



February 1, 2010

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

Online: <http://support.crtc.gc.ca>

CRTC Broadcasting Notice of Consultation CRTC 2009-661
Review of Community Television Policy Framework

Dear Mr. Morin,

INTRODUCTION AND EXECUTIVE SUMMARY

1. This is the submission of the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) on Broadcasting Notice of Consultation CRTC 2009-661, *Review of Community Television Policy Framework*.
2. ACTRA and its predecessors have represented the interests of professional performers working in the English-language media in every region of Canada for over 60 years. ACTRA's principal function is bargaining collectively on behalf of more than 21,000 members and others, whose performances in film, television programs, sound recordings and digital media entertain, educate and inform Canadians and global audiences. In addition, ACTRA represents the interests of thousands of singers and musicians through the work of the ACTRA Performers' Rights Society and ACTRA Recording Artists' Collecting Society which collects and distributes royalties from the public performance of musical recordings.
3. In order to ensure that the perspective of Canadian performers is fully considered in this important proceeding, ACTRA requests an opportunity to appear before the Commission at the public hearing commencing April 26, 2010.
4. For the past decade, the primary objective of ACTRA's interventions to the CRTC has been to ensure that Canadian creative resources are predominantly used on the public airwaves and that Canadians have access to a reasonable supply of high-quality English-language programming choices in every genre. Since 1999, the principal failure of the Canadian broadcasting system is the inadequate supply of scripted drama and comedy programs and series.
5. But ACTRA also understands that the system is failing Canadians in another important respect. In establishing the broadcasting policy for Canada, section 3.1.i.iii of the *Broadcasting Act* provides that "the programming provided by the Canadian broadcasting system should include ... programs from local sources ... (and) community programs." Elsewhere, the *Act* includes principles of editorial diversity and access to differing views on public issues. It also states that the broadcasting system is comprised of "public, private and community elements."

6. ACTRA submits that Canadians do not have sufficient diversity, since programs obtained from local sources are increasingly rare, and there are few community programs. This hearing is an opportunity to address these deficiencies in part.
7. In the past 15 years, there has been a significant concentration of ownership among Canadian cable and broadcasting companies, and many of the related issues were canvassed by the Commission in the 2007 Diversity of Voices proceeding. For this hearing, it is important to recognize that as this concentration took place, the large broadcasting distribution undertakings (BDUs) began to amalgamate their community channel operations, sometimes creating regional operations. As a result, local communities lost contact with the local cable company in many parts of Canada.
8. When the heavily indebted broadcasting companies were faced with pressure on advertising revenues in the recent economic downturn, they responded by closing some local television stations and/or cutting back on local programs, including news and information. Both of these factors are significant in our consideration of the future of community television.
9. ACTRA has carefully considered the proposal put forward by the Canadian Association of Community Television Users and Stations (CACTUS) and believes there is much merit to its core elements. We urge the Commission to return to the original concept of the community channel, which was conceived as a means to provide access to local communities for self-expression. We recommend the CRTC to achieve this objective through the following:
 - a) The creation of a new class of licence, the Community-Access Programming Undertaking (CAPU). To be eligible for licensure, an applicant must be a local not-for-profit organization with a board of directors comprised exclusively of local residents. Only one CAPU would be licensed in each geographical area that the Commission would define and accordingly it must have policies which ensure equitable access for all residents.
 - b) The licence would be for over-the-air broadcasting and would have must carry status on the basic cable tier. Direct-to-home satellite providers would be required to make the service available to relevant local markets.
 - c) The programming schedule of each CAPU must be not less than 80 percent community-access productions. The balance may be any Canadian program that is not available on any Canadian conventional or specialty television service.
 - d) In this model, cable television companies would no longer have a community channel. Instead, their obligations to contribute to local expression would be met by contributing two percent of their gross revenues to a new Community-Access Media Fund (CAMF). This Fund would be used exclusively to support CAPUs, for start-up, operating and programming costs.
10. When the community channel was first introduced, ACTRA and other organizations of professional artists were concerned that these channels, which would produce programs using unpaid volunteers alongside some professionals, may come to compete with channels which must use professionally-made content. In fact, as cable companies have amalgamated their community channels, the programming has become more

sophisticated and is, in some cases, competitive. However, this potential challenge is resolved in the new model for two reasons:

- a) The focus of the new class of licence is where it should be – access for local residents – rather than on “community programs.”
- b) As a federally-regulated entity, each CAPU would be covered by the provisions of the *Status of the Artist Act*. Under that *Act*, ACTRA and other organizations have been certified to represent a sector comprising categories of artists, for purposes of their professional relations with a covered producer. We would anticipate being able to work out an amicable relationship that would establish clear guidelines for all parties.

RESPONSES TO THE COMMISSION QUESTIONS

General Objectives of the 2002 Community TV Framework

Q. 1 Are the objectives of the existing policy framework being met?

Q. 2 If the objectives are not being met, what needs to be changed to help meet them?

Q. 3 Given significant changes to the media environment over the last seven years, are there reasons to revise the objectives?

Q. 4 Is it necessary to make a clearer distinction between community programming and the local programming provided by conventional television broadcasters? What are the principal distinctions?

11. ACTRA supports the objectives established in the 2002 policy to ensure there is more locally-produced, locally-reflective programming and to foster a greater diversity of voices. However, these objectives have not been met for two reasons.
12. As Canada’s cable television industry has become increasingly concentrated, the relationship between the local cable company and the local community has been fractured in many cities and towns. The large cable companies have amalgamated their local production centres and have come to use the “community” channel as a competitive advantage. Thus, production has been professionalized and the more successful programs are repurposed among different community channels, as permitted by the 2002 policy. The access of many local communities has been curtailed. The policy requires cable companies to provide only 30 percent access programming and does not provide a mechanism to ensure this programming can be produced.
13. The second factor concerns the challenges faced by conventional broadcasters in the current economic downturn. Because of their heavy debt load, they were unable to withstand an erosion of their advertising revenues and they have responded by closing some local stations and reducing staff. The resulting decline in local programming is serious and also affects many of the same communities that have lost access to their community channel. ACTRA supports the creation of the Local Programming Improvement Fund (LPIF) as one mechanism to begin to respond to this crisis.
14. ACTRA submits that the Commission should return to the original purpose of the community channel, which was to ensure that local residents have access to what is still the most pervasive medium. The access channel should be about very local news, your

park and neighbourhood, and providing information about your town council and school board.

15. ACTRA submits that the distinction that must be implemented is between community-access and local programs. ACTRA thus proposes that in the new policy, the community channels be turned over to the local community, which would assume responsibility for producing programming and scheduling the channel to meet their needs for self-expression. This would be done by creating a new class of licence, the Community-Access Programming Undertaking (CAPU).
16. To be eligible for licensure, a CAPU must be a local not-for-profit organization with a board of directors comprised exclusively of local residents. Only one CAPU would be licensed in each geographical area that the Commission would define, and accordingly it must have policies which ensure equitable access for all residents.
17. The licence would be for over-the-air broadcasting and would have must carry status on the basic cable tier, to replace the current BDU-operated community channel.
18. The programming schedule of each CAPU must be not less than 80 percent community-access productions. The balance may be any Canadian program that is not available on any Canadian conventional or specialty television service. They would not be permitted to schedule non-Canadian programs of any kind.

Role and Objectives of BDU-operated Community Channel

Q. 5 Are these roles and objectives still appropriate? Why or why not?

Q. 6 Are there reasons to revise the roles and objectives? If so, how?

19. The 2002 policy establishes that the role of the BDU community channel should be “primarily of a public service nature, facilitating self-expression through free and open access by members of the community.” We agree, but submit that this role is, by and large, not being fulfilled by the BDU-operated channels. In our view, this role should be taken over by the CAPUs.
20. Similarly, the policy has assigned clear objectives for the community channel, including citizen participation, training, feedback mechanisms, innovation, balance and coverage of local events. Outside of some coverage of local events, these are, by and large, not being met by the BDU-operated channels. ACTRA submits that the objectives are valid and should be assigned to the CAPUs.

