



16 December 2016

Ms. Danielle May-Cuconato
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: Renewal of television licences held by large English- and French-language ownership groups, Broadcasting Notice of Consultation CRTC 2016-225 (Ottawa, 15 June 2016) – Final Reply by the Forum for Research and Policy in Communications (FRPC)

1 The following is the Forum’s reply with respect to the applications heard by the CRTC through the proceeding announced by Broadcasting Notice of Consultation CRTC 2016-225 (2016-225). An outline of our reply is set out below:

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I Lack of evidence on how these applications will preserve and strengthen Canadian broadcasting necessitates short-term renewals

2 Decisions about the applications considered in the 2016-225 proceeding will set the course of Canadian television for the next decade and beyond. As a matter of law, granting five-year renewals (from 2017) permits the applicants to broadcast until 2022, and with administrative extensions, perhaps for several years after that. As a matter of practice the CRTC has very rarely reversed course,¹ implying that decisions in this proceeding will guide Canadian television for the foreseeable future.

¹ The introduction of a regulated rate for basic BDU service being one of the few exceptions – the CRTC deregulated basic cable rates in *NEW REGULATORY FRAMEWORK FOR BROADCASTING DISTRIBUTION UNDERTAKINGS*, Public Notice CRTC 1997-25 (Ottawa, 11 March 1997), <http://www.crtc.gc.ca/eng/archive/1997/PB97-25.HTM>, ¶127, and only reintroduced a basic service rate 18 years later, in 2015.

- 3 Yet so little information has been made available to Canadians about the applicants’ specific programming plans for the next licence term that it is impossible for them to know whether approving the applications will benefit Canada’s broadcasting system, how approval serves the public interest or how it will implement Parliament’s broadcasting policy.
- 4 The applicants’ own performance over their current licence term inspires little confidence that renewing their licences will lead to the production and distribution of more, and better-funded, content created by Canadians in their next licence term – surely the entire point of Parliament’s broadcasting policy.
- 5 The CRTC’s own evidence was that the applicants’ expenditures on television content created by Canadians (CPE) and on programming of national interest (PNI) have fallen in their current licence terms:

	English-language television	French-language television
CPE	2011/12 to 2014/15: - 1.4% annual	2012/13 to 2014/15: +18.1%
PNI	2011/12 to 2014/15: -12.7% annual	2012/13 to 2014/15: -12.16% annual
Exhibition - conventional	16.7% of schedule must be Canadian (3 hrs from 6pm-mdnt x 7 = 21) % 126-hour broadcast wk	
Exhibition - discretionary	35% of schedule must be Canadian with exceptions for services carried on basic, or for specific types of programming (children’s, news, sports, ethnic services)	
Notice of consultation 2016-225, ¶¶16-17, 19-20; Broadcasting Regulatory Policy CRTC 2010-167, ¶64		

- 6 The CRTC’s 2015 programming policies now expressly allow Canadian television broadcasters to offer Canadians a schedule that is predominantly foreign.

% of schedule	Conventional TV stations	Discretionary services
Content created by Canadians	16.7% (3 hrs from 6pm-mdnt x 7 = 21% of the 126-hour broadcast wk)	35% (with exceptions for services carried on basic or for specific types of programming: children’s, news, sports, ethnic services)
Foreign programming	83.3%	65%
Broadcasting Regulatory Policy CRTC 2015-86, ¶193, 195		

- 7 Near the end of a process that has lasted for most of 2016, Canadians still do not have the answers to many basic questions. How much well-funded original Canadian programming of national interest will the applicants include in their schedules? Will they make the investments needed to preserve and strengthen local television service? Will a predominant share of the applicants’ resources be allocated to Canadian programming? Will they provide more employment opportunities to Canadians?
- 8 We do not know – and while the CRTC told Canadians in 2015 that it was shifting emphasis ‘from quantity to quality Canadian programming’² the lack of evidence as to applicants’ programming plans makes it impossible to know how Parliament’s requirement in section 3(1)(f) of the Act that each broadcasting undertake make at least predominant use of Canadian resources when they create and present programming will be met if these applications are granted.
- 9 Responsibility for the lack of relevant evidence on the record rests in part on the applicants and in part on the regulatory process. The latter meant that the applicants’ many filings were thoroughly

