

Safeguard, Strengthen and Enrich
Review of the Canadian Broadcasting System
Cross-media Ownership
And
Foreign Ownership

Comments by



**CANADIAN CONFERENCE
OF THE ARTS**

**CONFÉRENCE CANADIENNE
DES ARTS**

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Good morning, my name is Megan Williams and I am the National Director of the Canadian Conference of the Arts. The CCA is Canada's oldest arts advocacy organization. Our goals are "to promote the encouragement and the advancement of the arts and culture in Canada; to serve the interests of Canadian artists; to gather and disseminate information concerning the arts in Canada; and to cooperate with governments, public bodies, institutions, societies, corporations and individuals in Canada and abroad." The CCA was founded in 1945 by the leading artists of the day to impress upon governments and the general public the importance of the arts and cultural industries in Canadian society. The CCA is an independent, non-partisan organization and is designated as a national arts service organization under *the Income Tax Act*.

As the Committee members may recall, we appeared before you in April of this year to provide general comments on your review of the 1991 Broadcasting Act. At that time, we emphasized the success of the Act in providing a distinctive Canadian broadcasting system with opportunities for Canadian artists and creators to provide their works to Canadian audiences. Despite the widespread availability of radio and audio-visual products from the world's largest producer of programming, we have developed relevant programming on both radio and television that features a growing number of Canadian creators. Our recording artists, our actors, directors and producers have known both domestic and international success.

In our opinion there are a number of crucial supports that are pivotal to this success. In an increasingly globalized world these measures are not only necessary, but they must be reinforced:

1. A strong CRTC with a commitment to maintaining significant and realistic levels of Canadian content;
2. A relevant and resolutely Canadian CBC;
3. Public and private organizations and partnerships to support and subsidize the production of Canadian cultural products;
4. Relevant and updated copyright legislation as well as legislation to protect the Status of the Artist;
5. Mechanisms to ensure access by independent producers and creators to our broadcasting system; and
6. Limits on foreign ownership of our system.

We believe that:

- Canadian governments at all levels have the lead responsibility for supporting the arts and culture and creating conditions for a dynamic, diverse and sustainable artistic life in Canada.
- The federal government should play a leadership role in arts and cultural support, adopt a comprehensive policy to govern all federal activities that have an impact

on the arts and culture, and work in cooperation with governments at other levels of jurisdiction.

- Federal cultural policy should promote and enhance those aspects of our national life that are distinctly Canadian; the artistic and cultural practices and cultural identities of the two official language groups, the Aboriginal peoples, our culturally diverse populations, and our geo-political regions.
- Freedom of expression is a fundamental value in Canada and should be central to Canadian cultural policies.

You have asked us to speak to two related issues that impact the cultural diversity of our system – cross-media ownership and limits on foreign ownership. It is our pleasure to bring the point of view of artists and creators to this discussion.

Cross-media ownership

The last 10 to 15 years have seen a substantial reduction in the number of broadcast companies. The CTV network used to be a consortium of many different owners, while now CTV programming is delivered by one company in every community in Canada. Moreover, CTV is also the owner of a large stable of specialty services and in turn, its owner, Bell Globemedia, also owns the Globe and Mail and Sympatico-Lycos. Alliance and Atlantis were once two different production companies with two specialty services each – the amalgamated company is now one of the largest producers and distributors of films and television programs in the world as well as being a major player in specialty broadcasting.

There is a similar level of integration between broadcast distribution and programming and other media. Quebecor is not only a major newspaper player but also owns the largest cable company in Quebec and the most successful television network in the Province, TVA. TVA is also involved in television production internationally.

This degree of integration brings benefits to the system and at the same time poses dangers. Large broadcasters can license programs for all of Canada's markets and for several windows – for example, CHUM-City can ensure broadcast of a Canadian science fiction film in most of the country on conventional television while also providing it on its specialty service, Space. Corus can make multiple window purchases of children's programs which otherwise could not obtain adequate funding to go into production, thereby providing viewers multiple opportunities to see a program and producers a sizeable license fee.

At the same time, fewer owners with more properties means a reduction in the number of editorial voices, less competition in the advertising market and fewer doors for creators to knock on when looking to sell a program. For example, if a large radio company with a dominant position in country music radio decides to not take a chance on a new Canadian country artist, there would be real repercussions for that artist's career, particularly if that company is present in several major markets. If a cable company or a satellite company

with interests in broadcasting decides to package its properties with the most popular services and thereby excludes other services from the most popular packages, there could be economic consequences for those excluded.

When a major broadcaster with conventional and specialty channels as well as an interest in multimedia negotiates a licence fee with an independent producer, they are in a better position to dictate the terms of such a deal. In some cases, they require that the Internet or merchandising rights for a program be 'thrown in' as part of the deal. With fewer broadcasters to deal with, the producer is not really in a position to say no to such a deal.

