



Canadian Media Guild
La Guilde canadienne des médias
CWA/SCA CANADA

**Elements of a healthy Canadian television system
on our public airwaves**

Submission in response to:
Broadcasting Notice of Consultation
CRTC 2014-190

Let's Talk TV

June 27, 2014



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1. The Canadian Media Guild (CMG) is a union that represents 6,000 workers in the media sector. Our members in the television industry work at CBC/Radio-Canada, TFO, TVO, APTN, ZoomerMedia and Shaw Media.
2. We are pleased to participate in this CRTC public consultation about the Canadian television system. We request to appear at the public hearing in order to comment on any additional information that becomes available by that time.
3. In earlier phase of the CRTC's Let's Talk TV consultation, we encouraged CMG our members to weigh in with their unique voices "as media workers, citizens and part of the media audience in Canada."¹ This is the perspective we will also focus on in this submission. We are responding to the Commission's questions with an emphasis on :
 - Strengthening public service media as an essential part of a healthy, diverse broadcast ecosystem in Canada
 - Ensuring local programming including news and other programming on all platforms is enhanced as a result of the current consultation
 - Providing a thoughtful framework for all-news services to meet the information needs of Canadians
 - and a look at fundamental developments in the broadcasting sector.

Summary

4. The CMG is recommending that the Commission as a result of the consultation **strengthen public service media within the Canadian television ecosystem** in the public interest and to ensure diversity. We also urge the Commission to clarify prior to the September hearing, the terms of discussion should CBC come up during this proceeding

¹ Share your unique perspective on the future of TV in Canada <http://www.cmg.ca/en/2013/11/03/share-your-unique-perspective-on-the-future-of-tv-in-canada/>



5. Given the importance of **local programming** to Canadians and to the media system, we renew our recommendation that the Commission establish a **Fund accessible to public service media, including community and independent broadcasters across all platforms.**
6. We also renew our recommendation that the Commission, in the public interest, require **all-news channels to build newsgathering capabilities including bureaus across the country** and a standard journalistic code of ethics, in order to meet the needs and expectations of Canadians for accurate information.

As part of the submission, CMG will also respond to the Commission's questions and address unscripted television, Transmitters and briefly Pick-and-Pay.

I – Strengthening the all-Canadian basic service with a solid offering of public service media

7. We agree with the Commission's statement that intended outcomes of this consultation must be based in the public interest² – it's consistent with Section 3 of the *Broadcasting Act* which places the public interest at the heart of Canada's broadcasting system.³
8. According to the Commission's report from Phase I of the Let's Talk TV consultation, Canadians said "that the broadcasting system should be more responsive to their needs as citizens including access to content to facilitate their participation in the democratic and cultural life of their country, region or city."⁴
9. In their Flash! Conferences Report – Connecting Canada, Connecting Canadians, OpenMedia.ca reports: "Turning to the importance of publicly funded media, the

² Broadcasting Notice of Consultation CRTC 2014-190 (Parag. 35)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm>

³ *Broadcasting Act* (Section 3, n)
<http://laws-lois.justice.gc.ca/eng/acts/b-9.01/page-2.html#h-4>

⁴ Let's Talk TV : A report on comments received during Phase I
<http://www.crtc.gc.ca/broadcast/eng/hearings/2013/2013-563oc2.htm>



general consensus amongst event attendees was that it should be mandatory for telecom carriers to include publicly-funded media across all digital services and packages. This means that no telecommunications company or service provider should be able to block or impact the delivery of public media, such as the CBC or APTN which are primary vehicles for Canadian content.”⁵

10. CMG believes that public service media – CBC, provincial public broadcasters such as TVO, tfo, Télé-Québec, Knowledge Network – play a crucial role in helping our television system meet the needs of Canadians as citizens in their country, regions and cities. Public Service media are also essential to the diversity of voices on our public airwaves. Therefore we support in good part the Commission’s proposed approach, in response to Order in Council 2013-1167 and as laid out in the broadcasting notice for the current consultation that: “the Commission will explore requiring BDUs to offer subscribers a small all-Canadian basic service and promote this small basic service so Canadians are aware of its availability. This basic service would include only:

