager, "A" Barrie</p> <p>Don Mumford, Station Manager, "A" London/Windsor/Wingham</p>	2009/04/22	15
<p><b>Shaw Communications Inc.</b></p> <p>Peter Bissonnette, President</p> <p>Jean Brazeau, Senior Vice-President, Regulatory Affairs</p> <p>Ken Stein, Senior Vice-President, Corporate and Regulatory Affairs</p> <p>Alex Park, Vice-President, Programming and Educational Services</p>		
<p><b>CBC/Radio-Canada</b></p> <p>Hubert T. Lacroix, President and Chief Executive Officer</p>	2009/04/27	16
<p><b>Department of Canadian Heritage</b></p> <p>Honourable James Moore, Minister of Canadian Heritage and Official Languages</p> <p>Judith LaRocque, Deputy Minister</p> <p>Jean-Pierre Blais, Assistant Deputy Minister, Cultural Affairs</p>	2009/04/29	17
<p><b>Remstar - TQS</b></p> <p>Maxime Rémillard, Co-Founder and President</p> <p>Tony Porrello, Vice-President</p>		
<p><b>Aboriginal Peoples Television Network</b></p> <p>Jean LaRose, Chief Executive Officer</p>	2009/05/04	18
<p><b>Allarco Entertainment Inc.</b></p> <p>Charles Allard, Chairman and Chief Executive Officer, Super Channel</p> <p>Malcolm Knox, President and Chief Operating Officer, Super Channel</p> <p>Richard Paradis, Business Affairs and Government Relations</p>		

Organizations and Individuals	Date	Meeting
<p><b>Astral Media Inc.</b>            André Bureau, Chairman of the Board            John Riley, President,            Astral Television Networks            Pierre Roy, President,            Les Chaînes Télé Astral et MusiquePlus Inc.</p> <p><b>Canadian Association of Broadcasters</b>            Pierre-Louis Smith, Vice-President,            Policy and Chief Regulatory Officer            Tara Rajan, Vice-President,            Research and Policy</p> <p><b>Cogeco Cable Inc.</b>            Maureen Tilson Dymont, Senior Director,            Communications and Programming</p> <p><b>Corus Entertainment Inc.</b>            John Cassaday, President and Chief Executive Officer            Sylvie Courtemanche, Vice-President,            Gouvernement Relations            Michael Harris, Vice-President and General Manager            Gary Maavara, Vice-President and General Counsel</p> <p><b>Fédération des télévisions communautaires            autonomes du Québec</b>            Gérald Gauthier, Research and Development Officer            Sylvain Racine, Director of des Moulins Regional Television,            Treasurer to the Board of Directors</p> <p><b>Jim Pattison Broadcast Group</b>            Rick Arnish, President</p> <p><b>Newfoundland Broadcasting Company</b>            Scott Sterling, President            Douglas Neal, Senior Vice-President</p> <p><b>Northern Native Broadcasting Yukon</b>            Stanley James, Chair,            Board of Directors            Sophie Green, General Manager</p> <p><b>Télé-Québec</b>            Michèle Fortin, President and Chief Executive Officer</p>	2009/05/04	18

