MÉMOIRE

Intervention / observations
Avis de consultation de radiodiffusion CRTC 2023-139

Projet de règlement sur l'enregistrement des services de diffusion continue en ligne et projet d'ordonnance d'exemption relatif à ce règlement

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Présenté au

Conseil de la radiodiffusion et des télécommunications canadiennes

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Avis de consultation de radiodiffusion CRTC 2023-139

Identification :

la Fédération des télévisions communautaires autonomes du Québec (la Fédération)

1) Fondée en novembre 1998, la Fédération des télévisions communautaires autonomes du Québec (la Fédération) regroupe actuellement 42 corporations sans but lucratif de télévision communautaire autonome communément appelé TCA. Les membres de la Fédération sont répartis dans 14 des 17 régions administratives du Québec.

2) La Fédération est une organisme à but non lucratif (OBNL) dont les objectifs sont de défendre et promouvoir les intérêts de ses membres ; promouvoir le développement de la télévision communautaire au pays ; favoriser la concertation entre leurs membres ainsi qu'avec les différents partenaires du milieu ; consolider et développer le financement de la télévision communautaire autonome (TCA). Ses membres sont animés par des valeurs de démocratie, d'identité collective, de solidarité, d'engagement, d'équité, de respect de la dignité humaine. Elles affichent une indépendance par rapport aux voix officielles.

Canadian Association of Community Television Users and Stations (CACTUS)

3) CACTUS advocates on behalf of individual Canadians and community organizations for access to digital skills training, production support, and distribution platforms so that individuals—especially minority and alternative voices—and communities have the tools they need to be heard and express themselves in the digital environment. CACTUS' vision has evolved from its roots in community television to include multimedia and multiplatform access[1]

4) CACTUS' members include:

- not-for-profit over-the-air community TV and radio CRTC license holders, whose content is also distributed on cable, satellite, and the Internet.

1 For more information, see cactusmedia.ca.

- unlicensed not-for-profit community TV corporations, which stream their content on the Internet and provide it to BDUs for playback on BDU community channels, or which stream content on the Internet, notably those in large urban areas such as Toronto and Vancouver who have lost access to distribute content to a BDU community channel as a result of 2016-224, which permitted BDUs to shut down community channels in "markets" having more than a million people.

- not-for-profit community organizations that want coverage and visibility, or which support the free speech and community development mandate of community media

- individual Canadians concerned about the availability of local content, their capacity to leverage technologies to get their messages out, and plurality of voice in our digital democracy. This category includes researchers and academics who study the media.

3) Établies depuis plus de 50 ans, les TCA du Canada sont des pionnières d'un modèle viable de communication citoyenne et d'accès à l'espace public. Ce modèle est d'ailleurs cité en exemple de par le monde comme étant une référence à suivre en matière de prise en charge citoyenne de l'information et des moyens de communication.

4) Les TCA produisent et diffusent en moyenne 4.6 heures de programmation originale par semaine. Sur ces 4.6 heures originales, en moyenne près du tiers (1.5 heures) sont consacrées aux nouvelles locale. L'information tient donc une place importante dans le paysage télévisuel des TCA. Le reste de la programmation couvre des sujets tout aussi variés que la culture, le sport, la musique et les talents locaux et évidemment la vie politique locale. En tout, ce sont plus de 20 thématiques différentes qui sont abordées dans les émissions des TCA du pays.

5) La Fédération et CACTUS ont pris soin d'examiner l'Avis de consultation de radiodiffusion CRTC 2023-139 et vous trouverez nos observations dans le présent document. Nous devons toutefois mentionner que le délai très court accordé pour produire le présent mémoire nous empêche d'avoir un argumentaire étoffé. Le processus actuel lancé par le CRTC a été beaucoup trop rapide et a laissé trop peu de temps aux organisations, particulièrement

aux petites organisations avec peu de moyens et de ressources humaines, de bien se préparer.

<u>Note Regarding the Definition of « Online Undertaking »</u>

6) First, we would like to note that in working with the department of Canadian Heritage, the Heritage Minister's Office, with Mps an with senators, were advised that those of our members that stream content from their web sites would be considered « online undertakings ». The new definition for the « community element » states :

> *"**community element** includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community including a <u>not-for-profit broadcasting undertaking</u> that is managed by a board of directors elected by the community; (élément communautaire) »* *[underline is ours]*

7) The definition of « broadcasting undertaking » states :

> "broadcasting undertaking includes a distribution undertaking, an online undertaking, a programming undertaking and a network; »
>
> … and « online undertaking » states :
>
> "online undertaking means an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus; (entreprise en ligne) »

8) Therefore, when we read the public notice, we read it with the realization that :

- it is the Commission's primary intent to decide which online undertakings in the sense of commercial streaming services should register, with a view to asking them to contribute to support the production of Canadian content
- yet the wording or the notice also refers to many of our own not-for-profit members... individual community TV stations that stream online only, or those which stream onlin in addition to distributing content via linear community channels.