- local Canadian television stations;
- 9(1)(h) services;
- provincial educational services, in provinces where there is one; and
- in some cases, the community channel and the provincial legislature programming service.”⁶

11. We agree that “the distribution of all of these services on the basic service contributes to the public interest by ensuring that Canadians are informed on matters of public concern at all levels (local, community, provincial and national) and thus better able to participate in Canadian democratic, economic, social and cultural life.”⁷

⁵ Broadcasting Notice of Consultation CRTC 2014-190 (Parag. 6) Flash! Conferences Report: Connecting Canada, Connecting Canadians – Page 6
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

⁶ Broadcasting Notice of Consultation CRTC 2014-190 (Parag. 41)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

⁷ Broadcasting Notice of Consultation CRTC 2014-190 (Parag. 42)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>



12. However, we believe there is a need for more in-depth consideration of the public service media as part of this consultation so that Canadians have a chance to discuss the basic service in a meaningful way. We note, for example, that the Commission has not mentioned CBC specifically in the notice of consultation. While it's understood CBC is included in "local Canadian television stations", the public broadcaster has been under tremendous strain in large part from successive budget cuts⁸. For Canadians, the cuts result in a watering down of news reporting and coverage, diminished local programming, a damaged critical cultural incubator, and abandonment of sports and loss of diversity. Clearly, a weakened CBC is certain to have major impact on what the "all-Canadian basic service" offering looks like.

13. Additionally, we agree with the Communications Policy Working Group that "the CBC retains a privileged position in the Canadian television landscape and needs to be addressed in concert with the other issues relating to the future of television in Canada."⁹ Given CBC/Radio-Canada's role in our broadcasting system, it is safe to assume the national public broadcaster will likely come up during this consultation but then it would be without proper parameters and context. For example, some have argued for a system in which the private sector broadcasters are no longer being required to offer Canadian programming and where Canadian programming is the responsibility solely of CBC within the entire system in exchange for a fee from BDUs toward CBC.¹⁰ We believe this is a flawed approach; instead of being ghettoized, Canadian programming in our view must remain one of the responsibilities of all the users of our public airwaves. However, if such a proposal or another involving CBC is brought up during this proceeding, it would be important that it be addressed with proper terms of discussion.

RECOMMENDATION: Therefore we recommend that the Commission clarify prior to the September hearing how the specific role of CBC in Canada's television system will be handled as part of the current review.

⁸ Taking Stock: testimony from the Canadian Media Guild - CBC/Radio-Canada cuts on the ground
<http://www.cmg.ca/en/wp-content/uploads/2014/06/Impact-of-the-CBC-cuts-Monday-June-16-2014-CMG-testimony.pdf>

⁹ Let's #TalkTV, Eh! A Flash Conference Report from The Communications Policy Working Group
Conference Report 01/2014 January 9, 2014 – Page 11
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

¹⁰ A Strong CBC Would Make For Healthier Private Broadcasters Too, Wade Rowland
http://www.huffingtonpost.ca/wade-rowland/cbc-budget-2014_b_5490275.html



Q7. What role, if any, should the Commission or others play in ensuring that a small basic service and packaging options are available and well-promoted to all consumers?

RECOMMENDATION: Still in the interest of strengthening the proposed basic service, **CMG recommends the Commission support key Canadian programming services by stabilizing the Canadian basic service.** This can involve ensuring 9(1)(h) services are established in their status and not forced to “convert into discretionary services after a period of time,” as suggested under the “Streamlined licensing” section of the Broadcasting Notice¹¹. For example, must-carry status for a unique service such as APTN, or the Minority Official Language Community services of CBCNN (French market) and ICI RDI (English market) must not be in question at every renewal. Rather, in recognition of APTN’s exceptional contributions to the Canadian broadcast system for example, and given the geographic and demographic challenges the network faces, the Commission should guarantee the must-carry status of APTN over a long period of time.