The CCA does not believe that the system is in a crisis at this point. There are still a large number of competing companies across the country. While it is unfortunate that most of the voices are centred in Toronto or Montreal, we do have at least four major newspaper providers, four conventional television companies with national reach and four major groupings of specialty. Similarly most Canadians have at least three choices for multi-channel service providers, local cable, Starchoice and Expressvu, while some also have access to MDS systems.

The CRTC has rules to ensure fair access by services to cable and satellite and rules to ensure that the products of third party program producers are aired by major broadcasters. The CFTPA is trying to negotiate an industry wide solution with major broadcasters to ensure that producers receive fair market value for all of their intellectual property rights. If such safeguards work, there will not be a need for further intervention. But, it is not yet clear whether they will or not.

We do believe that any further consolidation has to be looked at closely, not only by the Competition Bureau from the point of view of competition in advertising and market dominance but also by the CRTC from a cultural perspective. The Commission must consider, as it has done in the past, how any transaction provides benefits to our system. It must also look closely at the opportunity for a broadcaster to limit access to the system by third parties.

The system for redress must not only be available to those with the resources to hire legal expertise. Structural measures must remain in place and even be strengthened to ensure that convergence meets the promise of more content in more formats rather than providing the same material from fewer sources.

In an increasingly complex regulatory environment, it is becoming increasingly difficult for smaller players and for public interest groups to participate in a meaningful way in the debate over broadcast issues. The largest companies not only have access to their well-funded industry associations but also maintain in-house regulatory and governmental relations experts. A smaller player must seek out help on a contractual basis and many do not have the resources to do so. We believe that it is important to find a way to ensure that interveners on broadcasting matters have access to meaningful funding, in the same

way that public interest groups can be subsidized to intervene on telecommunications matters.

Foreign Ownership

While some argue that it is not important who makes a program or who broadcasts it as long as it meets the Canadian content requirements, we beg to differ. To paraphrase a popular song, it's the singer, NOT the song. Canadian creators, both those who were born here and those who chose to make their homes here, contribute their own viewpoints moulded by their unique experiences, and the result is our national cultural expression. The artistic choices made in the creation of an individual recording, feature film, radio or television documentary or drama are, of course, affected by influences from around the world but are filtered through their sensibilities as Canadians.

Similarly, the creation of a program schedule should be based on appealing to a Canadian audience – not as an afterthought to an international schedule but as the primary focus.

At present, the Direction to the CRTC on ownership is aimed at ensuring that Canadians hold control of broadcasting undertakings. Significant changes to the rules would probably result in control of Canadian broadcast companies by an international broadcast conglomerate such as Time Warner AOL or Bertlesman or radio giant Clear Channel. In an industry where fewer international companies control more channels, how long would it be before Canadian program schedules are developed as a function of what the mother station or network in the United States or France is programming.

How will Canadian creators provide their unique visions and experiences when the programming decisions are made in Los Angeles, Paris, Munich or New York? And how will the regulator be able to ensure compliance with its requirements when the US Trade Office could be involved in the appeal of any decision a foreign-owned broadcaster doesn't like?

Canada has taken the lead in promoting an international treaty on cultural diversity, which aims to establish a permanent legal framework so the signatory countries might enact cultural policies to protect diversity of expression within their nations and among foreign interest wishing to obtain access to their markets, Not only has Canada organized a network of culture ministers who are actively promoting the treaty on the international stage, but Canada has assisted my organization, the CCA, to launch a similar network for cultural organizations. As Canada's reputation for promoting diversity grows abroad, it would be ironic were we seen to be loosening the limits of foreign ownership at home. We encourage you as Members of Parliament to take a strong position against weakening the foreign ownership restrictions.

One of the primary arguments for those who wish to change or even eliminate the limits on foreign ownership is the need to have access to a wider range of capital to finance the costs that conversion of analogue broadcasting to digital will occasion. In fact, there is

already a significant opportunity for Canadian broadcasters to access international equity markets. The Direction to the CRTC on Ownership permits up to 20% foreign ownership of a licensee company and up to 33% of a holding company. If you work through the math, foreign investors can hold up to 46.3% of a Canadian broadcast entity.

In fact, very few of our broadcast companies have made such arrangements. Few, if any, even reach the 20% foreign ownership level, never mind the holding company 33%. Before contemplating changes to the current levels those broadcasters who wish greater access to international equity should explore the possibilities already open to them and they might discover that the current limits are adequate.

In addition, the CRTC also must examine whether the specific ownership arrangements in any particular case constitute control of a Canadian licensee by a foreign broadcaster. In fact, this may well be why foreign investors are reluctant to buy into Canadian broadcasting – because they cannot exercise control of the station or network. The CCA supports the current requirement that **control** be held by Canadians. This is a key aspect to our current legislative and regulatory system.

Thank you for the opportunity to address these issues.