



Ms. May-Cuconato
Secretary General
CRTC

177 Route Principale Est
Sainte-Cecile-de-Masham
QC, J0X 2W0

August 30, 2016

Dear Ms. May-Cuconato,

Re: Process feedback from a key stakeholder regarding the recent local and community TV hearing held by the CRTC (2015-421).

The Canadian Association of Community Television Users and Stations (CACTUS) represents not-for-profit community TV license holders, community TV corporations that air their content on the community channels of BDUs, other not-for-profit corporations that are concerned about Canadian media democracy and the role community TV plays in ensuring such, as well as individual Canadians who use and watch community TV stations, and whom are similarly concerned about Canadian media democracy and their current and future access to media training, production support, and distribution platforms.

CACTUS is the only association that represents community TV stakeholders in all provinces and territories.

Our comments include concerns about the paucity of information on the public record during the proceeding regarding how BDUs have spent more than \$150 million in subscriber money annually on community TV – which information stakeholders needed to accurately assess the effectiveness of the CRTC's past and future policies—as well as the revised policy adopted by the Commission, which we do not believe reflects the testimony placed on the public record by interveners to the hearing.

Due to:

- the lack of information placed on the public record by the Commission
- the number of false, selective, and erroneous statements in its analysis and decision
- the number of internal contradictions in the decision
- and the disregard and ignorance of the basic role and practices of community media evident in these errors

... we request that:

- the Commission either reconsider its decision or convene a new hearing that considers only community television and media, and which is based on a complete public record.
- the Commission create an Ombudsperson or permanent position or department to manage its community media policy, to re-establish the Commission's knowledge base and expertise regarding the role and practice of community media, and to liaise with community and other government agency stakeholders to develop a coherent and integrated community media policy for Canada in the digital environment.

Concern About Lack of Information on the Public Record Concerning BDU Administration of Community Channels

The information placed on the public record of CRTC 2015-421 by the CRTC regarding the performance of BDU community channels was inadequate for an informed review of the CRTC's community TV policy. CACTUS and other groups requested before and during the review (beginning in the summer of 2015) that financial information that the CRTC already collects from BDUs by license area regarding their spending on access and local content should be placed on the public record, so that Canadians interested to participate in the process could assess BDU community channel performance in their own license area. The information that the CRTC placed on the public record was aggregated by company, reflecting BDU spending on access and local content across their entire systems: each containing dozens of community channels. Since smaller communities have seen their production studios close en masse during the process of BDU interconnection and ownership consolidation over the last decade (and production resources have been consolidated in large urban areas), it was impossible for the public to review or analyse this pattern or to review BDU performance in their own service area.

Furthermore, despite the request by CACTUS and other parties that BDU community channel program logs in licensed and exempt service areas should be requested by the CRTC and added to the public record to enable stakeholders to assess compliance with access and local

minima (to determine whether the existing policy was effective), the CRTC ignored these requests. We note that under the BDU regulations, the CRTC has the power—and is indeed the only body with the authority—to request BDUs to submit their logs. The CRTC has used this power in the past, but neglected to exercise it on this occasion to serve the public interest and need for accurate information about BDU performance in order to participate effectively in the policy review.

The effect of these oversights was to make it impossible for the public to meaningfully participate in the hearing. The public lacked basic information about BDU spending and performance under the previous community TV policy (2010-622), and therefore was not in a position to make informed opinions about appropriate policy adjustments moving forward. CACTUS submits that these oversights will also make it impossible for the public to evaluate the CRTC's new policy, because the public lacks data to which the CRTC had access that presumably informed its policy decision.

CACTUS attempted to address the lack of CRTC-supplied information about BDU compliance with local and access minima by creating and populating a publicly accessible web site at www.comtv.org with this information. CACTUS' review revealed BDU non-compliance in a majority of licenced and exempt service areas.

It is pertinent to note that as CACTUS had insufficient resources to compile this information on its own, this analysis was compiled for CACTUS by a third party on the strength of assurances that the work would qualify for a cost claim with the Broadcasting Participation Fund. We have therefore been perturbed to be informed recently as a founding stakeholder of this fund that future cost claims of this kind may be disallowed. If the CRTC will not make BDU compliance information available concerning how over \$150 million in subscriber money is spent annually, and public-interest groups are not resourced to do the work, who will do it?

Concerns About the New Policy (CRTC 2016-224)

Going Into the Hearing Process

CACTUS is gravely concerned with the outcome of the hearing. We were perturbed during the *Let's Talk TV* process that preceded 2015-421, during which the Commission put on the table the possibility that resources that have for almost fifty years been used to support a robust community television sector (and which is the only significant source of funding for the sector outside Quebec) might be diverted to the private sector. We were perturbed not only at this possibility but also at the procedural potential that the future of community TV might be decided at a policy hearing that did not focus specifically on community TV. In the

past, the Commission has recognized that the needs of local, private and public-sector broadcasting are different, and has considered them separately.