14. In CMG’s submission to the Commission in support of APTN’s licence renewal application in 2013¹², we argued that “There can be no doubt that APTN makes an extraordinary contribution to Canada’s broadcast system. It is a leader in Indigenous television broadcasting and model for other countries around the world. In its 14-year history, APTN has achieved great success and will contribute even more to Canada’s broadcast sector, and public dialogue and debate, in the coming licence term.”
15. The Commission can play a role in ensuring APTN – North America’s only television network focused on Indigenous matters and run by Indigenous staff – will continue to share its brand of award-winning news and programming with all Canadians by stabilizing the broadcaster’s must-carry status within Canada’s media system.
16. Further, we believe the number of regulatory changes to be examined in this proceeding and their potential impact¹³ require even more clarity from the Commission around the proposed basic service. Our concern is that a weak basic service would be a step backward for Canada’s broadcasting system were it to evolve

¹¹ Broadcasting Notice of Consultation CRTC 2014-190 (Para 114)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

¹² Building APTN to last
<http://www.cmg.ca/en/wp-content/uploads/2013/02/CRTC-2013-19-APTNrenewal.pdf>

¹³ Canadian Television and Environmental Scan 2014, Submission to the CRTC “Talk TV” Process, Peter H. Miller (Parag. 5.43)



into the scenario described by Peter H. Miller in the TV Environmental Scan submitted for this consultation: “Had Canadian ownership and Canadian content requirements not been introduced, there is little doubt that Canada’s broadcasting system would be a mere 51st state extension to US broadcasting, with little more than local news and information programming produced here.”¹⁴

17. **RECOMMENDATION:** Therefore, CMG also recommends that the Commission set up a process to ensure the strength of the all-Canadian basic service by regularly reviewing which other public, independent broadcasters can, in the public interest, be granted (9) (1)(h) status and included in all-Canadian basic service to enhance it.

II – Establishing a Fund to foster local Programming, including news and other programming on all platforms

18. A CRTC survey shows that 81% of Canadians say local news is important, the highest percentage compared to any other form of television programming.¹⁵
19. Participants in Phase I of CRTC’s Let’s Talk TV consultation, according to the Commission’s report, “generally state that Canadian television should be more responsive to their demands for entertainment, information and local reflection.”¹⁶ The report also indicates that some Canadians “see a need for more locally relevant news. They believe that the quality of local news should also be addressed, with some expressing concern over sensationalist journalism or a lack of in-depth reporting on local issues.”¹⁷

¹⁴ Canadian Television and Environmental Scan 2014, Submission to the CRTC “Talk TV” Process, Peter H. Miller (Parag. 5.41)

¹⁵ Let’s Talk TV: Quantitative Research Report
<http://www.crtc.gc.ca/eng/publications/reports/rp140424.htm>

¹⁶ Let’s talk TV: A report on comments received during Phase I
<http://www.crtc.gc.ca/broadcast/eng/hearings/2013/2013-563oc2.htm>

¹⁷ Let’s talk TV: A report on comments received during Phase I
<http://www.crtc.gc.ca/broadcast/eng/hearings/2013/2013-563oc2.htm>



20. In the current Broadcasting Notice, the Commission states that:
“Television stations offer broad, general interest programming as well as local programming, including news, that is specific to the market they are licensed to serve and produced primarily in that market. Not only are they distributed by BDUs on the basic service, but they are also available over the air (OTA) for free.”¹⁸
21. The Commission also points out that:
“Television stations are the main providers of local programming. They are subject to various requirements to provide such programming based on the language and size of their market.¹⁹ Television stations also broadcast local, national and international news. Television news is an integral part of the broader news production cycle, and as such, is an important source of news and information production, whether Canadians choose to consume that news on television, radio, in print or on the Internet.”²⁰
22. The Commission further recognizes that the “the business model for local television has been under long-term pressure due to audience fragmentation, decreases in advertising revenues and competition. These factors are exacerbated, in the French-language market in particular, by the small size of the market and have hindered the ability of some stations to provide local news and produce compelling Canadian programming. This is especially the case for independently owned television licensees. For example, in 2011 to 2012, the revenues of private local television stations in both the French- and English-language markets decreased by \$100 million or 5%.”²¹
23. We agree with this assessment of the pressures facing local television programming, and we are concerned about the resulting negative impact on programming quality and on the diversity of voices in our television system.

