Canadian Media Guild
La Guilde canadienne des médias
CWA/SCA CANADA

CACTUS
canadian association of community television users and stations

April 27, 2011

Robert A. Morin
Secretary General
CRTC
Ottawa, Ontario
K1A 0N2

Filed electronically

Dear Mr. Morin:

Re: CRTC 2010-783 – Vertical integration

1. The Canadian Media Guild is a union representing 6,000 media workers across Canada. CMG members include front-line employees at CBC/Radio-Canada, TVO, TFO, aptn, ZoomerMedia, Shaw Media, as well as media freelancers.

2. The Canadian Association for Community Television Users and Stations (CACTUS) was created to help ensure that ordinary Canadians have a voice within their broadcasting system. CACTUS represents independent non-profit community TV broadcasters and producing corporations, and the Canadians that use and watch them.

3. The broadcasting system in Canada today increasingly serves mainstream audiences in larger urban centres. This is a long-term trend that developed due to private media consolidation, closure of smaller market stations and reduction in local programming requirements, cutbacks to public and provincial broadcasters, and the reduction in the number of independent community stations. Vertical integration will not reverse this trend and could well make it worse.

4. We respectfully make the following recommendations:
    - Ensure that broadcasters that do not belong to a vertically-integrated media conglomerate do not suffer discrimination when it comes to carriage.
    - Ensure that Canadians have open access to all content on all platforms, including TV, internet and wireless.
    - Augment the Local Program Improvement Fund to ensure a diversity of local voices in the broadcast system.

- Revisit the Community TV policy and require BDUs to contribute to community-owned and controlled media access hubs.

5. Vertical integration in the media is the control over the related elements of content creation, broadcast and distribution by the same corporate entity. The move over the last decade by the country's four major private communications companies – BCE, Shaw, Rogers and Quebecor – to integrate each of these elements into their structures also represents a further concentration of private ownership in the industry.

6. As many interveners pointed out in the 2007 "Diversity of Voices" proceeding, media consolidation has a negative impact on the diversity of programming available to Canadian audiences. The concerns still exist. There is a dizzying amount of content recycled from channel to channel within a single ownership group. Much of that content continues to be sourced from Hollywood. There is no evidence that this new industry structure will serve the cultural and informational interests of Canadians any better than the old structure. In fact, the new structure poses new risks for Canadian citizens as well as independent, community and public broadcasters. For this reason, our comments go beyond the narrow scope set by the Commission for this proceeding.

7. The rationale behind this latest trend in media consolidation has little to do with serving the public interest. The fundamental reason for the new structure of the private part of the industry is to extract more value for shareholders. The public interest is partially fulfilled through the various payments and commitments these conglomerates are required to make, primarily for the production and broadcast of original Canadian content (eg. benefits payments, CMF and LPIF contributions, expenditure requirements, etc.).

8. Before the consolidation, there was a balance of power within the private industry that sometimes pitted the interests of broadcasters against those of broadcast distribution undertakings (BDUs) and resulted in measures to direct resources from one part of the industry to pay for programming requirements in another. The Local Program Improvement Fund is one example of a measure in which public and private broadcasters in smaller markets are receiving a share of BDU revenues to provide local news.

9. Vertical integration means that the balance of power has shifted enormously. There is no longer a broadcasting sector distinct from the distribution sector. They are now one. Where private broadcasters Global and CTV argued strenuously only 18 months ago that they were providing the content value upon which the BDUs were profiting, they are now silent. Perhaps their case was so compelling that the BDUs bought them out instead. In any case, there is no impetus left in the campaign to get BDUs to pay private broadcasters for the privilege of carrying them on their distribution systems.

10. Broadcasters that are not part of an integrated ownership group – CBC/Radio-Canada, provincial broadcasters, community stations, independent private stations – stand to lose in this brave new world of vertical integration and commercial negotiations. Most importantly, they do not have the negotiating power of a group that can offer reciprocal carriage on their own BDU. Strong protections are needed to give all broadcasters fair access to all distribution mechanisms, and this is especially true for broadcasters that specialize in original Canadian and local programming: public and provincial broadcasters, aptn, and independent community stations.