² Broadcasting Regulatory Policy CRTC 2015-86, “B. Shift in emphasis from quantity to quality of Canadian programming”.

confusing; the notices issued about the two hearings lacked relevant information about the application's implications for Canada's broadcasting system, and the renewal hearings themselves were largely invisible – neither broadcast nor recorded by CPaC, 86.78% of whose voting rights are controlled by three of the applicants being heard.³

- 10 Applicants bore the onus of making their case but did not clearly state how their applications will serve Parliament's objectives for the broadcasting system. For instance, the panel asked Rogers to "look at the programming you might have on day one of your new licence term and compare it to the sort of programming strategy you'll have on the last day of that new licence term, how different would they be?" (I, ¶196). Rogers' answer was vague and devoid of substance:

I think they would be similar in philosophy. Execution might be different. Technology will improve over the course of those five years. ... Our goal is to ensure that the stories we create, that we tell, are local and that we are able with whatever technology delivers over that timeframe, ... to amplify and deliver from that perspective. ... people like to be entertained and whether it's September 1st, 2017 or August 31st, 2022, ... they will want to be entertained when they come home; that they're going to want to watch a really good program, whether it's live sports, whether it's their favourite serial ... (I, ¶¶197-199)

- 11 Unifor's questions about Rogers' application (IV, ¶16077) could as easily have been asked of the other applicants. If regulatory emphasis has shifted from quantity, to quality – how will this be measured?
- 12 Apart from the legal requirements for CRTC decisions to be based on evidence – as without that evidence, the CRTC will be licensing services without knowing whether they will meet Parliament's objects – evidence-free applications promote instability and uncertainty. As English-language television producers from Quebec testified, erratic funding levels mean that "people can't plan ahead" (I, ¶5619) – and in one year alone, they lost 24% of their total production (IV, ¶5535). If broadcasters merit regulatory certainty to protect and promote their interests, so do other parties whose livelihoods also depend on the broadcasting system.
- 13 For this reason, and pursuant to ss. 2(b) and 41(2) of the *Official Languages Act*, the Forum supports proposals for OLMC production levels established by condition of licence; such conditions would have the beneficial effect of ensuring that licensees remain active in seeking new project proposals from across Canada (IV, ¶¶5572-5574.)
- 14 The applicants' failure to meet their onus, the absence of evidence demonstrating how their new licences will meet Parliament's broadcasting policy, the uncertainty and instability caused by the absence of concrete programming plans, and the important consultations now underway by the Minister of Canadian Heritage at home and abroad⁴, support the position that the hearing panel should grant the applicants short-term, two-year renewals to enable them to re-evaluate and clarify their plans, and re-submit them for detailed consideration by the Commission, once Parliament has settled on its approach to communications in the 21st century.

Forum reply, point 1 The CRTC should renew the applicants' licences to August 31, 2019

- 15 In the absence of clear plans by the applicants, these short-term renewals should be accompanied by enforceable and enforced conditions of licence about each element of programming being proposed

³ CRTC ownership chart 135: Shaw controls 23.68%, Quebecor controls 21.7% and Rogers controls 41.4% of CPaC

⁴ Daniel Leblanc, "Canada leads charge to force Internet giants to support more localized content", *The Globe and Mail* (11 December 2016).

by the applicants.