While the funding for community TV was not reallocated during the *Let's Talk TV* process, our fears were not allayed when we heard that community TV would be reviewed simultaneously with local conventional broadcasting at a subsequent and related hearing, and we were even more concerned when the public notice for 2015-421 barely mentioned public-sector local broadcasting. It appeared (as in the *Let's Talk TV* process) that the Commission's intent even before the public hearing had begun was to reallocate money formerly earmarked for community TV to local private TV stations—a cash transfer primarily within BDU properties. We believed that the strengths of community media in addressing the need of Canadians for adequate local reflection and for democratic access to the system should be assessed on their own merits.

Our concern was amplified when the framing and the specific questions asked in the policy review (and the absence of mention of not-for-profit community broadcasters) indicated a bias toward the reallocation of funding toward the private sector, and in fact an ignorance regarding many aspects of the role and operational principles of community media. We noted these shortcomings in our interventions to the proceeding.

Participation in the Hearing

Despite the fact that 'the cards' appeared to be stacked against a transparent consideration of both BDU community channel performance under the old policy and the potential of not-for-profit community media to address the deficiencies, CACTUS encouraged its members and other public-interest stakeholders to take the time and expend the energy (which is in short supply at small under-resourced community media organizations) to participate in the CRTC's local and community TV policy review in good faith.

These public-interest stakeholders travelled from all parts of the country at their own expense (many on the hope of receiving compensation after the fact from the Broadcasting Participation Fund), wanting to be heard: to showcase their programming, their experience managing not-for-profit corporations and licensed broadcasting facilities, and their passion for serving the public and giving their communities a voice. In all, one third of the interveners to the oral phase of the hearing were not-for-profit community media organizations directly representing communities and advocating for community administration of community media. Considering that the hearing considered community *and* local TV, this represented a high level of engagement in a sector that is poorly resourced, and a great deal of data was placed on the record by them regarding the urgent need for not-for-profit community administration of community media.

Most of these not-for-profit community media organizations had also prepared themselves for the hearing and familiarized themselves with the issues by attending the Community Media Convergence held at Carleton University in November of 2015 (ComMedia 2015). ComMedia 2015 was organized with the express purpose of considering policy alternatives to support community media in an environment of digital convergence as well as high media ownership concentration.

Policy Decision

Despite this high level of engagement and preparation on behalf of the community television and broader community media sector, we do not believe that the policy decision that resulted from the proceeding reflected their input nor accurately reflected the cross-section of data placed on the public record by all stakeholders. Many statements in the policy decision contradict data on the public record, are selective, or are false.

We believe it's of value to detail these statements, because the policy decision that has resulted appears to rest on such contradictory, selective and false information, and on a lack of understanding of community media principles, practices, and role with respect to the broadcasting system as a whole. We present our comments in the order in which they are presented in the decision:

Paragraph 1 (unnumbered, in the preamble):

“This includes the broadcast of high-quality local news on which Canadians rely to stay informed of issues that matter to them, as well as the broadcast of community programming through which Canadians can express themselves. “

The term “high-quality” was used throughout the consultation and yet was never defined. The statement appears to contrast local news produced exclusively by professional journalists with “community programming”. The statement implies that Canadians rely exclusively on this “high-quality local news” to “stay informed of issues that matter to them”, while the sole or main purpose of “community programming” is for Canadians to “express themselves”. This dichotomy ignores the fact that local news produced exclusively by professional journalists is available in only about 50 towns and cities in Canada, having populations over 100,000. In smaller markets (and in neighbourhoods and among niche groups in large markets), it is community programming that enables Canadians to “stay informed about what matters to them”. The online forum attests to the latter.

The characterization is reductionist and oversimplified, and the dichotomy continues throughout the Commission's decision.

Paragraph 3 (unnumbered, in the preamble):

"However, the evidence on the record of this proceeding indicates that online news services do not yet have the news-gathering resources and expertise to replace traditional local news sources."

The Commission concludes that despite the ready availability of Internet data and information, that conventional television still needs resources and is important. In an obvious double standard, however, at paragraph 102, the Commission uses the identical argument (the availability of online sources) to justify *reducing* support for community television:

"The Commission has heard evidence in this proceeding about the emergence of technological and social trends providing Canadians with new opportunities to achieve the objectives traditionally met by the community element of the broadcasting system. Though exempted from the requirement to hold a licence, ubiquitous online video sharing sites form part of the broadcasting system and now allow Canadians to share their stories more easily than ever."

Somehow the Commission concluded that it is easier for unresourced groups of volunteers to generate adequate and meaningful local reflection and dialogue (often in markets unserved by public and private broadcasters) to meet the democratic objectives of the Broadcasting Act than for BDU-owned conventional broadcasters. Clearly this is not the case, and the history of community TV funding in Canada attests to the fact that previous Commissions appreciated this fact.