¹⁸ Broadcasting Notice of Consultation CRTC 2014-190 (Para 64)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

¹⁹ Broadcasting Notice of Consultation CRTC 2014-190 (Para 64)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

²⁰ Broadcasting Notice of Consultation CRTC 2014-190 (Para 65)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>

²¹ Broadcasting Notice of Consultation CRTC 2014-190 (Para 66)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm#toc385939130>



24. For example, local programming is one of the main casualties of the ongoing cuts to the CBC. The CMG found ²² that the CBC cuts announced in April of this year had a direct, harmful impact in local and regional CBC/Radio-Canada programming (outside Québec) in the following communities and regions:

- St. John's
- Labrador City
- Grand Falls-Windsor
- Cape Breton
- Fredericton
- Halifax
- Charlottetown
- Ottawa
- Toronto
- London, ON
- Windsor
- Thunder Bay
- Sudbury
- Northern Ontario
- Winnipeg
- Regina
- Calgary
- Edmonton
- Vancouver
- Whitehorse
- Yellowknife
- Iqaluit
- Inuvik
- Kuujjuaq
- Rankin Inlet

25. In describing impact of the cuts on local news programming, one speaker at a CMG event in May said: "If someone locally is being taken advantage of, or is not being treated right by their government, there may be no one who will tell that story because you just don't get as much coverage. (...) Is your politician representing your interests or his own? That's as important to know in our communities as it is on Parliament Hill." ²³

26. Similarly, Minority Official Language Communities are negatively affected by shrinking local programming funding. For example, as a result of recent CBC cuts, French-language TV programs produced outside of Québec are being cancelled (Caméra

²² Taking Stock: testimony from the Canadian Media Guild - CBC/Radio-Canada cuts on the ground <http://www.cmg.ca/en/wp-content/uploads/2014/06/Impact-of-the-CBC-cuts-Monday-June-16-2014-CMG-testimony.pdf>

²³ Taking Stock: testimony from the Canadian Media Guild - CBC/Radio-Canada cuts on the ground <http://www.cmg.ca/en/wp-content/uploads/2014/06/Impact-of-the-CBC-cuts-Monday-June-16-2014-CMG-testimony.pdf>



boréale out of Regina), or significantly reduced (Tout le monde en parlait, and Quelle histoire out of Ottawa-Gatineau).²⁴

Q23. Are there alternative ways of fostering local programming? What role, if any, should the Commission play to ensure the presence of local programming? What measures could be put in place?

Q25. What role, if any, should the Commission play to preserve the diversity of local television stations in the French-language market? Should measures be adopted specifically for this linguistic market?

Q26. Is a different approach needed for independent local television stations? What measures, if any, could be put in place?

27. **RECOMMENDATION:** To address this challenge and save local programming immediately, **we reiterate in the strongest possible terms our recommendation which we made in response to BNC CRTC 2011-379-3 that the Commission establish a Fund from a very small percentage of gross BDU revenues per year**, for public and provincial education broadcasters as well as community licensees to provide incremental local and regional TV programming, based on pre-LPIF averages, with multi-platform elements (e.g., Radio, mobile, web). The new Fund could be administered in much the same way as the LPIF. However, unlike the LPIF, we don't believe the new Fund should be restricted to small markets; it should support innovative programming and especially French-language local/regional programming outside of Quebec, English-language local/regional programming inside Quebec, and all forms of local/regional programming in the North. We also recommend undertaking a public review of the Fund after five years as part of the CBC's next licence renewal proceeding.

Q29. Do funding mechanisms for Canadian programming need to be modified to take into account changes in the way Canadian programming is watched?

Q30. Are any regulatory measures required to encourage the production, promotion or presentation of new, compelling and innovative Canadian programming? If so, what would those measures look like?

²⁴ Speaking notes for Hubert T. Lacroix, President and CEO, CBC/Radio-Canada before the Standing Committee on Official Languages

<http://www.cbc.radio-canada.ca/en/media-centre/2014/05/01/>



Q36. Is the current way to calculate contributions to Canadian programming still appropriate? For example, should the Commission update its definition of broadcasting revenues to reflect all broadcasting activities by licensees?