9) None of our members have revenues anywhere approaching the suggested exemption threshold of $10 million, but regardless of where this threshold is ultimately set, our first question was : « If we are hoping that financial support for not-for-profit community TV stations will result from the

implementation of Bill C-11, (some of which are « online underakings »), if we are not registered because we are too small, will we be considered not part of the broadcasting system, or ineligible to benefit from financial mechanisms that might eventually be established to support local and community programming? We have been advised by several parties that these two factors (whether an « online undertaking » is registered for the purposes of contributing financially to the broadcasting system and whether an « online undertaking » can benefit from financing intended to support Canadian content) are not linked. Nonetheless, because our online-only community TV stations do not hold CRTC licenses, there may be value for them to undergo some sort of « registration » process so that they are known to the Commission for the purposes of data collection and assessment of the size, geographic distribution and impact of the not-for-profit community TV sector. Whether this registration process for commercial streaming « online undertakings » is the appropriate process or another we leave to the Commission's discretion.

Assessment Level Should Be for the Ownership Group, Not Individual Online Undertaking

10) It is our view that the assessment of revenues for online undertakings for the purposes of calculating whether an undertaking is above or below an exemption threshold should be calculated for the ownership group as a whole.

  11) We believe this because of what we have witnessed happen in the community TV sector over two decades. Canadians and communities across the country have seen the closure of the vast majority of the more than 300 cable community production studios that existed in Canada from the 1970s through the 1990s. This pattern of closures is one of the reasons for the current crisis in local news and information in Canada's hinterland, and the vast expansion of « news deserts ». Quite remote and difficult to serve communities—outside the reach of public and private broadcasters— programmed local news and information for themselves for more than three decades, with the support of training and infrastructure provided by the cable industry.

12) As formerly distinct cable systems became fibreoptically interconnected and were consolidated under a few large ownership groups throughout the 1990s and early 200s, the cable industry lobbied the CRTC for an every higher 'exemption threshold' to obviate the need to support community programming services. The exemption level was first 2000 subscribers, then 5000, and currently sits at 20,000 subscribers, as the CCSA mentions in its submission to this proceeding. While the original exemption arguably made sense (it takes considerable risk and investment to install the cable infrastructure to a new community initially), it never made sense to raise the minimum. Once the infrastructure is built, how does providing community programming services suddenly become more expensive?

13) Even more illogically, when neighbouring small cable service areas were fibreoptically interconnected and bought by the same ownership groups, those ownership groups were allowed to « exempt » many continguous cable service areas, even though they had effectively become all one system, with far more than 20,000 subscribers. This became the excuse to shut hundreds of cable community production studios, with which communities used independently to fill their own needs for local news and information. The CRTC supported this approach by endorsing a Rogers-proposed « zone-based approach » to the provision of community programming, giving the green light to cable operators to 'serve' vast areas of the country with a single cable production studio; for example, Rogers TV in New Brunswick today. All programming would be made by staff of that single centralized location, and the content would be piped out via the cable system across the region. This is how Canada's once robust community TV network—the model of the world—was destroyed.

14) The lesson is that the size of online undertakings must be assessed by whole ownership group. Owners should not be able to divide up their networks by imaginary geographic divisions to achieve multiple exemption orders. This is a situation that the Commission will have to monitor carefully as it evolves. For example, when I and a colleague both logged in for a trial of StackTV last night, we were presented with different geographic versions of Global TV as part of the package. Would StackTV classify each of these line-ups as distinct « online undertakings »? Occasional substitutions should not qualify an online undertaking as distinct from another online undertaking within the same ownership group. Occasional substitutions of this nature are not

comparable to the old days of cable, where serving a community meant building a physical cable network. Substituting geographically-appropriate versions of Global based on a customer's postal code is a couple of lines of code.