The evidence from communities themselves (more than 400 of whom responded to the online survey conducted by the Community Media Policy Working Group and which was placed on the record of the proceeding), was overwhelmingly that funded and licensed community media organizations are more relevant than ever because:

- cost-effective sources of local news and information in markets too small to support public and private conventional broadcasters (with populations less than 100,000)
- curated sources of local news and information led by trained professionals, in a sea of unlicensed Internet information sources

Unnumbered paragraph following the heading ***"Community television – public access to the broadcasting system"***

"BDUs continue to be in a position to support and provide community programming and public access to community channels."

While BDUS are undoubtedly in a financial position to support community channels, the overwhelming evidence is that they no longer have the technical or administrative

infrastructure to provide community programming nor public access. According to the list of licensed community channels provided by the Commission during the proceeding and consistent with the pattern of technical interconnection and production studio closure identified during the 2010 hearings, the vast majority of cable production studios that once existed in small communities have been closed along with the technical head ends that used to serve small rural systems. Furthermore, 40% of Canadians don't subscribe to cable. BDUs have over time eliminated the technical infrastructure that once enabled them to provide community programming or public access throughout rural Canada, and competitors have taken their audiences. BDUs form only part of the distribution mix in communities and are not in a position to determine the allocation of resources for community television.

BDUs also lack the administrative infrastructure. They administer their cable systems as vast networks. Their 'community programming' reflects this networked approach, resulting in widespread BDU failure to achieve the local access minima required under their licenses and the exemption order. Documentation of this failure was placed on the public record by CACTUS and is available online at www.comtv.org.

The CRTC, by contrast, provides no evidence to support this statement that *“BDUs continue to be in a position to support and provide community programming and public access to community channels.”*

Paragraph 133 continues this line of argument:

“BDUs continue to be in a position to support and provide community television programming:

- *the vast majority of stakeholders are pleased with the local coverage provided by their community channels;*
- *BDUs are licensed or operating under an exemption order, giving the Commission a mechanism for overseeing their activities; and*
- *they are subject to industry codes regarding violence, equitable portrayal and advertising to children.”*

... and at paragraph 127:

“Many Canadians who provided comments during the online consultation indicated their support for the current community channel framework and felt well served as subscribers, volunteers and access producers. Some were opposed to the CACTUS model and argued that community groups, such as CACTUS members, have not proven that they are sufficiently accountable to manage such sums. Some argued that community channels should not be managed by volunteer groups.”

Regarding the number of community TV-supportive comments in the online forum:

- Most of the respondents to the online forum were supportive of community TV as an institution, and often named their local channel, but it is not true that they *“indicated their support for the current community channel framework”*. Most

Canadians have no idea what the current community TV policy “framework” is. This confusion was apparent in many comments that confused local conventional channels with community channels.

- The Commission must be aware that because it does not advertise its hearings to the general public, the “vast majority of stakeholders” had no idea a review of community TV was going on. The vast majority of comments were solicited by BDUs, via the employees in their network of community channels, supported by \$150 million in subscriber revenues. For example, our members heard both during this policy review process as well as the 2010 review that it was “all hands on deck at Rogers” to “dominate the online forum”. During the 2010 review, we obtained copies of a letter circulated to Rogers community channel employees offering financial incentives for collecting the most letters from community groups with whom they had had dealings.

The only hard data that could be considered random and broadly representative of how Canadians view BDU community channels was provided by CACTUS. Numeris reports that only 1.5% of Canadians watch BDU community channels in a given week. (The CRTC had provided these figures in 2010, but failed to do so in the 2015/16 review.)

For example, there is no geo-referencing of the data in the online forum. If there had been, it would have become obvious that positive comments only come from communities where there is still a cable community channel and the production studio has not closed. There are no voices from the communities that have lost their channels.

If the Commission is serious about finding out what Canadians think about community TV, it would conduct third-party research that selects Canadians at random. The amount of money that is spent on community TV year over year is certainly enough to pay for thorough studies, with low margins of error. Such studies are common practice to gauge the effectiveness of government programs and to ensure accountability to taxpayers.

- The statement that BDUs are in a position to oversee community channels because they are “*licensed or operating under an exemption order*” does not recognize that not-for-profit community channels are also licensed, as are 170 community radio stations. The community sector as a whole has just as long a history of licensing and having to meet broadcasting standards as the public or private sectors. In fact, BDUs are not specifically licensed to operate community channels. They are licensed to operate cable systems, and are allowed as a perk to operate a community channel. Exempt BDUs have no license.

The notion that BDUs are better qualified to manage community channels than independent not-for-profit organizations is repeated at paragraph 215:

“However, the Commission considers that allowing an independent company to be allocated funding from a BDU, despite BDUs being regulated and accountable entities, introduces a destabilizing element into the broadcasting system.”

