



Oral Remarks by

Canadian Media Production Association (CMPA)

Broadcasting Notice of Consultation CRTC 2010-926

**Application by BCE for Authority to change the effective control of CTV
Globemedia Inc. Application No.: 2010-1506-6**

February 2, 2011

Check against delivery

Norm Bolen

Good morning Mr. Chairman, Vice-Chairs, Commissioners, and CRTC staff. My name is Norm Bolen and I'm the President and CEO of the Canadian Media Production Association (CMPA). I'm pleased to have with me here today:

- To my left, John Barrack, CMPA's Chief Operating Officer and Chief Legal Officer;
- To my right, Jay Thomson, our Vice-president Broadcasting Policy and Regulatory Affairs.

Mr. Chairman, yesterday you stated that the BCE acquisition of CTV is the biggest communications transaction in Canadian history. I am sure that you would agree with us, Mr. Chairman, when we say that the size of BCE's benefits package should reflect the size and the scale of the transaction before you.

We are pleased that BCE has accepted that this transaction is a change of control and benefits are payable. We are also pleased that BCE has abandoned some of their earlier proposals and has redirected those funds toward on-screen initiatives.

BCE's latest proposals in the aggregate, however, remain significantly at odds with the Commission's tangible benefits policy. BCE is asking you to revise the policy – to exclude assets, to reinterpret terms. We are asking you to apply the policy as it was written and as it was intended.

Mr. Chairman, the benefits policy works. It works because it emphasizes funding for incremental programming initiatives. Not funding for infrastructure or capital projects. The policy ensures there's new money to put new Canadian programs on our screens. Money that would not otherwise be available in the system. And new Canadian programs that would not otherwise be made.

The policy works because it ensures most of those new Canadian programs are made by independent producers. This means those new programs reflect and embrace a diversity of ideas and voices. It means those new programs come from across this country. And it means those new programs get produced by lean, entrepreneurial companies. Companies that operate with more creativity and diversity, and more efficiently than could ever be the case with in-house productions.

And the policy is linked directly to the Commission's mandate under the *Broadcasting Act* to ensure that the programming provided by the Canadian broadcasting system includes a significant contribution from the independent production sector.

This focus on funding independent productions serves the system as a whole and the public interest, instead of just the self-interests of a single broadcaster.

Mr. Chairman and Commissioners, it can cost up to \$25 million or more a year to produce one high-quality one-hour Canadian drama series. But recognize that independent producers leverage licence fees from other sources. This transaction should generate *at least* \$138 million for independently-produced programming. That amount of new spending could leverage *up to* \$400 million of new Canadian program production going forward. That's money that goes on the screen.

Contrary to what BCE says, the system is not flush with new funding to support programming. Past, unpaid benefits don't count. And the group licensing policy will not eliminate or even lessen the need to fund programs of national interest. It will keep Canadian program spending at an historical level, not necessarily increase it.

Contrary to what BCE says, the structural changes facing broadcasters do not justify directing benefits funding away from programming. The exact opposite is true: now is the time to put more money into Canadian programming, not less. As BCE said yesterday, it is the quality of their Canadian programming that will help them compete against over-the-top unregulated Internet services.

Mr. Chairman, there is nothing unique about this transaction. There is nothing about this transaction that justifies any special treatment for BCE. They are not rescuing distressed assets. There is no justification or precedent for many of the discounts or exclusions that BCE seeks. We ask you not to create a new precedent simply because BCE has taken a revisionist approach to the policy.

This BCE-CTV transaction presents the Commission with an opportunity to support the *Broadcasting Act's* programming objectives in a substantial and meaningful way. It is an opportunity we say should not be missed.

Jay Thomson

The Joint Report which we filed with the guilds identified various questions we share about the real value of this transaction. We were glad to see that, yesterday, the Commission raised with BCE a number of the same questions we had raised in the Joint Report. And like the Commission, we too were not satisfied with many of BCE's responses. Nevertheless, the Commission is the expert in assessing BCE's valuation claims, and so we leave that task to you.

Establishing the real value of the transaction overall and of the broadcasting assets is, of course, the basis for determining the appropriate size of the corresponding benefits package.

Based on the figures in the valuation document you reviewed with BCE yesterday, this transaction should generate at least \$236 million in total benefits, of which at least \$217 million would be TV benefits. However, if you ultimately determine that the values in this deal are even higher, then the benefits too will be higher.

Consistent with the Commission's policy as re-confirmed in the recent ZoomerMedia decision, we calculate that at least \$184 million, representing 85% of the TV benefits, should go to programming. And because the Commission's policy calls for programming benefits to flow predominantly to third parties 75% of that \$184 million should go to independent productions. That amount is \$138 million.

BCE's revised benefits package, as tabled yesterday, would allocate *less* than 34% of TV benefits to incremental on-screen programming initiatives. That amount is a long way from 85%.

No reason exists to discount the benefits payable for CTV's conventional TV stations below the standard 10% rate.

There is also no reason to exclude the highly-profitable TSN or CTV's other Category Cs from the benefits policy. BCE contends the Commission's 1996 decision to exempt BDUs from the policy should apply to Category Cs. We disagree. The Commission has always maintained that that narrow BDU decision does not extend to programming services, whatever category they are. In any event, it may be time to re-apply the policy to BDUs.

BCE must be required to re-cast its benefits proposals so that they clearly contribute to the public interest.

This means requiring BCE to direct its benefits to independently-produced Canadian programming to serve Canadian audiences, rather than to cover its own costs of doing business.

Specifically, this means rejecting BCE's proposals to direct benefits

- To increase capacity for its Bell TV service, to give it a competitive edge over the other DTH providers; or
- To upgrade its own studios to help it compete with other Canadian broadcasters; or
- To convert its signals to meet its digital transition obligations.

No doubt BCE's benefits proposals will help BCE. But that is not the test.

John Barrack

Mr. Chairman, we appreciated your comments at the Shaw-Canwest hearing in Calgary that you expect Shaw to take a leadership role in Terms of Trade negotiations as well as the direction you provided to the private broadcast groups to reach a deal in time for the April group licence renewal hearing. We also appreciate you reiterating this expectation yesterday.

We were also very pleased to hear CTV's comments yesterday that the revised and simplified proposal that we tabled with them and the other broadcasters has broken the impasse between the parties and created positive momentum. We also thank CTV for the leadership that they are showing in recognizing the significance of our move.

That being said, we are taking nothing for granted. Negotiations must not be allowed to break down now. In order to do a deal, we need the other side to stay at the table and to work diligently and in good faith.

To help ensure that all parties capitalize on this new momentum, we would ask that the Commission provide BCE a clear direction that they continue to take a leadership role in the Terms of Trade negotiations; to negotiate in good faith; and get the deal done. So that we all have one less thing on our plates at the group licence renewals, we would further request that the Commission remind all broadcasters that you expect that Terms of Trade agreements to be concluded in time for the April hearing.

As we all know, nothing clarifies the mind like a firm deadline.

Norm Bolen

We're all reminded daily that this is a fragmented, new media world. As a result, the need is greater than ever to use every opportunity to inject funding into the creation of high quality, compelling Canadian programming.

Money for infrastructure and capital projects to make broadcasters and BDUs more competitive with each other will always be available as a market and business imperative. Finding funding to ensure Canadian programs get made and aired will always be a struggle.

Therefore, the CMPA urges the Commission to apply the letter and spirit of your long-standing tangible benefits policy to this transaction. That means a fair valuation, and 85% of the benefits ending up on screen.

Thank you for the opportunity to be here today. We would be pleased to answer any questions.