II Implement Act's objects through conditions of licence

- 16 At the beginning of 2016 the CRTC clarified in Decision CRTC 2016-8 that it can and will enforce conditions of licence – but that it will not enforce its policies, expectations, commitments or any other ‘requirements’ that are not cast as a condition or as a regulation.
- 17 None of the CRTC’s policies has legal force unless it is implemented by condition of licence or regulation, and this is why each of the applicants has been able for more than a decade to reduce the service they provide to local communities. The absence of CRTC conditions of licence permitted the applicants to eliminate local news and non-news programming. It also allowed them to convert standalone television stations into what are now little more than retransmitters of programming produced by centralcasting hubs.
- 18 In renewing the applicants’ licences, therefore, the CRTC must translate all programming and other requirements for each licensee, into conditions of licence for that licensee. Given Decision CRTC 2016-8 the absence of such conditions of licence will mean that the CRTC has chosen not to enforce any programming requirements to implement section 3.

Forum reply, point 2 The CRTC must impose conditions of licence to ensure that applicants keep their programming commitments

A Evaluate applicants’ true circumstances

- 19 As the body established by Parliament to regulate the broadcasting system in the public interest, the CRTC must consider whether licence applicants can do more than they have proposed. Section 9(1)(b) enables the CRTC to impose “conditions related to the circumstances of the licensee”, while section 3(1)(s) requires the CRTC to consider the “financial and other resources available to” private programming undertakings.
- 20 ‘Tangible benefits’, a device first used in the late 1970s,⁵ were supposed to “yield measureable improvements to the communities served by the broadcasting undertaking to be acquired, as well as the Canadian broadcasting system as a whole”.⁶ But few of the decisions authorizing concentrated control have actually resulted in permanent programming improvements for communities and the broadcasting system: nearly every programming expenditure commitment had an expiry date allowing the new owners to terminate these ‘measureable improvements’. The CRTC’s tacit approval of centralcasting hubs in the mid-2000s also let unlicensed undertakings take control of individual TV stations’ transmission capacity,⁷ eliminating local control over local programming. Canadians’ interests have not been served by these determinations.
- 21 The Forum’s evidence – set out in Appendix 5, “Availability of resources at the parent corporation level” (‘Wilson report’) and unchallenged by the applicants – establishes that the applicants’ circumstances (excluding Remstar, for which little information was available publicly) permit them to

⁵ See e.g., Decision CRTC 77-456 (Ottawa, 28 July 1977), in which the CRTC denied the transfer of effective control of two broadcasting licensees due to the inadequacy of the benefits of the transaction.

⁶ *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459 (Ottawa, 5 September 2014), <http://www.crtc.gc.ca/eng/archive/2014/2014-459.htm>, at ¶1.

⁷ *Complaint by the Canadian Communications, Energy and Paperworkers Union of Canada against Canwest Media Inc.*, Decision CRTC 2009-115 (Ottawa, 4 March 2009), <http://www.crtc.gc.ca/eng/archive/2009/2009-115.htm>

increase the quantity and quality of content created by Canadians, for the audiences they serve, on the permanent basis envisaged by Parliament. As eOne noted, a “long game strategy” is needed to enable “a strong, vibrant Canadian content industry that can survive on its own two feet in a globally competitive marketplace” (IV, ¶15371), and for the moment “traditional broadcasters are virtually the only platforms that can unlock crucial financing and trigger the creation of original, high-value Canadian content” (IV, ¶15374).

Forum reply, point 3 In setting requirements for the applicants the CRTC must look to their circumstances and the financial and other resources available to them

- 22 The applicants in this proceeding are unlike any others in Canada’s broadcasting system. Their unique circumstances as parts of very large, very profitable vertically integrated companies enable them to preserve and strengthen the broadcasting undertakings for which they hold licences. As one intervener noted with respect to Corus, its 9% return on dividends per year “is pretty great” (IV, ¶15348). Can one say the same about the current state of Canadian television programming?
- 23 The Forum’s written intervention addressed the applicants’ circumstances, and argued that a complete answer to the applicants’ decades-long pleas of poverty and for deregulation is to invite them to reapply for the licences they now hold in the name of their parent corporations. Applicants that value the licences they now hold – because the licences permit the companies to acquire brand-strengthening programming that can be distributed online or through their mobile networks – will apply for the licences, and their circumstances permit them to maintain and strengthen local programming services.