28. We are also not opposed to looking at **how ISPs – given how much people have begun to watch online – could contribute to local programming, including news, as well as compelling, innovative, diverse Canadian programming on all platforms.**
29. The Commission already recognizes that:
“More programming is being made available on-demand to Canadians. Licensed BDUs and programmers are launching services that allow viewers to access on-demand content on exempt alternative platforms. These technological innovations have also allowed new types of content aggregators or curator and new means of content distribution to emerge. Canadians have access to an increasing number of exempt Internet video service providers, both Canadian and non-Canadian, which may be affiliated or unaffiliated with licensed programming services and BDUs. These providers offer a significant amount of content, including Canadian programming (...) currently, online viewing and traditional television viewing complement rather than replace each other.”²⁵
30. According to Miller, “the shift to on-demand and online will continue, and BDU/ISPs will accommodate it. And as BDUs lose their regulated monopoly as distributors of TV, they gain a potentially higher margin business as ISPs to video hungry Internet consumers. This situation is confirmed by Cogeco CEO Louis Audet:

“What we’ve implemented now are bit cap rates that when people stream more, they eventually exceed their rate and we charge for surplus usage. The revenue that could be lost, because less programming is bought, for example, or maybe some people decide to forego their TV service and then stream more, will be found on the Internet side. So I think cable wins one way or the other.”²⁶

²⁵ Broadcasting Notice of Consultation CRTC 2014-190 (Parag. 26, 27)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm>

²⁶ Canadian Television and Environmental Scan 2014, Submission to the CRTC “Talk TV” Process
Peter H. Miller (Parag. 4.15)



Q36. Is the current way to calculate contributions to Canadian programming still appropriate? For example, should the Commission update its definition of broadcasting revenues to reflect all broadcasting activities by licensees?

31. Indeed, Canadians pay ISPs – which is case of the VI are also the same BDUs – to watch television online whether they subscribe to a cable service or not. In other words, we often pay twice to BDUs/ISPs – once as a television subscriber, and again to catch the same shows online as internet subscribers.
32. **RECOMMENDATION:** In recognition of this reality, **the full Fund we are proposing can therefore be made up of contributions of a very small percentage of BDUs/ISPs revenues and is dedicated to programming by public service media (CBC,TVO, APTN, Tfo, community media) as well as independent producers on all platforms, that meet the diverse and evolving programming needs of Canadians.**
33. To start, the Commission may consider requiring **just the Vertically Integrated communications companies that provide both TV and Internet to contribute. The money would be diverted from BDU-controlled communications channels to enhance diversity, support local programming while encouraging innovative Canadian programming.**
34. Therefore, as part of our proposed local programming Fund, CMG calls on (Q36) the Commission to update its definition of broadcasting revenues to reflect all broadcasting activities by licensees regardless of platform.
35. Our recommendation is consistent with Section 3 (s) of the *Broadcasting Act* which states that :

“private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them,

 - (i) contribute significantly to the creation and presentation of Canadian programming, and
 - (ii) be responsive to the evolving demands of the public;”²⁷

²⁷ Broadcasting Policy for Canada
<http://laws-lois.justice.gc.ca/eng/acts/b-9.01/page-2.html#docCont>



36. In addition, it's important to note that Canadians pay ISPs – which are often the same BDUs – to watch television online whether they subscribe to a cable service or not. In other words, BDUs/ISPs are platform neutral in their billing practices with customers paying to watch on television and increasingly more to catch the same shows online per unit of bandwidth use.

III. Strengthening all-news services – with robust newsgathering capabilities and journalistic Code of Ethics

Q64. What licensing criteria would be appropriate for Category C national news specialty services?