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>Telefilm Canada</b></p> <p>Michel Roy, Chair, Board of Directors</p> <p>S. Wayne Clarkson, Executive Director</p>	2009/05/04	18
<p><b>TVCogeco Peterborough</b></p> <p>Tim Caddigan, Manager, Regional Programming</p>		
<p><b>Association des producteurs de films et de télévision du Québec</b></p> <p>Claire Samson, President and Chief Executive Officer</p> <p>Brigitte Doucet, Executive Vice-President</p>	2009/05/06	19
<p><b>Bell Canada Video Group</b></p> <p>Mirko Bibic, Senior Vice-President, Regulatory and Government Affairs</p> <p>Christopher Frank, Vice-President, Programming</p>		
<p><b>Canadian Film and Television Production Association</b></p> <p>Norm Bolen, President and Chief Executive officer</p> <p>John Barrack, National Executive Vice-President and Counsel</p>		
<p><b>Directors Guild of Canada</b></p> <p>Brian Anthony, National Executive Director and Chief Executive Officer</p> <p>Grant Buchanan, Partner, McCarthy Tétrault LLP</p>		
<p><b>Documentary Network</b></p> <p>Jean-Pierre Gariépy, Executive Director</p> <p>Sylvie Van Brabant, Director-Producer</p>		
<p><b>Documentary Organization of Canada</b></p> <p>Danijel Margetic, Chair, Advocacy Committee</p> <p>Lisa Fitzgibbons, General Director</p>		
<p><b>Société des auteurs de radio, télévision et cinéma</b></p> <p>Yves Légaré, Director General</p>		
<p><b>Writers Guild of Canada</b></p> <p>Rebecca Schechter, President</p> <p>Maureen Parker, Executive Director</p>		

Organizations and Individuals	Date	Meeting
<b>Alliance de la francophonie de Timmins</b>	2009/05/11	20
Caroll Jacques, Director General, Kirkland Lake		
Sylvin Lacroix, Executive Director		
<b>Campaign for Democratic Media</b>		
Steve Anderson, National Co-ordinator		
<b>Canadian Media Guild</b>		
Marc-Philippe Laurin, President, CBC Branch		
Lise Lareau, National President		
<b>Communications, Energy and Paperworkers Union of Canada</b>		
Jim Holmes, President, Local 714		
Peter Murdoch, Vice-President, Media		
Monica Auer, Legal Counsel		
<b>Fédération nationale des communications</b>		
Chantal Larouche, President		
Pierre Roger, Secretary General		
<b>Friends of Canadian Broadcasting</b>		
Ian Morrison, Spokesperson		
<b>National Film Board of Canada</b>		
Tom Perlmutter, Chair of the national Film Board of Canada and Government Film Commissioner		
Claude Joli-Coeur, President of the National Film Board of Canada and Acting Government Film Commissioner		
<b>On Screen Manitoba Inc.</b>		
Kim Todd, Chairperson		
Tara Walker, Executive Director		
<b>Syndicat des communications de Radio-Canada</b>		
Alex Levasseur, President		
Micheline Provost, Vice-President		
<b>Alliance of Canadian Cinema, Television and Radio Artists (ACTRA)</b>	2009/05/13	21
Brunhilde Pradier, President		
Richard Hardacre, National President		
Wendy Crewson, Member		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>Canadian Association of Community Television Users and Stations (CACTUS)</b></p> <p>Michael Lithgow, Research Associate, Campaign for Democratic Media</p> <p>Catherine Edwards, Spokesperson</p>	2009/05/13	21
<p><b>Guilde des musiciens et musiciennes du Québec</b></p> <p>Luc Fortin, President, Section Local 406 of the American Federation of Musicians of Canada and the United States</p> <p>Mylène Cyr, Director General, Section Local 406 of the American Federation of Musicians of Canada and the United States</p>		
<p><b>Stornoway Communications</b></p> <p>Martha Fusca, President</p>		
<p><b>Canadian Radio-television and Telecommunications Commission</b></p> <p>Konrad W. von Finckenstein, Chairman</p> <p>Michel Arpin, Vice-Chairman, Broadcasting, Chairman's Office</p> <p>Scott Hutton, Executive Director, Broadcasting</p>	2009/05/25	22
<p><b>Astral Media Inc.</b></p> <p>André Bureau, Chairman of the Board</p> <p>Sophie Émond, Vice-President, Regulatory and Government Affairs</p>	2009/05/27	23
<p><b>Bell Canada Video Group</b></p> <p>Mirko Bibic, Senior Vice-President, Regulatory and Government Affairs</p> <p>Christopher Frank, Vice-President, Programming</p>		
<p><b>Canadian Association of Broadcasters</b></p> <p>Pierre-Louis Smith, Vice-President, Policy and Chief Regulatory Officer</p> <p>Tara Rajan, Vice-President, Research and Policy</p>		
<p><b>Canadian Film and Television Production Association</b></p> <p>Norm Bolen, President and Chief Executive Officer</p> <p>John Barrack, National Executive Vice-President and Counsel</p>		