Forum reply, point 4 The CRTC should require the vertically integrated applicants in this proceeding to apply for their subsidiaries’ licences, to ensure that Canadians benefit from the strengthened programming these large companies’ circumstances (noted in s. 3(1)(s)) permit them (via s. 9(1)(b)) to provide

B Mandate first-run, Category 1 local news

- 24 Broadcasting Regulatory Policy CRTC 2016-224 suggests the CRTC will ensure that communities served by the applicants’ over-the-air television programming undertakings continue to receive original local news, and also original local non-news programming.
- 25 None of the applicants objected to the provision of Category 1 local news. Rogers, in fact, noted that local programming distinguishes Canadian programming services from their ‘global’ equivalents: “... the bottom line is that it’s a great bastion against what the global guys are doing because they’re not going to deal with local stories. They’re not going to deal with your weather; they’re not going to deal with your traffic; they’re not going to deal with city hall. And local news really gives us an opportunity to do that, I think, as an industry” (I, ¶1176).
- 26 The Forum maintains that counting Category 2(a) information programming that discusses but does not report news, such as talk shows and panel discussions, as ‘news’ will dilute and may eliminate audience’ access to actual news about their communities – broadcast owners will rationally want their managers to maximize profits by reducing programming expenditures and eliminating higher-cost Category 1 news.
- 27 But the problem is obvious: depriving Canadians of factual, reported news threatens Canada’s democracy. What evidence and what arguments support the elimination of actual news?: none.
- 28 Considering that companies such as Rogers described its overall programming strategy as “more locally reflective” (I, ¶1229), and that none denied that its circumstances (as described by the Wilson study in our intervention) enable it to strengthen its programming, the Forum considers that each applicant must be required to provide original Category 1 news to each community for which they hold television programming undertaking licences. Mandating minimum levels of original Category 1 local news will save broadcasters from themselves, by requiring them to remain distinctive from non-

local and non-Canadian competitors.

Forum reply, point 5 The applicants must be required by condition of licence to provide the communities they are licensed to serve with baseline levels of original local programming, including and not limited to news: ‘each programming undertaking shall originate minimum levels of original, first-run, locally reflective Category 1 news, produced by the undertaking’s staff, as follows – 14 hours per broadcast week in communities with a population of one million or more people speaking the same official language; 7 hours per broadcast week in all other locations’

29 With respect to the issue of original programming in general, the Forum also has concerns about the degree to which the applicants’ discretionary services do or do not rely on repeat content created by Canadians. These concerns were expressed by others at the hearing (IV, ¶15318: “the Canadian content is probably from about 10 years ago continuously on G4 Tech TV ...”). The existence of section 3 establishes that matters involving programming are not simply ‘business decisions’ (IV, ¶15342), but are the responsibility of the CRTC. It should address this matter on behalf of Canadian audiences who generally prefer new content over reruns, and on behalf of Canada’s production community, whose interests are also addressed by the Act.

Forum reply, point 6 The applicants’ discretionary television services should be required to exhibit a minimum level of original, first-run content created by Canadians

C *Dealing with the prospect of station closures*

30 The applicants’ use of centralcasting, tacitly authorized by the CRTC for the past decade, permits them to transform their television stations into little more than news bureaus. The hearing panel advised, however, that the CRTC will not enforce requirements for journalistic presence⁸ – effectively nullifying part of Broadcasting Regulatory Policy CRTC 2016-224 before it has even been implemented:

COMMISSIONER DUPRAS: ... for Ottawa you’d like to maintain the news bureau. But **as you know, in our local TV policy we decided not to require local presence since we think that expenditure and exhibition requirements would be enough.** (III, ¶¶4023-4024, bold font added)

31 The Forum opposes any predisposition not to enforce Broadcasting Regulatory Policy CRTC 2016-224, on the grounds that Canadians expect the CRTC to keep, not disregard, its stated commitments. Ensuring the existence of properly staffed journalistic bureaus will, moreover, strengthen the applicants’ local programming service, enabling them to distinguish themselves from global competitors.