We note that:

- i) the “independent entities” would also be regulated and accountable, license area by license area (while BDUs are not, as evidenced by the aggregate approach to providing data about their many community channels in this proceeding). The “independent entities” would have specific licenses to operate a community channel, while BDUs have licenses only to operate cable systems.
- ii) Quebec TVCs already receive funding from BDUs, and the Commission encourages BDUs to provide funding to independent community TV corporations

The implication that CACTUS was proposing that '*such sums*' be managed by volunteer groups is a misrepresentation of CACTUS' proposals. Most CACTUS members and not-for-profit community media organizations have employees who direct the activities of volunteers, and all would, if they were resourced from subscriber revenues as BDU community channels have been. It is a tribute to the passion and commitment of smaller stations that do manage licenses and the associated CRTC broadcasting regulatory requirements with only volunteer boards and programmers.

Finally, of the more than 300 comments on the online forum at http://www.crtc.gc.ca/broadcast/eng/hearings/2015/2015-421oc.htm?_ga=1.70884564.531908311.1459346442, only one (**BillGade** - Friday, January 22, 2016) argued “that community groups have not proven that they are sufficiently accountable to manage such sums.” To conclude that “*Some were opposed to the CACTUS model and argued that community groups, such as CACTUS members, have not proven that they are sufficiently accountable to manage such sums*” is to misrepresent the data. Nor has CACTUS ever proposed that it would manage a new Community-Access Media Fund. CACTUS' proposal is that CAMF should be established in the same manner as the Community Media Fund, managed by an independent board with oversight by the CRTC. The poster has not informed himself about CACTUS or the matters he seeks to comment upon. Further, he encourages the CRTC to “*Prevent the major groups [i.e. BDUs] from holding a [community TV]*

license.” He proposes an entirely different model: for small commercial licensees to manage community TV on a regional basis (a proposal that was neither advanced nor supported at the hearing by any other party).

Paragraph 76 states:

“For these reasons, the Commission is of the view that private local television stations are in need of support if they are to continue to offer high-quality, locally reflective news. However, no private local television station was able to provide estimates of how much money it would need to continue operations. While little compelling evidence of imminent station closures was provided on the record, the Commission is concerned that if action is not taken in the short to medium term, stations may have to make difficult decisions, including reducing expenditures on news programming.”

The Commission admits that *“no private local television station was able to provide estimates of how much money it would need to continue operations”* and that *“no compelling evidence of imminent station closures was provided on the record”*, yet still *“the Commission is concerned that if action is not taken in the short to medium term, stations may... reduce expenditures on news programming”*.

With no compelling evidence, the Commission reallocated most of the budget for community TV in Canada to private-sector news stations in about a dozen large markets.

Meanwhile, CACTUS provided detailed budgets and a specific commitment to serve 250 large, medium and small communities with multimedia local news and information, while providing citizens with digital skills training and a voice to boot, but was ignored, on the grounds that it produced *“no new evidence”*.

Paragraph 88 states:

“Canadians living in metropolitan cities with a population exceeding one million have access to many media sources on television and radio, as well as online and in print, that provide community reflection... Finally, Canada's largest cities offer a critical mass of educational institutions and community groups that are able and willing to provide media training for volunteers. As such, citizens living in these cities have grown less reliant on the reflection provided by the BDU's community channel to meet their needs with respect to local expression and reflection.”

The CRTC fails to refer to any evidence to support this paragraph. The public record of the proceeding supports the opposite view, that community TV and media is just as needed in large urban centres to reflect their greater diversity of inhabitants. The Commission heard from interveners and community groups from Toronto (Regent Park Focus, the Toronto Community Media Network, the Media Coop), Vancouver (TriCities TV, Access TV, newwest.tv) and Montreal (various Fédétvc members and CSUR) about the need to reflect these minority voices and diverse neighbourhoods, and that their voices were *not* reflected on

mainstream media available in the urban centre. Many respondents to the survey conducted by the Community Media Policy Working Group made the same point. The Commission itself makes the point that the greater diversity in larger urban centres implies a need for community advisory committees in markets having more than 1 million people.

The Commission also fails to substantiate the statement that “*Canada’s largest cities offer a critical mass of educational institutions and community groups that are able and willing to provide media training for volunteers*”. The Commission actually heard the opposite. Groups like Regent Park stated that they are underresourced, and can serve only very limited clientele (youth in Regent Park) due to budget restraints. Others, such as Dames Making Games, stated that they survive on project grants and have no regular meeting space. The mere availability of educational institutions also neither ensures that the most disenfranchised (for example older immigrants beyond school age) have the resources to attend them nor that the availability of training results in a coherent community programming offering on commercialized platforms such as YouTube.