Organizations and Individuals	Date	Meeting
<p><b>Canwest Media Inc.</b> Charlotte Bell, Senior Vice-President, Regulatory Affairs</p>	2009/05/27	23
<p><b>CBC/Radio-Canada</b> Louis Lalonde, Executive Director , Regional Services, French Services Steven Guiton, Chief Regulatory Officer</p>		
<p><b>Communications, Energy and Paperworkers Union of Canada</b> Peter Murdoch, Vice-President, Media Monica Auer, Legal Counsel</p>		
<p><b>CTVglobemedia Inc.</b> David Goldstein, Senior Vice-President, Regulatory Affairs Paul Sparkes, Executive Vice-President, Corporate Affairs</p>		
<p><b>Jim Pattison Broadcast Group</b> Rick Arnish, President</p>		
<p><b>Quebecor Media Inc.</b> Pierre Karl Péladeau, President and Chief Executive Officer, Quebecor and Quebecor Media Inc. Pierre Dion, President and Chief Executive Officer, Groupe TVA Serge Sasseville, Vice-President, Corporate and Institutional Affairs</p>		
<p><b>Rogers Communications Inc.</b> Phil Lind, Vice-Chairman Kenneth Engelhart, Senior Vice-President, Regulatory and Chief Privacy Officer</p>		
<p><b>Shaw Communications Inc.</b> Jean Brazeau, Senior Vice-President, Regulatory Affairs Michael Ferras, Vice-President, Regulatory Affairs</p>		





## **APPENDIX D LIST OF BRIEFS**

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### **Organizations and Individuals**

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**Aboriginal Peoples Television Network**

**Allarco Entertainment Inc.**

**Alliance de la francophonie de Timmins**

**Alliance of Canadian Cinema, Television and Radio Artists (ACTRA)**

**Alliance québécoise des techniciens de l'image et du son**

**Association des producteurs de films et de télévision du Québec**

**Astral Media Inc.**

**Bell Canada Video Group**

**Canadian Association of Broadcasters**

**Canadian Association of Community Television Users and Stations (CACTUS)**

**Canadian Film and Television Production Association**

**Canadian Media Guild**

**Canadian Radio-television and Telecommunications Commission**

**Canwest Media Inc.**

**CBC/Radio-Canada**

**CHCH-TV**

**Cogeco Cable Inc.**

**Communications, Energy and Paperworkers Union of Canada**

**Corus Entertainment Inc.**

**CTVglobemedia Inc.**

**Directors Guild of Canada**

**Documentary Organization of Canada**

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## Organizations and Individuals

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**Fédération des télévisions communautaires autonomes du Québec**

**Fédération nationale des communications**

**Friends of Canadian Broadcasting**

**Guilde des musiciens et musiciennes du Québec**

**Inuit Broadcasting Corporation**

**Kratz, Karin**

**Native Communications Society of the N.W.T.**

**Newfoundland Broadcasting Company**

**Quebecor Media Inc.**

**Remstar - TQS**

**Rogers Communications Inc.**

**Shaw Communications Inc.**

**Stornoway Communications**

**Syndicat des communications de Radio-Canada**

**Telefilm Canada**

**Télé-Québec**

**TELUS Communications**

**Writers Guild of Canada**

# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27](#)), is tabled.

Respectfully submitted,

Gary Schellenberger, MP

Chair



## **Dissenting Opinion of Conservative Party Members of the Standing Committee on Canadian Heritage**

### **Introduction**

The Conservative members of the Standing Committee on Canadian Heritage, have participated actively for over three months in the Committee's study of the Evolution of Canadian Television, and disagree strongly with some of the principal recommendations or lack thereof within the Committee's Report. We are, therefore, submitting this separate Dissenting Report.