Independently-Operated Community-Based Television Services

Q. 7 What are the reasons for this relatively modest take-up? Have conditions changed since 2002 so that the need for local expression is being met through other means?

Q. 8 Are changes to the policy necessary? If so, what changes? If not, why?

21. In 2002, the CRTC introduced a new class of licence, the community-based television service. There have been only four licensed to date. The principal reason that the take-up has been meagre is because it is costly to start-up and to operate a community television service. In the proposed model, this problem is resolved by having the cable companies turn over the local channels to the local communities. The BDUs would fulfill their obligation to Canadian content programs by contributing two percent of their gross

revenues to a new Community-Access Media Fund (CAMF). This Fund would be used exclusively to support CAPUs, for start-up, operating and programming costs.

22. The CRTC will need to consider how this new fund will operate in order to ensure that maximum resources can flow to the CAPUs.
23. The new model will not replace the community-based television service class, however, it would be anticipated that future take-up would continue to be limited to well defined/closed communities (local church, local language community, or local sports league, for example). As technology develops, we would anticipate that these specialized needs will be met primarily through Internet webcasting.

Direct-to-Home Satellite Services

Q. 9 Have circumstances or other factors arisen that would warrant a change in the Commission's existing position?

Q. 10 If the Commission were to authorize DTH undertakings to operate community channels, what provisions would ensure that the objectives of the community programming policy are being achieved?

Q. 11 Keeping in mind DTH capacity issues, are there alternative models to delivering community programming (i.e., an omnibus or "community of communities" channel) that the Commission should consider?

24. In 2002, the Commission ruled that a DTH service could not operate a community channel. We believe that this position should be maintained. However, in the proposed model, the satellite service should be required to provide the community-access channel to a local community where there is a licensed CAPU. ACTRA understands that current technologies allow this targeted distribution.
25. In addition, we believe that all DTH services should provide two percent of their gross revenues to the CAMF.
26. ACTRA does not support the proposal to create a "national" community access channel. CACTUS has proposed such a model as a way to permit programming to be shared among communities and to "air access programming having a national focus; for example, Canadian feature films or documentaries that can't find distribution in the public or private sectors." ACTRA submits that a national channel does not fit in the parameters we envision for a community-access channel and, if granted, it would compete directly with commercial channels. Furthermore, each CAPU would be free to share relevant programming with others and this does not require a national channel.

Access Programming

Q. 12 Are these requirements and obligations being met?

Q. 13 Are they still appropriate? Why or why not?

Q. 14 Are there reasons to revise the existing requirements and obligations? If so, how?

27. There is precious little access programming presently on the BDU-operated community channels, indeed the 2002 policy only requires that they schedule 30 percent access programs, with no limitation on where this originates. ACTRA fully endorses that original concept, as the Commission itself quoted from CRTC 1991-51: "The factor that most

distinguishes the content of community programming from conventional television services is the ability of community programming to turn the passive consumer into an active participant.” By creating a new model based on CAPUs, the CRTC would reinvigorate this principle.

Advertising

Q. 15 Have circumstances or other factors arisen that would warrant a change in the Commission’s existing policy?

Q. 16 Should the Commission adopt the above recommendations? If so, by what means or with what safeguards? If not, why not?

Q. 17 If the Commission were to allow BDU-operated community channels to air commercial advertising, should all or a portion of the revenues be directed to the provision of community programming or towards other initiatives such as the Canada Media Fund?

28. In the new model proposed, it would be inappropriate to permit advertising. To qualify for licensure, a CAPU must be a locally-based not-for-profit organization. Its purpose is to facilitate self-expression by the community on the community channel and not to deliver an audience to an advertiser, even if that advertiser is local. If allowed to advertise, community channels would draw advertising away from conventional and specialty channels.