Paragraph 104:

“Traditionally, the community channel has been tasked with training Canadians to use the cameras, editing equipment and other material required to create community programming. However, given the evolution and increasing availability of the tools required for production (many Canadians now carry an HD camera in their pocket in the form of their smartphone), they are now simpler to use than ever. Further, the Commission has heard evidence at the hearing that various groups, such as neighbourhood community groups and municipal libraries, have started offering media training to Canadians interested in participating in program creation.”

This rationale was used to justify decreasing the budget for community TV. However:

- the cost of cameras and production equipment was never a major portion of a community TV budget. The major portion of the budget and training required related to human skills including journalistic training, interviewing, editing, graphics productions and so on. Another major portion of the budget related to personnel to co-ordinate teams of production volunteers and to schedule and manage a coherent community programming service. These majority parts of the budget are still required.
- In addition, paragraph 104 ignores the proliferation of digital tools and platforms for media, all of which Canadians must master to create and distribute content. Displaying an apparent double standard, the Commission accepts that for BDUs, the creation of local news and information has become more challenging (and requires more resources), yet for unresourced community groups and volunteers, it has become easier. Where is the Commission's evidence to support this double standard?

- The Commission heard that neighbourhood groups such as TriCities TV, Regent Park Focus, and municipal library 'maker spaces' exist and have started offering media training, but the Commission also heard that their efforts are unsustainable in the long term and on a country-wide basis. Such groups and efforts are few and far between. Their existence demonstrates a will to fill the gap left in BDU community TV service, but these organizations lack the financial infrastructure to acquire transmission infrastructure, operate studio facilities, and co-ordinate volunteers to fulfill a coherent community reflection mandate. This is why they participated in the hearing.

Paragraph 131:

'The Commission is of the view that no new evidence was brought forward during this proceeding that significantly alters the position it took in 2010.'

This statement is astonishing given that for the first time in Canada's 47-year community TV history, the quantity of local and access programming available on almost all licensed BDU community channels and many channels in exempt systems was placed on the public record, and demonstrated that the vast majority of BDUs do not follow the CRTC's community channel policy. This information was placed on the record by CACTUS.

The statement also ignores the research conducted by the Community Media Policy Working Group. For the first time, the community media sector itself was surveyed to find out its views and aspirations, and what policy goals and priorities it believes there should be for community media in Canada. The results of this survey were also placed on the public record. No such research regarding community media policy needs in the digital environment—taking into account convergence and with the full participation of both traditional community media (community radio and TV) as well as new media (online and gaming)—had ever been conducted.

Paragraph 132:

"Additionally, the scope of the CMCs far surpasses the boundaries of community television. A significant portion of capital and operational expenditures would be used for the operation of community radio and locally reflective computer games, as well as brick-and-mortar community spaces. While these objectives are laudable, there exists little policy rationale to use money generated from BDU subscriptions to fund these projects."

This statement ignores that:

- Money generated from BDU subscriptions is already used to fund new media, including interactive media and computer games, via the Canada Media Fund.

The policy rationale already exists and has been pursued by the Commission, reflective of convergence in the digital environment.

- Money generated from BDU subscriptions has always funded “brick-and-mortar community spaces”. That's what BDU community channel production facilities are. In order to train the public and provide the community with production support, brick-and-mortar community spaces are necessary. The elimination of many of the BDU production studios in interconnected cable systems has made it impossible for BDUs to meet local content minima.

Paragraph 156:

“CACTUS and Independent Community TV (ICTV) were of the view that an elected advisory council should assess BDUs' compliance with the requirements set out in the policy on official languages, concerning the representation of ethnic groups and First Nations, and citizen access and participation. CACTUS suggested that community channels should be governed through open management. To do this, CACTUS proposed that an advisory board be set up in each market. The board would be responsible for managing the community channel and would be composed of members representing key institutions, such as the municipality, public library, local educational institutions and not-for-profit community organizations.”

For the record, CACTUS never expressed any such view. Nowhere in the public record has CACTUS ever recommended that citizen advisory committees be set up. CACTUS is of the view that citizen advisory boards are ineffectual unless they have a controlling vote and their decisions on programming and budget allocation are binding on the BDU.

CACTUS is of the view that community channels should be not-for-profit organizations that are managed by boards that represent key institutions in addition to individual members of the viewing public. This is not the same as a “citizen advisory board”. “Advisory boards” that defer to BDU management are a recipe for frustration for well-meaning citizens, and an insult to community capacity for self-determination. Self-determination and expression is fundamentally what community media is about.

Paragraph 161:

“Citizen advisory committees could be consulted for the selection of access projects.”

The point of open access is that access is open. Gate-keeping is not exercised on channel content by either the BDU or citizen advisory committees. No community TV channel in Canada is full of new content 24/7. There is no need to “select” access projects if those projects are produced by the community using their own equipment and space.