We acknowledge the importance to communities across Canada of local television broadcasting, particularly as it relates to coverage of news, sports, weather and community affairs. We also acknowledge the current economic recession is having a negative impact on the advertising revenues of most conventional OTA broadcasters, and in turn is making it more difficult for local broadcasters to fulfil their licensing conditions with respect to the provision of high quality local programming.

Our Committee heard from a broad range of Canadian senior executives in the field of television broadcasting and distribution, television program producers and representatives of the unions and guilds whose members create television programming. We also heard on two occasions from the Chair and the Vice Chair (Broadcasting) of the CRTC, who reviewed with us the range of public policy initiatives the Commission believes are available to respond to the current financial challenges facing Canada's local OTA broadcasters.

The basic rationale for this Dissenting Report is that the Conservative Party members of the Standing Committee are firmly believe that specific recommendations in the Standing Committee's Report or lack thereof fail to reflect the best interests of Canadian consumers and, moreover, fail to address the major problem identified by a vast majority of the 45 witnesses that testified.

Specifically we believe that the Standing Committee's recommendations, or lack thereof, in respect of:

- (i) The fee for carriage issue;
- (ii) The continued restrictions by Health Canada on television advertising of pharmaceutical products;
- (iii) The imposition on broadcasters to limit or cap spending on foreign programming;
- (iv) The imposition of Administrative Monetary Penalties on broadcasters and BDU's not in compliance of their licence;

Are significant shortfalls of this report which fail to address both the current cyclical and longer term structural challenges facing OTA broadcasters.

## **Analysis**

Based upon our intensive review of the evidence presented to the Standing Committee, we believe the challenges facing Canada's local OTA broadcasters are both structural and cyclical. Currently, most sectors of our economy are feeling some financial pain and OTA broadcasters have clearly suffered a loss in revenue as a result of the current economic climate. Although the Canadian broadcasting industry is well situated to benefit from the prompt turnaround of the Canadian economy it is still incumbent upon this committee to address the serious structural problems faced by OTA broadcasters. This is a duty the majority on the committee have abdicated with the main report. These issues must now be addressed in this dissenting opinion.

### **Fee for carriage**

Many of the 45 witnesses that appeared before the Standing Committee identified the "fee for carriage" issue as one of the main points of contention between broadcasters and distributors and, as such, it was the duty of this committee to examine the issue and offer some guidance and advice on behalf of Parliament and the Canadian public. In fact, the approved mandate of this study included a provision to study fee for carriage. This duty has been ignored by the majority report.

It is clear from the evidence presented that the "fee for carriage" debate is far from settled. The majority of conventional broadcasters, including CTV, Global, Quebecor, Remstar and CBC/Radio Canada as well as labour unions representing industry workers testified in favour of a "fee for carriage" model. At the same time, distributors such as Shaw, Rogers Communications and Bell as well as several smaller broadcasters like Corus Entertainment, Astral, The Jim Pattison Group and APTN have indicated their opposition to such a model.

In light of this disagreement, the chairman of the CRTC has indicated that he is, "exploring mechanisms for establishing, through negotiation, the fair market value of these stations' signals, backed up if necessary by CRTC arbitration."

While we agree that it is a fundamental right for individuals, groups and businesses to freely enter into negotiations and come to common agreement for mutual benefit, it was incumbent upon this committee to offer our advice and advocate on behalf of the best interests of the Canadian people that have elected us to do just that. Despite that responsibility, the majority report neglected to offer any guidance, leadership or advice to the CRTC, BDU's or broadcasters on this vitally important issue of public policy.

As such, this dissenting report must now indicate our most fervent and rigorous opposition to any potential fee for carriage system, either negotiated or imposed, that would have a detrimental effect on the consumer. We believe it is fundamentally unfair to expect Canadian consumers to pay new and substantial charges each month to their cable or satellite distributor to reflect such a system. We further believe that Canadians should not be expected to pay new fees to support local programming when no firm

commitment was offered that such a fee would lead to improved access to, or quality of, local programming, the rehiring of laid off employees or the return of cancelled programs. In fact, no evidence was presented that such a system would lead to any additional Canadian content commitments of any kind.