37. We are pleased that the Commission is consulting Canadians about all-news services, and notes that “the current licensing criteria for Category C national news specialty services might not be strict enough to ensure high-quality news programming.”²⁸
38. As we argued in our submission in response to BN CRTC 2013- 394, we believe national news services are “vital” in achieving the objectives of the *Broadcasting Act* by “help[ing] Canadians participate fully in the democratic, economic, social and cultural life of their country, their regions, their provinces and neighbourhoods.” We indicated at the time that television remains a major source of news for citizens across the country: 74% of us still watch a newscast on television always or sometimes. We concluded that “Given the essential role played by the country’s national TV news services, we believe the Commission should go even further to strengthen these services so they can continue to meet the information needs of Canadians.”²⁹
39. In Broadcasting Regulatory Policy CRTC 2009-562, the Commission referred to criteria for a common and standard nature of service definition for national TV news services, focusing on language (English or French); frequency of updated news reports; advertising limits; closed-captioning; adherence to codes of ethics and membership in

²⁸ Broadcasting Notice of Consultation CRTC 2014-190 (Parag. 117)
<http://www.crtc.gc.ca/eng/archive/2014/2014-190.htm>

²⁹ CMG Response to BN CRTC 2013-394 (parag. 3-4)
<http://www.cmg.ca/en/wp-content/uploads/2013/09/CMG-Submission-CRTC-2013-394-National-All-News-TV-Services-September-9-2013.pdf>



the Canadian Broadcast Standards Council. The CMG believes the above criteria are necessary but not sufficient for achieving the Commission’s objective to “ensure a healthy and diverse range of Canadian news programming within the Canadian broadcasting system,” and to provide “Canadians with a reasonable opportunity to be exposed to the expression of differing views on matters of public concern.”³⁰

40. We agree with a major study published by the Federal Communications Commission in the United States in 2011 entitled *The Information Needs of Communities* which recommends that “When foundations, entrepreneurs, citizens or policy makers attempt to assess the information health of a community, they should look not only at abundance of media outlets, diversity of voices and competition, but also at reportorial resources including full-time reporting, producing and editing staff.”³¹
41. CMG research published in 2013 shows 10, 000 media jobs have been lost over the past five years in Canada³², a third in the broadcasting. This erosion cannot but have harmful impact on newsgathering capabilities, and therefore on news and information services delivered to Canadians across the system.
42. In our submission, we made the case for a robust foundation of actual news, accurate information and reporting available to citizens on all national news channels to serve the public policy objective of informing Canadians.³³

³⁰ Broadcasting Notice of Consultation CRTC 2013-394
Call for comments on the terms and conditions of distribution for Canadian Category C national specialty services
<http://www.crtc.gc.ca/eng/archive/2013/2013-394.htm> (Intro)

³¹ Steven Waldman and the working group on Information Needs of Communities,
“Information Needs of Communities – The changing Media Landscape in a Broadband Age”, Federal Communications Commission, (July, 2011), p. 345
<http://www.fcc.gov/info-needs-communities>

³² Thousands of cuts in the media industry, Jan Wong
<http://www.cmg.ca/en/2013/11/19/thousands-of-cuts-in-the-media-industry/>

³³ CMG Response to BN CRTC 2013-394 (parag. 19)
<http://www.cmg.ca/en/wp-content/uploads/2013/09/CMG-Submission-CRTC-2013-394-National-All-News-TV-Services-September-9-2013.pdf>



43. We also pointed out that both the Radio Television Digital News Association of Canada (RTDNA Canada) and the Journalistic Standards and Practices at CBC emphasize facts and a wide range of views as part of doing journalism work. We urge the Commission to draw from these and similar documents to implement basic, adequate criteria to which all-news services within our television system must adhere.
44. **RECOMMENDATION:** We are therefore reiterating our recommendations **that the Commission (a) require all-news TV services – current or future – to lay the ground for delivering news, accurate information and a range of views to Canadians. This means a requirement for robust investments in newsgathering capabilities and establishing bureaus across the country. This approach would help build a stronger news infrastructure throughout the broadcasting system.** (b) In the interest of diversity, we also call on the Commission **to develop a process to consider applications for new specialty news channels with the aim of treating them equitably** and offering them the same benefits within the new television news service framework.³⁴

IV. Thinking through Pick-and-Pay

Q4. What effect would this approach have on the affordability of television services? Is there a particular impact on the affordability of sports services, for example?