Forum reply, point 7 The CRTC should use the decisions in this proceeding to state its commitment to enforcing all aspects of Broadcasting Regulatory Policy CRTC 2016-224, including requirements for journalistic presence

32 Many interveners in this proceeding attested to the importance of local television in their communities. As the President and CEO of the Manitoba Chambers of Commerce said, “the importance of a community’s local television station should not be underestimated. It ties the community together and serves as a virtual meeting place” (IV, ¶15821)

33 The applicants in this proceeding were reluctant, to put it mildly, to make any specific commitments

⁸ *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224 (Ottawa, 15 June 2016), <http://www.crtc.gc.ca/eng/archive/2016/2016-224.htm>, at ¶¶59-61.

concerning the services for which they sought and received licences. Bell would not agree to continue to operate its TV stations (IV, ¶6294); Corus offered no commitments (IV, ¶6621) and Rogers could not initially identify “what value there is in embarking on a public consultation to talk about that business decision” (IV, ¶6829), though it later suggested it would undertake such consultations as it “banks on the trust and loyalty of Canadians” (IV, ¶6842).

- 34 It is very clear from these comments that broadcasters simply do not care what communities think. They are not operating undertakings in the public interest, but for business reasons. To pretend that consultations with communities will accomplish anything, or that they will save stations, defies all past experience. Communities will suffer irreparable harm if business is allowed to serve its interests. This is why the CRTC must act to protect communities’ interests; this is why the CRTC was created.
- 35 As the panel noted (IV, ¶6831), the Commission could also rescind some of the flexibility it has granted to vertically integrated broadcasters that choose to abandon communities by closing their programming undertakings. The Forum agrees that vertically integrated broadcasters that withdraw the benefits of local service from the communities they serve, should in turn lose benefits they previously received from the CRTC (including, but not limited to, those set out in Broadcasting Regulatory Policy CRTC 2010-167).

Forum reply, point 8 The CRTC should impose conditions of licence of licence that maintain the flexibility mechanisms in Broadcasting Regulatory Policy CRTC 2010-167 for the applicants, as long as they do not close television stations, and do not transform them into non-originating bureaus

D Ensure access for women, Indigenous peoples and ethnic communities

- 36 However unwieldy section 3(1)(d) of the Act is said to be, it remains the law of Canada until Parliament changes or rescinds it, and for this reason the CRTC is correct to concern itself with the opportunities available in broadcasting for women, for people from ethnic communities, and for Canada’s Indigenous peoples.
- 37 The applicants’ answers to questions from the panel about opportunities for female producers and for Indigenous peoples were inadequate. They simply implied that somehow, someday, these concerns will take care of themselves.
- 38 At a minimum – and whatever else the CRTC chooses to do – data should be collected and made publicly available to evaluate the manner in which section 3(1)(d) is being implemented. If the data show problems, the CRTC should then act.

Forum reply, point 9 The CRTC should require the applicants to report statistics about the participation of women, people from ethnic communities and Indigenous peoples in each category of operation (programming, technical, sales, administration)

Forum reply, point 10 The CRTC should also invite comments on revising the group-licensing and individual undertaking *Annual Return* forms to require all broadcasters to report on the participation of women, people from ethnic communities and Indigenous peoples in each category of operation (programming, technical, sales, administration), and publish the results

- 39 The Forum conditionally supports Rogers’ application for a 9(1)(h) discretionary ethnic television programming service. One aspect of the proposed service’ exceptional character is that it would provide ethnic communities across Canada with the opportunity to see each other’s communities: this opportunity is available to audiences watching the applicants’ English-language and French-language national evening newscasts, but remains unavailable to multicultural communities. The absence of a widely available national ethnic newscast isolates ethnic communities, but the CRTC can and should remedy this isolation.
- 40 The Forum also notes that, notwithstanding the CRTC’s exceptionality criteria for 9(1)(h) services, the

Canadian Multicultural Act sets a high threshold for the CRTC to reject an application that could provide the same level of service to multicultural communities, obtained by English-language and French-language communities from their over-the-air television services.