The 90% of Canadians who currently receive their television signals from a cable or satellite BDU already pay 5% of their monthly subscription fee to support the production of Canadian television programming. In the spirit of accountability and openness the Conservative members on committee would further support a full disclosure of these fees on billing statements sent to subscribers. This would ensure that all Canadians understand and are aware of their mandated support for local programming and Canadian programs.

### **Restriction on Pharmaceutical Advertising**

The final recommendations of the Committee do not include direction with regard to the broadcasters request for removal of strict restrictions on pharmaceutical advertising in Canada. We believe Health Canada should immediately move toward the removal of said restrictions, which have become completely ineffective as foreign networks regularly broadcast them into Canada with absolutely no benefit to Canadian broadcasters or program creators. Based on a proportional estimate from the U.S. experience, it is reasonable to assume that the lifting of restrictions would provide several hundred million dollars in new revenues to OTA broadcasters with no adverse affect on Canadians already regularly viewing these ads.

### **Limits or Caps to Foreign Spending**

While the Conservative members expect the CRTC to effectively enforce Canadian Content guidelines, it does have concerns that the motion to “address the growing discrepancy between foreign and Canadian spending” could lead to possible limitations on the broadcasters and their expenditures on foreign programming. While we are mindful of the discrepancy it’s important to recognize that while expenditures on foreign programming have risen dramatically over the past number of years, we feel that the CRTC should allow for the market forces to prevail. Out of control spending on foreign programming are the effects of competition but will eventually be curbed by the income reality of the industry.

### **Administrative Monetary Penalties on Broadcasters and BDU’s**

While the Conservative members expect the CRTC to enforce Canadian Content guidelines, we have concerns that a heavy handed or an overly intrusive approach could have a destructive effect on the Canadian broadcast industry. In this regard we would suggest that the government consider the evidence heard by Canadian producers and make propose any improvements to the current system of enforcement it deems appropriate. The correct approach should insure compliance but do so in a fair and even handed manner.

## **Conclusion**

Conservative members of the committee have approached the crisis in local television in an unbiased manner and have come forward with balanced recommendations that will assist broadcasters without hitting Canadians with substantial new television fees. We are standing firmly on the side of Canadian consumers and suggest that all industry leaders do the same.



## SUPPLEMENTARY OPINION OF THE BLOC QUÉBÉCOIS

### **There are two countries in this country**

There are two countries in this country: Canada and Quebec.

And there is no better proof of this than a study of the television industry, which is at the heart of modern culture.

The reality and problems facing the television industry in Canada are so different from those facing Quebec's television industry! And yet the members of the Heritage Committee continue to deny this fact and prepare reports that seek to develop the same solutions for two different problems.

The evidence heard indicates that American culture has a growing influence on Canadians, who are less and less interested in their own television programming. Who said recently that Canada is the only country that prefers television programs from their neighbour?<sup>1</sup> All the studies and all the witnesses confirm this. This of course creates many problems for artists, producers, broadcasters and distributors in Canada. And it explains the ratings problems and the erosion of media advertising revenues in Canada. The solutions must therefore be Canadian.

The situation in Quebec is just the opposite. Quebeckers thrive on Quebec content. They enjoy seeing their lives reflected on the small screen, in their own language. They want more Quebec content and have supported a well-structured star system since the start of television. There are no problems with ratings either: Quebeckers choose Quebec content. French-language television is essentially for Quebeckers and tells stories about Quebec told by Quebeckers. Quebeckers' language and sense of national belonging are the basis for their interest in their own television programming, both private and public.

### **A structural problem**

The Bloc Québécois has noted a structural problem in the development of the television industry in Quebec which creates a financial imbalance among the various stakeholders in the industry.