Allocation of scarce production resources (such as equipment and staff time) for groups who need assistance, however, is a legitimate planning activity in which a citizen advisory committee could be involved. However, it is the experience of CACTUS members that BDU budgets for community TV are adequate to meet the needs of most community members and there should rarely be a need to turn anyone away.

Paragraph 162:

“In light of the above, the Commission will require licensed BDUs to establish citizen advisory committees for community channels operating in markets with a population of over one million people.”

BDUs do not have to continue to operate community channels in markets having populations over one million people, and we presume that most will elect to reallocate the funding to a private property. Therefore we anticipate that there will be little for citizen advisory committees to do if they are ever established. This is just one of the many internal contradictions with which the policy decision is rife.

With regard to First Nations and their access to media that reflects them... Where First Nations need media most is on reserve, so that they can program in the language. The new policy does nothing for them. We note that two First Nations that supported CACTUS' community media centre model and (which would have allowed for applications from First Nations where there is no cable infrastructure) travelled to the hearings to meet with the Commission and participate in the hearing for the first time: Firsttel Communications, and Wawatay Communications.

Paragraph 172:

“The Commission is of the view that the exhibition and expenditure requirements for access programming currently in place are sufficient to ensure that an appropriate amount of this type of programming is distributed by community channels. Similarly, the Commission considers the requirement that a BDU offer a portion of its programming aired on a community channel each broadcast week to community television corporations is sufficient to ensure meaningful access by these groups.”

The Commission fails to explain how community TV corporations inside and outside Quebec can produce up to 4 hours of programming per week with no budget. We note that most of the community TV corporations in Canada have been set up because a BDU bricks-and-mortar production facility has closed, leaving the community with nowhere to acquire training and equipment access.

The Quebec Ministry of Culture provides some money to Quebec community TV

corporations for capital and operational expenditures; however, we anticipate that Videotron will exercise its new freedom to reallocate community TV budgets to private broadcasters in its ownership group, and its overall revenues for community TV will also be reduced by its obligation to contribute to the Independent Local News Fund.

Outside Quebec, community TV corporations receive no financial support via any CRTC mechanism, and there are consequently very few.

Paragraph 182:

"An access program must originate from a community member who is neither employed by a BDU nor a media professional who is known to the public or who already has access to the broadcasting system. Furthermore, the program should not be of a commercial nature, to the benefit of the person requesting access or a sponsor."

CACTUS does not agree with this new definition of access. It shows a lack of understanding of the traditional role of community TV in enabling both amateurs and professionals to learn new skills and test-drive new ideas. The freedom for professionals to avail themselves of community channel resources is a significant driver of conventional broadcasting, because pilots and ideas can be tested. It's an important low-risk environment that improves the overall quality of Canadian content.

We would have liked to have seen the definition clarified (and we provided a suggested wording for this purpose) to say that professionals who participate in the production of community channel content should *not be compensated* for their efforts. It's not that professionals should not be allowed to contribute (they contribute to the free-flow of creative ideas that drives our industries); it's that they should not be acting in a paid capacity on community channels when they do so.

We also believe the latter distinction is easier to enforce than the former: Either a financial transaction occurred, or it did not. In the digital online environment, there are no hard and fast boundaries between *"media professionals who are known to the public and already have access to the broadcasting system"* and those who do not. The Internet is considered to be part of the broadcasting system. Everyone has access.

Paragraph 195:

"The Commission therefore encourages BDUs to make their community programming available on all platforms, including online to all Canadians, free of charge."

The commission fails to ensure that community programming is available to all

members of a community. While the Commission “encourages” BDUs to make the programming “available on all platforms”, BDUs are not bound to do so. Further, BDUs are not able to make the programming available on “all platforms” unless they happen to have broadcast towers in every community where they offer a community channel, have access to satellite bandwidth, and own cable infrastructure.

The CACTUS proposal, on the other hand, was to fund community media centres that would broadcast free to air, be distributed on cable, on the Internet, on mobile devices and on satellite (a precedent established by our members). This proposal was ignored.

Non-Compliance Measures:

In the section entitled “Non-Compliance Measures” starting at paragraph 212, the Commission rationalizes removing the only clause in its previous community TV policy that had any regulatory 'teeth' to motivate BDUs to follow the policy:

“212: The Community Television Policy currently allows community groups to apply for a community programming undertaking licence in situations where the terrestrial BDU does not provide a community channel or does not operate a community channel in accordance with the provisions of the policy. A community programming undertaking licensed under this provision would then be accorded mandatory carriage as part of the basic service and the BDU would be required to allocate its contribution to local expression to it.”

This clause imposed on BDUs the same expectation and conditions that would be imposed on any license-holder: that if they abuse the privilege of holding a license, it might be taken away from them and given to someone else. The Commission's primary and greatest responsibility is to license broadcasting undertakings and monitor their compliance with their obligations and with the Commission's policies, in order to maximize the greatest benefit for the public.