29. ACTRA believes that the resources available through the CAMF will be sufficient to permit each community to develop a CAPU. ACTRA would consider permitting sponsorship arrangements, providing that acknowledgement of such arrangements is limited to before or after a sponsored program or event.

Local Programming Improvement Fund

Q. 18 Should the LPIF also be used to fund the production of community programming on the independently-operated community-based television services? Why or why not?

30. CAPUs would have their own funding source and would not be permitted to apply for LPIF funding. This would reinforce the clear distinction between “community-access” and “local” programs. With respect to the community-based television services, ACTRA would also oppose the use of LPIF for these purposes. The LPIF is for local, professionally-produced programs, and not for community programs.

BDU Financial Contribution

Q. 19 Do BDU contribution levels remain appropriate for the operation of a community channel? Why or why not?

Q. 20 Should a proportion of the BDU contributions be directed to
(a) the production of access programming? If so, what would be the most effective means of doing this? If not, are there other funding means that may be more appropriate? and/or

(b) the production of local programming through the LPIF? Why or why not?

Q. 21 Should the community-based television programming undertakings have access to BDU contributions for local expression, as is currently the case for community channels and community programming undertakings?

31. As we have stated above, ACTRA believes that the full amount of 2 percent of gross fees should be contributed by each BDU to the Community-Access Media Fund. This is in keeping with the requirement in the *Act* that “each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.”

Video on Demand

- Q. 22 Is there an increasing role or a special role in the future for community programming available on demand? Is there a role for VOD-only community programming?
- Q. 23 Are there benefits to a VOD presence for community television? Are there consequences to having or not having such a presence? What are the challenges to establishing a community programming presence on this distribution platform?

32. ACTRA has no comment on these questions.

New Media

- Q. 24 What challenges do community television broadcasters face with respect to their participation in new media broadcasting?
- Q. 25 Are there benefits to a new media presence for community television? Are there consequences to having or not having such a presence?
- Q. 26 If community channels do not have a new media presence, can Internet users obtain the same content from other sources on the web? Does the existence of the Internet as an avenue for community expression affect the need for community access to traditional television production?
- Q. 27 Is there a special role for community broadcasting in the new media environment? Is there a role for Internet-only community broadcasting?

33. The same as all other programming undertakings, ACTRA would assume that the CAPUs would wish to offer their programs using every available platform. If they do their job and attract eager volunteers, it is likely they will tap into resources that may make them more successful at utilizing the Internet than conventional broadcasters.

34. ACTRA observes that there are many communities which have established a presence on the Internet and provide community-access programming. The largest example perhaps is YouTube. However, this does not replace the urgent need to have community-access programming in Canada’s broadcasting system. The proposed new model will achieve that objective.

Official Language Minority Communities

- Q. 28 What are the reasons for the lack of openness (e.g., demographic, generational, economic) regarding opportunities for community broadcasting in new media?
- Q. 29 What is the role of community television in the OLMCs and what should that role be?
- Q. 30 What role can community programming play in reflecting the realities, needs and concerns of OLMCs?
- Q. 31 How can the Commission encourage and ensure the availability of community programming to and by OLMCs?

35. ACTRA suggests that, to be eligible for licensure, each CAPU would need to have an appropriate policy which ensures equitable access for all residents in their geographic area, including OLMCs and diverse communities.

High Definition Television

- Q. 32 What steps have BDUs taken to date to produce high definition community programming? Are these steps sufficient? If not, what measures can be taken to further encourage the production of high definition community programming?
36. Since an entry-level high-def video camera is now available for roughly \$2,000, we would anticipate that the CAPUs would be able to ensure that community-access programming can be produced in high definition format.
37. ACTRA thanks the Commission for the opportunity to provide comment on this important issue.

Thank you

A handwritten signature in black ink, appearing to read "Stephen Waddell", is written over a light gray rectangular background.

Stephen Waddell
National Executive Director
ACTRA