<u>The Registration Threshold of $10 Million Is Much Too High</u>

<u>Reason 1 :</u>

15) We agree with ACTRA, that in a fast-evolving landscape, the Commission will need accurate information to assess the growth of the online sector. How will the Commission know, for example, if anti-competitive behaviours on behalf of big players or other market conditions or regulations make it hard for new services to launch? If, as the Commission says, the process of registration will be light, it will not compare to say... preparing an income tax statement. If you're going to operate in a regulated sector, there will be some paperwork. Those of our members that hold CRTC over-the-air licenses—whose budgets average about $150,000, must file complete financial and programming paper work every year to maintain those licenses.

<u>Reason 2 :</u>

16) We would like to re-examine another principle from the early days of cable television, which informed first Canada's community TV policy, and eventually also the current practice of asking BDUs to contribute to the Canada Media and other production funds.

17) The rationale for asking those first cable companies to support a community TV production studio (the original contribution level was suggested at 10% of gross revenues) was that the cable companies would be flooding Canadian homes with (primarily) foreign signals, and extracting subscription revenues out of Canadian communities. Industry analysts at the time called it a « licence to print money ». The thinking was (an idea akin to 'linkage') that the cable companes should keep some of the money in the community to support the production of local content.

18) While the CCSA does an analysis at paragraphs 20 and 21 in its submission to suggest that the six biggest BDUs in Canada generate 97% of the revenue, and

that therefore that the exemption of the CCSA's own members will make little difference in the overall funding of Canadian content, we beg to differ.

19) Many of the cable production studios that have been shut down in rural Canada—contributing to the news deserts we have today—survived on as little as $5000 per year for their local cable company. For example, the community access studio in Harvey, New Brunswick, was operated out of high school. The $5000 contributed by Fundy Cable (later bought by Rogers) paid for equipment upgrades. The feed to the cable system was there, year after year. A teacher at the high school co-ordinated the students to produce the content. $5000 is 5% (the rural contribution rate) of cable companies to the community channel at that time, meaning that the Harvey Community Channel was maintained by a cable system having yearly revenues of only $100,000, or a few 100 subscribers at most. When the exemption limit was raised to 20,000, and Rogers no longer had to contribute (and also disconnected them from the cable system) the station shut down forever. It takes a relatively small amount of seed-funding to keep community production stations open, because of the assistance provided by local community organizations and volunteers. This model is the magic bullet Canada has to address our news deserts. We will always be a vast country with a small population spread out over a huge area. A full-time salary for one community channel co-ordinator in this example, could have been generated by a cable system with revenues of about $600,000.

20) Industry analysts are throwing around estimates that $1 billion may be generated ultimately by bill C-11. 3% of $1 billion is $30,000,000... enough to relaunch 100 (or 1/3rd) of the community media production studios that have been closed by the cable industry over the last 2 decades. Given also that there is speculation that the majority of the $1 billion may not even be available for the CRTC and for Canadian Production Funds to give out, but may simply be requirements by Netflix executives to spend on CanCon (i.e. the programming decisions won't be made here), that $30,000,000 could be a critical ressource, under Canadian control.

21) We believe that the principal of retaining a percentage of subscriptions contributed by Canadians in their local community is important to maintain, however small the amount. For example, a fraction of a percent of each subscription paid by a Canadian resident could flow back to the community of origin, to support a not-for-profit community TV station, if one is present. (This might be why a community TV station might want to register. They

could register with the postal codes corresponding to the geographic area that they serve, equivalent to the old system of cable licence boundaries.) If a not-for-profit community TV station were not present, the percentage would be deposited in a national « Community-Access Media Fund », to help new stations to launch in areas where a cable community channel has closed and no not-for-profit community station yet exists, or in areas of the country that never had cable community TV, such as most Indigenous reserves. The Community-Access Media Fund could aslo top-up the small budgets that might flow to smaller communities, just as between 1997 and 2016 a community station in a small community could retain the full 5% of a cable operator's contribution to community programming, while a community station in a large city could retain only 2%, due to economies of scale.

22) It's hard to envision now whether there are likely to be local or regional « online streaming undertakings » offering packages of programming tailored to a region (like the apparently locally adapted version of StackTV I saw last night). There were and still are cable, OTA (and wireless) co-operatives and municipal service providers that have launched with the express purpose of tailoring available foreign and Canadian content to local needs, including the provision of a community channel. We believe that principals of local linkage and local expenditures being retained in the local community are important as we move forward in this process. We believe we have too little information at this stage to suggest an exact « exemption threshold » to have to register. However, given the CRTC's acknowledged intention to make this registration easy and its need to monitor a burgeoning industry in a fast-evolving environment, we believe a low threshold is appropriate.

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