11. We support measures to ensure independent broadcasters get a fair shake when it comes to distribution, including:
    - Requiring BDUs to carry a minimum number of *independent* channels (ie. not affiliated with any BDU) for every affiliated channel they carry.
    - Requiring at least 50% of the broadcast material available on the BDUs video-on-demand catalogues to be from independent broadcasters.
    - A prohibition against undue preference and the onus should be on the BDU to prove they are not giving preference.

12. Canadian media consumers and citizens also need protections to ensure that they can receive all content on all distribution platforms – including broadcast, wireless and internet platforms – without having to pay more for, or suffer restricted access from, content that doesn't happen to be owned by their distributor(s).

13. The shift in the power dynamics of the industry stands to undermine both the LPIF and the Canada Media Fund. Both funds rely on contributions required from the BDUs. These funds are open to public broadcasters and private broadcasters in large and small ownership groups. There is a significant chance that BDUs will argue that they can make a better use of the money they contribute to those funds by spending it exclusively on programming for their own properties. That would represent a major loss for the broadcasters not owned by the major groups – public and independent broadcasters – and a missed opportunity to improve local diversity of programming, especially in smaller markets.

14. It is not at all clear that small local stations are a priority for the new ownership groups. Although those stations were once the building blocks for profitable national networks, they are now seen as profit drains where the local programming obligations must be minimized.

15. A look at Quebecor's English-language TV operations provides a stunning example of this. Quebecor now has two English-language television licences. The first is for Sun TV, a small conventional station in large-market Toronto purchased from Craig Media in 2004. The second, granted late last year, is a digital Category 2 licence is for an "all-news" specialty channel called Sun TV News. The supposedly local channel, which is

rebroadcast in other population centres across Ontario, is only required to air 14 hours of local programming per week and an average of two hours of priority (non-news) programming. It no longer has any obligation to air "ethnic" or Aboriginal programming reflective of the urban population. The local conditions of licence were eased despite the fact that the station is part of a major and profitable ownership group. The minimal local requirements allow the station to broadcast primarily shows produced for the company's fledgling Category 2 digital "all-news" channel. Instead of being a truly local station, Toronto's Sun TV is simply another broadcast window for a national news concern, and, due to must-carry rules for "local" conventional broadcasters, a vehicle for mandating BDU carriage of the category 2 channel in the Ontario communities where Quebecor doesn't have a hand in cable distribution.

16. If this is the best we can expect from private vertical integration, the alternatives to large private broadcasters are need now more than ever.

17. Public, provincial, community and independent broadcasters provide an essential service to Canadians and need to be nurtured and supported. We urge the Commission to use the tools at its disposal, including the various funds to which BDUs contribute, to support original programming production and broadcast, as well as the development of new community alternatives. This is necessary to ensure Canadians in communities large and small continue to benefit from a diversity of local voices and, in some cases, even a single local outlet. We continue to believe that the Commission should hold a hearing devoted specifically to broadcasting in smaller communities, as we recommended in 2009-113.

18. In the interim, we recommend that:
    - the contributions to the LPIF be increased;
    - that the LPIF be made available to independent community broadcasters who air original local programs;
    - that the LPIF be available to public, community, and independent broadcasters in all markets, and not just small markets, to provide incremental local programming;
    - that the Commission revisit its Community TV policy and require BDUs to contribute to independent community media access centres (see the CACTUS submission for CRTC 2010-661) to spur the development of community broadcasting that is independent of the four private media conglomerates. CACTUS estimates it would cost $113 million per year to operate the centres, or roughly the equivalent of what the BDUs currently spend on their owned "community" channels.

19. Obviously, the federal and provincial governments need to do their part and increase funding to public and provincial broadcasters to provide local service to unserved and

under-served communities. We urge provincial governments that don't currently fund a provincial broadcaster to consider establishing one.

20. Finally, we recommend that the Commission encourage and assist public, provincial and independent community broadcasters to pool their resources to create a digital over-the-air network, with free access by viewers, as an alternative to the private distribution systems. As the CMG and CACTUS have recommended in the past, broadcasters could use digital multiplexing as a cost-effective tool to provide free digital OTA coverage across much of the country, especially in communities that stand to lose free OTA service at the end of the Commission-mandated transition to digital. The CMG provided a description of a model for shared digital transmission in its submission for 2009-113.

21. We request to appear at the hearing to provide additional analysis based on the submissions of other stakeholders.

Sincerely,

Karen Wirsig
Canadian Media Guild

Catherine Edwards
CACTUS

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