45. CMG recognizes the importance Commission's efforts to respond to the needs expressed by Canadians for a degree of choice in what programs they receive as subscribers to a television distributing service. We note however that Canadians' concern is more with the cost of their television services and less about the number of channels they receive.
46. It's entirely likely that even if they get to choose their channels, Canadians could receive a reduced number of channels without a corresponding reduction in their television costs – if there is nothing stopping BDUs/ISPs to raise the cost of any given channel.

³⁴ CMG Response to BN CRTC 2013-394 (para 23)
<http://www.cmg.ca/en/wp-content/uploads/2013/09/CMG-Submission-CRTC-2013-394-National-All-News-TV-Services-September-9-2013.pdf>



47. Miller notes that “At a certain tipping points, vertically integrated broadcasters/telecoms may have more to gain financially from a growing OTT sector than in maintaining a strong Canadian broadcasting system.”³⁵ In our view this does not address the costs challenges Canadians face.
48. **RECOMMENDATION:** Therefore, in addition to our recommendation above that the Commission strengthen the basic Canadian service, we recommend that the CRTC, if it adopts a pick-and-pay model, also commit to placing caps on the way BDU/ISP price their services on the various platforms.

V. The rise of unscripted/factual TV programming

Q30. Are any regulatory measures required to encourage the production, promotion or presentation of new, compelling and innovative Canadian programming? If so, what would those measures look like?

49. The Canadian television system now produces and airs a large amount of unscripted programming, most of which is not considered “Programs of National Interest.” Unscripted programming is a consistently popular genre in Canadian television,³⁶ which includes reality, competition, lifestyle and documentary programming. It helps broadcasters fulfill regulatory requirements, including Canadian Programming Expenditures (CPE) and airing of Canadian programming. The majority of the shows are produced by independent production companies that benefit from provincial and federal tax credits and, in some cases, the Canadian Media Fund.
50. Despite the space it takes up on broadcast schedules, unscripted programming takes up very little space in policy discussions. The Canadian Media Guild began meeting with workers in this sector in February 2013 when some began expressing concerns about the lack of working standards, safety and creative independence in the

³⁵ Canadian Television and Environmental Scan 2014, Submission to the CRTC “Talk TV” Process Peter H. Miller (Parag. 12.1.5)

³⁶ “Canadians love reality TV,” *Vancouver Sun*
<http://www.vancouversun.com/entertainment/television/Canadians+love+reality/9715517/story.html>



industry³⁷. These concerns are echoed by workers in other English-speaking jurisdictions, including New York³⁸ and the UK.³⁹

51. Factual programming is a global business and a number of the programming being produced right now in Canada is based on formats created outside the country, including *Amazing Race Canada*, *Big Brother Canada* and *MasterChef Canada*.
52. Canadian producers have also managed to export formats, such as *Battle of the Blades* and *Recipe to Riches*, to other countries. However workers are concerned that the major broadcasters who control the English-language industry – Corus, Shaw, Bell and Rogers – are clamping down on originality and true creative independence by funnelling precious resources into large formats franchised from the US. It is difficult to describe this strict format programming as uniquely or originally Canadian. This conservative business strategy piggybacks on the much more generous US promotion of programming and on the tried-and-true formats already successful among North American audiences. The downside is that it reduces resources and airtime for truly original Canadian programming and new formats that creative Canadian workers crave to develop.
53. There is no question that unscripted programming will continue to be a strong element of Canadian broadcast schedules and offerings. In fact, because of the live nature of some of this programming, it will likely help provide broadcast with a continued *raison d'être*, even after other programs become as popular on non-linear platforms such as Netflix as they are on broadcast.
54. Our purpose with the preceding paragraphs is to put factual programming onto the policy map. As the Commission develops a new framework for TV policy, it is important to remember the importance of unscripted programming to Canadian

³⁷ “Factual TV workers make big sacrifices, have no protection: survey,” CMG
<http://www.cmg.ca/en/2013/11/06/factual-tv-workers-make-big-sacrifices-have-no-protection-survey/||NOTE>

³⁸ “Writers’ Guild of America blasts reality shows over unpaid overtime”, *Variety.com*,
<http://variety.com/2013/tv/news/writers-guild-of-america-blasts-reality-shows-over-unpaid-overtime-1200850488/>

³⁹ “BECTU sets factual TV code of practice,” *Broadcast Now*
<http://www.broadcastnow.co.uk/news/indies/bectu-sets-factual-tv-code-of-practice/5057494.article>



broadcasting and to ensure the conditions exist for truly original, quality production.