- 41 Unfortunately, Rogers' application for a subscriber-funded discretionary programming service as it now stands has several basic problems.
- 42 The first is that Rogers' past performance raises concerns that it will break any commitment it makes – unless each is made a condition of licence. To grant Rogers' application without that protection is to invite Rogers to flout its commitments – again.
- 43 The second problem is that Rogers' subscriber-funded application offers less to multicultural communities in terms of original Category 1 news than its five OMNI TV stations were broadcasting five years ago. Nor will the new service' programming improve over time - Rogers told the panel that
- Our decision to request mandatory basic carriage for OMNI Regional is a long-term strategy for OMNI that will stabilize its revenue base and allow us to restore and maintain the high quality and relevant local and national programming its viewers have come to rely on.** (I, ¶171; bold font added)
- 44 But as interveners noted,
- CTV Vancouver employs over 80 people in producing their local news; Global BC employs over 150 people producing hours of local news; and Rogers Toronto operations employs over 200 people producing their local news. Is the Commission aware of how little resources Rogers has at its western stations? "First rate local coverage"? The evidence is to the contrary. Budget news with a bare bones staff is what Rogers has been doing in western Canada for the past decade.
- ...
- ... Without clear conditions of licence on their CITY application and approval along with clear conditions of licence with the Regional channel, Rogers' Vancouver operations could become a glorified news bureau for Toronto, and OMNI Vancouver could follow their Alberta operations with no daily in-house programming in just a couple of years. (III, ¶16072, ¶16076, Unifor 830M)
- 45 There is also a third problem, one of fair process. If the CRTC approves Rogers' application, the chances of other applicants' filing similar applications decrease; the parameters of the service will be affected by any new policy framework that the Commission devises when it reviews its ethnic broadcasting policy; and the misbehaviour of a major broadcaster will have been condoned.
- 46 That said, it is well-known that broadcast licences are temporary permits, not permanent property; and as the Wilson study established, Rogers' circumstances permit it to operate its OMNI stations and a new service with significantly more original programming than it has currently proposed, particularly in the case of local news. The key will be to ensure that each of its five stations actually performs as originally promised by Rogers – *i.e.*, by producing and originating their own local newscasts using Category 1, original news.⁹
- 47 The CRTC should steer a cautious course that provides Rogers with the opportunity to re-establish its good faith, that permits itself to set a new, 21st century policy for ethnic broadcasting, and that offers

⁹ Note that we envisage an opportunity for Rogers' 9(1)(h) service to broadcast the five OMNI stations' newscasts on a first-run basis – provided the stations themselves separately produce the programming beforehand.

others a fair chance of applying for 9(1)(h) services in the future.

Forum reply, point 11 The CRTC should grant a licence for a 9(1)(h) discretionary ethnic service to Rogers Communications Inc., conditional upon its origination of daily, original Category 1 newscasts from each of Rogers' five OMNI stations, with a two-year term

Forum reply, point 12 The CRTC should announce its intention to hold its review of ethnic broadcasting in 2017, issue a new policy in 2018 and consider licensing new basic-tier mandatory services in 2019

III Ensure fair process for all

48 In this proceeding, Canada's largest communications companies are once more pleading poverty even though, as subsidiaries of Canada's largest communications companies, these applicants have all the resources needed – indeed, more – to meet Parliament's objectives.