The presence of this clause and of the Broadcasting Participation Fund shone a searchlight last year for the first time in Commission and Canadian history on longstanding non-compliance by BDUs with the Commission's laudable policies for community television. The clause motivated the not-for-profit ICTV of Montreal to launch a complaint against Videotron's Montreal Matv community channel. The Commission responded by agreeing with ICTV-Montreal's findings of non-compliance in every particular... yet did not follow through by awarding ICTV a license.

In the current decision, the Commission rationalizes the removal of this clause on the following grounds:

“The Commission considers that allowing an independent company to be allocated funding from a BDU, despite BDUs being regulated and accountable entities, introduces a destabilizing element into

the broadcasting system. The intent of this measure was not to put into question the stewardship of BDUs over community channels."

How astonishing. Since when are for-profit corporations that compete in the open marketplace assured that the market will be "stable"? No small license-holder would ever seek a CRTC license expecting to be allowed to abuse the terms of that license and get away with it on the grounds that the possibility of losing the license would create "instability" for them. It's the licensee's job to make sure they remain in compliance with applicable regulations, not the Commission's to allow them to ignore those regulations with impunity.

This extraordinary passage begs the obvious question: Whose interest is the Commission serving with this decision?

We can also attest from conversations over many years with Commission staff that this clause was introduced into the policy precisely in order to "*put into question the stewardship of BDUs over community channels*". It was introduced in the 2002 policy, after widespread complaints that the 1997 policy (which made community channels optional) had led to widespread station closures and denials of access by members of the public.

CACTUS met with Commission staff following adoption of the 2010 community TV policy to ask whether if CACTUS publicized the existence of this clause and encouraged communities to engage with the Commission regarding compliance of community channels, whether the Commission would honour the clause by awarding not-for-profit community groups community licenses in instances of non-compliance. Commission staff assured CACTUS that the Commission would honour its own policy.

Hopeful Lines of Inquiry in the Oral Hearing Not Reflected in the Decision

The policy adopted by the Commission was particularly disappointing given that there were three positive threads that Commissioners explored during the oral hearings:

- 1) Commissioners themselves requested that CACTUS submit a proposal for a trial of community media centres, "*in the event that the Commission decided not to immediately implement the [Community-Access Media Fund]*". After inviting CACTUS to submit such a proposal, which would have cost only 0.1% of BDU funds, the Commission rejected not only the idea of a Fund to support independent community media, but even a trial, to find out whether there might have been merit in the proposal. This seems shortsighted given the fast pace of change in the converged digital world. Funding was instead reallocated toward old technologies and approaches

(conventional news, conventionally delivered primarily by incumbent VI companies) rather than toward greater diversity and independence.

- 2) Two Commissioners asked independent community TV license holders whether they would like to be admitted to the Independent Local News Fund. For example, Commissioner Simpson asked CHCO-TV of St. Andrews New Brunswick: *“We’ve heard appeals for the small market fund to be looked at, and one of the complexities is that not so small broadcasters in not so small markets are finding similarities to the small market -- small broadcasters -- and are either wanting to get into that fund or are now. Is this a fund that you feel that we still should be looking at to perhaps wrap the over-the-air low power stations into as well?”*

Commissioner Simpson implied that larger broadcasters that weren't really 'small' perhaps shouldn't be in the fund, and that truly small broadcasters including community broadcasters should be the priority. Yet the Independent News Fund appears to specifically exclude them by specifying that it is open only to “conventional private channels”. Why? If there are CRTC license-holders providing local news and information under a “community” license, what difference does it make? Why exclude them? Surely this is to underleverage a scarce and valuable resource? Does the CRTC not wish to encourage more communities to step up to the plate to respond to the crisis in local news and information? Surely those that ask for a community license (not-for-profit, with a mandate to promote citizen participation, in which all revenues are reinvested in programming and production can be generated for 1/10th the cost) should receive priority treatment? How does this exclusion serve the needs of diversity and strengthening independent voices?

- 3) Chairman Blais asked several interveners whether if public-sector channels are understood as being managed by the public sector, private-sector channels are understood as being managed by the private sector, shouldn't “community channels' also be managed by the community? Yet this line of argument seems to have gone nowhere. Canada respects this basic idea with respect to the community radio sector, yet the Commission has decided once again that *“BDUS are in a position to steward the community sector”* despite an active community sector that has been ready to take over the role for nearly two decades.

Projected Impact of Policy

Financial Assessment

Paragraph 92 states that *“The Commission estimates that over \$65 million will be available for reallocation by BDUs each year,”* implying that almost \$100 million will be left to support

(BDU) community channels. We believe that the Commission is underestimating the scale of reallocation that will likely result, and that in fact 2/3rds of the traditional budget for community TV will likely be reallocated to support the private sector.