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<sup>1</sup> It was Richard Stursberg, Vice-President of the CBC, who stated [Translation]: "In all western countries, people prefer local programs, except in English-speaking Canada." He went on: "The greatest cultural problem in English-speaking Canada, domination by foreign production, will never be resolved by private broadcasters. Private broadcasters will always want to show American programs in prime time." *Le Devoir*, June 3, 2009, p. B7.

Conditions changed with the advent of specialty channels, and certain rules, which exacerbate this imbalance, have also changed. Since conditions have changed, the rules should all be reviewed in order to set matters straight again. This could be done in Quebec by Quebeckers.

Media fragmentation (conventional, specialty channels etc.) is also a reality, as is audience fragmentation and fragmented advertising revenues. Specialty channels now have a 50% audience share.

Media concentration and convergence, the funding of drama series, residuals, in-house production, funding for public affairs programs, the problems facing TQS and the regional development of all broadcasters are issues that would have received more attention if our study had pertained exclusively to Quebec.

(Similarly, Canadian content issues could have been studied in greater depth.)

### **Solutions for Quebec: being masters in our own house**

Quebec's realities require solutions made in Quebec. This is why the Bloc Québécois is insisting above all that all powers relating to the arts, culture and telecommunications be transferred to the Quebec government. On March 23, 2009, Quebec's minister of culture and communications, Christine St-Pierre, made this request once again on behalf of the Quebec government in a letter to the Minister of Canadian Heritage, James Moore, stating: "*Concluding a communications agreement would make it possible to better reflect the specific characteristics of Quebec content in broadcasting and telecommunications.*" Ms. St-Pierre is simply restating a longstanding demand put forward by both Liberal and PQ governments.

### **A CRTC for Quebec**

The vitality of Quebec culture is key to strengthening the Quebec nation. This is why Quebec must have control over all aspects of the promotion and dissemination of its culture, which reflects its identity, language and values. The Quebec nation must control all the instruments that help develop its culture, just as Canada controls the instruments of Canadian culture, in part through the CRTC.

Last year, the Bloc Québécois introduced a bill to transfer to Quebec control over its telecommunications, as Lawrence Cannon had proposed when he was a minister in Bourassa's government. All it would take would be an administrative agreement. With such an agreement in place, Quebec could create a Quebec radio-television and telecommunications commission (QRTC), which would establish its own regulations in keeping with Quebec's concerns and interests. Refusing to grant Quebec control over its telecommunications is refusing to give it control over its cultural development.

## **Internet**

The Internet has changed life in Quebec as it has elsewhere in the world. Consumers want access to content on demand. Many now refuse to be bound by inflexible programming and schedules. The television content available on the Internet is exploding. The Committee and the CRTC will not be able to avoid this issue any longer if they still want to influence cultural development in Canada.

## **Public broadcaster**

The Committee members should have reiterated the conditions contained in the report of February 2008<sup>2</sup> regarding the CBC/Radio-Canada. The Bloc Québécois wishes to repeat recommendation 4.4 that the CBC/Radio-Canada should receive core funding of at least \$40 per capita, as the Committee concluded in its report entitled *CBC/Radio-Canada: Defining Distinctiveness in the Changing Media Landscape*. The Bloc Québécois also reiterates recommendation 4.2 of the same report that the additional \$60 million in parliamentary votes that the CBC/Radio-Canada has received since 2002 be added to the Corporation's core funding. It is surprising that the Committee did not repeat these two recommendations that it supported last year.

## **Tax credit**

The Bloc Québécois also recommends that the government and the Committee consider establishing a tax credit program for regional productions and regional media workers, which would be available to broadcasters and independent producers.

## **Public service channels**

Finally, in our opinion, the basic programming offered by broadcasting distribution undertakings (BDU) should include not only public, community, Aboriginal and educational networks, but also public service channels such as the Weather Network.

## **Thank you**

The Bloc Québécois wishes to thank all the witnesses who gave their time and energy to share their experience and knowledge.

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<sup>2</sup> <http://www2.parl.gc.ca/content/hoc/Committee/392/CHPC/Reports/RP3297009/chpcrp06/chpcrp06-e.pdf>