55. **RECOMMENDATION:** We have no measures to recommend, but urge the Commission to ask interveners at the hearing – and, in particular, independent producers and broadcasters – their views on innovation and originality in reality TV production in Canada and measures that could be taken to promote them.

VI. A word on transmitters

Q24. Is regulatory intervention necessary to maintain access to local television stations and, if so, how could this best be achieved? Given that the vast majority of Canadians receive television services through a cable or satellite subscription, are there compelling reasons to maintain and support OTA transmission? Would the discontinuation of OTA transmission allow local television stations to devote more resources to programming? If the Commission determines that OTA transmission should no longer be required, under what timeframe should this be implemented?

56. Providing a free over-the-air signal to Canadian viewers is, and continues to be, an important service provided by local television licensees. These signals allow Canadian viewers within range of a station to receive programming – including important local news and weather – without paying a subscription to a third party. Low-income households in particular benefit from this access. **There are compelling reasons to maintain transmission.**
57. There is little reliable data in Canada about who relies on over-the-air signals to receive TV programming. The prevailing wisdom in this country, where the vast majority of private local television stations are owned by companies that sell cable and/or satellite and/or IPTV subscriptions, is that it is a very small and declining number.
58. Recent research from the US, on the other hand, points to a trend of increasing “broadcast-only” households⁴⁰. As of 2013, nearly 20% of US households accessed TV signals over the air instead of through a subscription, an increase from 14% in 2010. GFK, which conducted a comprehensive survey of TV viewers, points out that low-income, immigrant and younger households rely more on OTA than others. There is every reason to assume some similarities in the Canadian situation, particularly for low-

⁴⁰ *Confessions of a cord cutter skeptic revisited*, GFK, <http://blog.gfk.com/2013/06/confessions-of-a-cord-cutter-skeptic-revisited/>



income and younger households.

59. It is important to note that Canadians who live within range of a US city – including millions of households in the Golden Horseshoe around Toronto - have access to a multitude of OTA channels originating in that country. To remove Canadian channels from the free OTA offering would be to take a step back in Canadian broadcast history and would prevent the system from meeting the objectives of the *Broadcast Act*.
60. The Canadian Media Guild continues to believe that OTA television has a future in North America and that Canadian broadcasters could be much more innovative in how they use digital OTA infrastructure and spectrum to meet the changing needs of Canadian audiences. As we have argued since 2007, Canadian broadcasters could make use of infrastructure and spectrum sharing through multiplexing to provide free, over-the-air signals more economically. As well, Canadian broadcasters could look at providing a free-to-mobile signal, which would make audio-visual content available for free to mobile device users. As we submit these comments, the World Cup of soccer is taking up significant bandwidth as Canadians try to follow the action throughout the day, in part on mobile devices. Broadcast obviously provides a much more efficient use of spectrum for the viewing of live sports. CBC, the main World Cup broadcaster in Canada, might have used free-to-mobile technology to make this programming available over the air.
61. If the Commission were to opt to phase out OTA, there would be significant impacts on the current licensing regime for local TV. This move would require a new regulatory framework and, crucially, a clear mechanism for local channels to get carriage on BDUs. It is not clear to us that the costs of OTA infrastructure outweigh the costs of negotiating with BDUs for carriage.
62. We also note that because CBC has shut down transmitters in Newfoundland and Labrador in all but St. John's for example, more than half the province is receiving the Halifax broadcast on cable. This is perhaps an unintended consequence of shutting down transmitters. The Commission must figure out a way for the residents of Newfoundland and Labrador to receive example to receive the programming that is most relevant to them.
63. And a final note on OTA: we believe it would be perilous for independent and public TV stations – i.e. those not affiliated with a BDU – to stop broadcasting over the air. A station's transmitter remains its direct connection with its audience, and something that cannot be disrupted by a third party that distributes the signal to its own customers.



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