49 If the applicants do not want to meet the objectives of the *Act*, if they do not want to keep the commitments they made to get the licences for which they applied, then they bear a duty to the Commission, to interveners in this proceeding, to the communities they do not wish to serve, and to Parliament, to hand back the licences so that others may apply for their use.

50 Responsibility for the current state of Canada's broadcasting system also lies with the CRTC. The CRTC's procedures in this proceeding have placed an undue and unnecessary burden on Canadians and interested parties, not only because of the confused and hurried scheduling of the proceeding and its deadlines, or because of the steady drip-drip-drip of new evidence before, during and after the intervention period, but because information about the applicants' performance in their current licence terms was difficult to locate.

Forum reply, point 13 The CRTC must revise its licensing procedures to make them inclusive and transparent, in part by providing annual summaries of applicants' performance during their current licence terms, with respect to Parliament's objectives

51 Revising the licensing process is insufficient, however – the Commission should also revise the forms it uses to collect data from those it regulates, to ensure that it has the data tools needed to evaluate broadcasters' performance, and the achievement of Parliament's objectives for broadcasting.

52 At this point, for instance, it is impossible to determine the impact of centralcasting hubs (that have removed local control from individual television stations), journalistic layoffs (that have cut stations' capacity to cover local news) or 'journalistic presence' (the new concept introduced by the CRTC which may or may not strengthen local news), as the CRTC does not collect data about these concepts. Others, including Quebec English-language producers (IV, ¶15631) and On Screen Manitoba (IV, ¶¶15652, 5688-5691), had similar concerns about the unavailability of key data.

53 The CRTC must begin to collect basic information about the resources that broadcasters are allocating to local television program production, to local news (Category 1) and local information (Category 2(a)), and to journalistic presence.

Forum reply, point 14 The CRTC must update the forms it uses to collect information from those it regulates, to ensure they measure the concepts needed to show if Parliament's objectives for Canada's broadcasting system are being met – particularly with respect to local news and journalistic presence

IV Conclusions: actions speak louder than words

54 The purpose of this licensing proceeding was to implement certain of the policies that the Commission has developed, so as to implement Parliament's objectives in the *Broadcasting Act*. As

55 The limited pages granted to interveners in reply (10) do not permit us to address each and every gap in the applicants' proposals and evidence. However, based on our review of the hearing transcripts it seems that the applicants' submissions during the renewal proceedings in November did not

materially change the commitments they made in their original renewal applications.

- 56 Even more importantly, the applicants did not use the opportunity of the CRTC's hearing to show how their expenditure commitments – currently forecast to decrease over time – will strengthen Canadian television going forward, or strengthen the sector's ability to participate in the global market for television programming. Nor did they explain the contradiction between their purported support for stronger content created by Canadians, and reduced expenditures on that programming.
- 57 As noted earlier, the uncertainties left on the public record about the shape of Canada's television system if these applications are approved led us to recommend short, two-year licence renewals, to permit the applicants to consider how they want to meet their commitments to Parliament, and to the communities they are licensed to serve.
- 58 The single most important step that the CRTC can in addition now take – apart from mandating specific, minimum levels of first-run Category 1 news for conventional television stations, and ensuring that neither CPE nor PNI requirements decrease in dollar terms – is collect and make more data about broadcasters' actual programming performance available for study and review.
- 59 Without such data, Canadians will be left with a continuing stark disconnect between policies, and practice: what broadcasters say they will do, contrasted with what they actually achieve, and are permitted to achieve.
- 60 If nothing else, clear, objective data on programming performance will provide the applicants, and broadcasters in general, with a simple and straightforward way to demonstrate that they are not just meeting the bare minimum levels set by conditions of licence – but that they are surpassing them. After all, nothing prevents broadcasters from commissioning their own programming, and allocating more money to programming of interest to local communities and to national audiences – except their decisions about allocating their resources.

The Forum appreciated the opportunity to participate in this proceeding, and looks forward to reviewing the Commission's determinations in this matter.

Sincerely yours,



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