Roughly (since cable license area maps are no longer provided by the Commission so an exact estimate is impossible):

If BDUs are allowed to reallocate community TV budgets in the 5 cities having populations over 1 million people, listed in paragraph 162:

Toronto: 6 million

Montréal: 1.65 million

Vancouver: 2.46 million

Calgary: 1.1 million

Edmonton: 812,00

... 12 million out of Canada's total population of 35 million or 34% may be reallocated.

In other parts of the country (where the other 66% of the community TV budget is spent), BDUs can reallocate up to 50% of the budget, or 33% of the total budget.

Therefore, 67% of the total budget is available for reallocation. As the total budget is \$150 million, this means that \$100.5 million is available for reallocation.

Aside from the negative impact on the community element and its democratic role in training citizens and giving them a voice, this reallocation has a large impact on where this money is spent. While the decision speaks of moving money out of big cities toward smaller markets, in fact the reverse will likely happen.

BDUs may reallocate their entire community TV budgets in markets over 1 million people to private news, but not necessarily in smaller markets. The Commission in fact states that Rogers could reinvest Toronto community TV resources in its Toronto-based City TV or Omni stations.

Furthermore, private and public-sector news bureaus are found in only 52 Canadian cities, almost all having populations over 100,000 people. Enabling BDUs to reallocate up to 50% of the community TV budget in their small and medium-size systems (many of which serve populations of fewer than 100,000 people) means that there will be a reallocation toward *larger* systems, out of the rural license areas in which these cable subscriber funds are allocated.

Quebec Community TV Corporations May No Longer Be Viable

We anticipate that Videotron will decrease funding to Quebec community TV corporations correspondingly, by as much as 2/3rds. On average, they are already underfunded by approximately 2/3rds (meaning they receive only 1/3rd of the funding they need to function at full capacity to enable effective community dialogue and self-expression). Further cuts will cripple them and prevent them from fulfilling their role under the Broadcasting Act.

Community TV Corporations and License Holders in Other Parts of the Country May Not Be Sustainable

We anticipate that few if any new community TV corporations or license-holders will launch in other parts of the country. The funding model offered by the Commission (advertising, when local private stations that can benefit from selling ads during popular US series cannot survive) is simply not viable. No BDU has ever responded to the Commission's "encouragement" that they should fund independent community services.

The Community Media Centre Model Cannot Develop or Be Tested

Without funding, while there is a will among public libraries, gaming groups, online media hubs, independent community TV stations, and many community radio stations to offer a more robust and modern community media service offering to their communities, most do not have the resources individually to take on a multiplatform, multimedia mandate.

Leadership on community media policy is needed beyond the CRTC:

- The CRTC does not regulate the Internet and community media policy must take into account multiplatform distribution of content.
- Other Heritage programs including the National Library and Archives (because of their mandate in preserving Canadian cultural heritage) and the Canada Council for the Arts (which funds independent film and video co-operatives) overlap the mandate of community TV stations and media centres.
- Other government ministries have mandates that overlap the role of community media, including Innovation, Science and Economic Development and Employment, Workforce Development and Labour (because of its digital skills training mandate), Infrastructure and Communities, and Democratic Institutions.

We need to effectively leverage existing resources if we are to respond as a nation to the need

for adequate reflection of our communities, democratic access to media, and the skills to function in the digital economy.

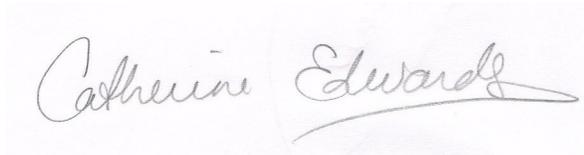
Conclusion

CRTC 2016-224 has crippled the community TV sector. It has not only failed to move community media policy in Canada forward into the digital multiplatform age, it has rolled back community TV policy in removing most of its funding, and by giving the power to BDUs to move resources among their community TV and private properties at will, with no requirement for public consultation or with the subscribers who pay for these services. The decision reflects further consolidation of BDU power when what was needed was a “rebalancing” in favour of more democratic access to media, and more capacity for communities to generate the media they need and want.

In view of the fact that we believe this decision is not based on the evidence presented at the hearing and that full information about BDU community channel administration was not disclosed by the Commission, we request that the Commission either reconsider its decision or hold a new hearing that focuses exclusively on community TV and media.

Further, we request that the Commission immediately establish an Ombudsperson or permanent staff position or department to manage its community media policy, to develop expertise in community media, and to liaise with community and other government agency stakeholders to develop a coherent and integrated community media policy for Canada in the digital environment.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Edwards". The signature is written in dark ink on a light-colored background.

Catherine Edwards

Executive Director

Canadian Association of Community Television Users and Stations (CACTUS)

(819) 456-2237