



# CRTC TV Policy Review

<b>TO:</b>	Board of Directors
<b>MEETING:</b>	August 21 <sup>st</sup> , 2014
<b>FROM:</b>	Steven Guiton, Vice-President and Chief Regulatory Officer Media Technology Services and Regulatory Affairs
<b>PURPOSE:</b>	Update on the CRTC TV Policy Review (Let's Talk TV) Proceeding
<b>DATE:</b>	14 Aug 2014

## SIGNIFICANT POINTS:

- On September 12, 2014 CBC/Radio-Canada management will appear at a CRTC hearing to consider the regulatory framework for Canadian television services ("Let's Talk TV").
- The Let's Talk TV process began in the Fall of 2013 with public consultations taking place over several months. Broadcasting Notice of Consultation 2014-190 (24 April 2014) initiated the formal stage of the overall process which culminates in the public hearing commencing in Ottawa in September 2014.
- The Commission has received over 2,500 submissions from individuals, governments, public interest advocates, unions, industry advocacy groups, Canadian broadcasting companies and non-Canadian companies such as Netflix, Google and Disney. CBC/Radio-Canada will be one of 117 parties appearing at the oral hearing in September. In all likelihood, the Corporation's appearance will last between one and two hours.
- BNC 2014-190 identified an extremely wide range of issues for discussion and invited parties to raise anything else they consider relevant so long as it relates to the regulation of television in Canada. In its 27 June 2014 submission, CBC/Radio-Canada focused on a number of key issues of direct concern to the Corporation. These issues are summarized below.



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## 1. Preponderance

The CRTC has put forward the possibility of eliminating the preponderance rule (majority of the services received by consumers must be Canadian) in order to enhance consumer choice.

CBC/Radio-Canada opposed this proposal on the grounds that the existing rule provides benefits to the system overall and does not significantly impact consumer choice. Moreover, we argued that without the existing rule, significant new safeguards will be required to protect against anti-competitive actions by vertically integrated (VI) distributors to favour their own services.

## 2. Distribution of Discretionary Services

The CRTC has proposed that all services not part of the basic package must be available on a pick-and-pay, as well as a pick-a-pack basis.

We have not opposed this proposal given its implications for greater consumer choice. However, we have argued that if the CRTC adopts this proposal then significant new safeguards will be required to protect against anti-competitive actions by VI distributors to favour their own services.

## 3. Local Programming and Conventional Television

The CRTC has raised a number of issues relating to local television:

- i. Should local stations be required to have over-the-air (OTA) transmitters?
- ii. Should local stations be required to provide local programming? How much and how should it be measured?
- iii. Are there other ways of fostering local programming?
- iv. Should independent stations be treated differently from the networks?

(i) We have argued that conventional television stations should not be required to deliver their services via OTA transmission. Instead, we proposed that a local television station should be permitted to provide a direct feed to cable companies and other BDUs while still retaining its local station status. Under this scenario, a local station would no longer be precluded by section 31 of the Copyright Act from charging BDUs for its service, as would normally be the case in the marketplace. We argue the CRTC should support the negotiation of affiliation fees by making dispute resolution available on the same basis as for specialty services.

(ii) We have argued that local television should continue to have priority carriage on the basic packages of BDUs. Our intervention also states that without changes to the financial model for



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local television to improve profitability, the Commission must be prepared to reduce the programming obligations of local stations.

(iii) We have proposed the creation of a new fund (the Local News Fund or “LNF”) to support local news programming.

(iv) We did not address the issue of independent stations in our evidence.

## 4. Financing Canadian Programming

The CRTC has raised the question of how to pay for Canadian programming. Numerous parties have come up with proposals.

We have proposed the LNF (mentioned above), as well as a 5% revenue levy on over-the-air (OTT) services having Canadian revenues greater than \$25 million. The OTT levy would go to the Canadian Media Fund (CMF).

## 5. Access for Non-Vertically Integrated Services

The CRTC has asked whether the existing protections for non-VI services are adequate or whether they should be strengthened.

Throughout our evidence, we have argued that a strengthening of the existing VI safeguards is required if the Commission proceeds with its plan to modify the existing regulatory framework.

During the hearing, we will elaborate on our proposals.