



**Teresa Griffin-Muir**

Vice President, Regulatory Affairs  
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MTS Allstream Inc.

30 September 2010

**by Epass**

Mr. Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, ON K1A 0N2

Dear Mr. Morin:

**Subject: BNC 2010-623, *Call for comments on contributions by broadcasting distribution undertakings to local expression* – MTS Allstream comments**

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1. Pursuant to paragraph 6 of Broadcasting Notice of Consultation CRTC 2010-623, *Call for comments on contributions by broadcasting distribution undertakings to local expression*, 26 August 2010 (BNC 2010-623), MTS Allstream Inc. (MTS Allstream) hereby submits its comments on the most efficient mechanism to maintain the current amount of contributions by broadcasting distribution undertakings (BDUs) to local expression.
2. Each year, under the *Broadcasting Distribution Regulations*, licensed BDUs are required to contribute 5% of their gross revenues derived from broadcasting to Canadian programming. Those licensed BDUs that provide an outlet for local expression have been able to use up to 40% of this amount (2%) to fund the operation of their outlet for local expression. However, in Broadcasting Regulatory Policy CRTC 2010-622, *Community television policy*, 26 August 2010 (BRP 2010-622), the Commission capped the dollar amount that can be used to fund a BDU's outlet for local expression going forward at the amount used in the 2009/2010 broadcast year (i.e., 1 September 2009 to 31 August 2010) adjusted annually for inflation. Beginning in the year when this amount equals, or falls below, 1.5% of the BDU's gross revenues derived from broadcasting, thereafter the BDU will be able to use 1.5% of those annual revenues to fund its outlet for local expression.

3. MTS Allstream has grave concerns that the Commission's determination in BRP 2010-622 will negatively impact both the quantity and quality of community programming and will contribute further to the lessening of local content available in communities other than Toronto and Vancouver. As MTS Allstream discussed in its submissions in the proceeding leading up to BRP 2010-622, BDUs in smaller centres like Winnipeg currently contribute far more to centralized funds such as the Canadian Media Fund (CMF) than local producers receive back in production funding from those funds. Moreover, as was noted at the oral hearing, "when it does come back to Manitoba for production even, it doesn't necessarily feel like we're seeing Manitoba reflected with that money."<sup>1</sup>
  
4. Also at the hearing, MTS Allstream proposed that the amount that BDUs could direct to their outlets for local expression be increased to 3%, with the remaining 2% being directed to the CMF and/or independent productions funds. In MTS Allstream's opinion, this would have helped fill in some of the void in local programming left by the increasing consolidation in the broadcast industry. A consideration which is itself contributing to a diminishing amount of local content being provided by conventional broadcasters – a phenomenon that has been increasing in recent years, as the Member of Parliament for Renfrew-Nipissing-Pembroke pointed out.

As the Commission was made aware when I appeared before you during the licence renewal application for the Pembroke, Ontario private conventional television station CHRO, application number 2009-0073-9, the Upper Ottawa Valley has experienced a gradual and continual decline in the amount of community programming available for local viewers from conventional television.

The amount of so-called local content provided by CHRO has diminished to the point of that station being unrecognizable as a local channel. While 24 hours of local content per week was the recommendation of the CRTC, actual content fell far short. The cancellation of the 6:00 p.m. evening as well as the 11:00 news has left a huge void in our community.

This is in sharp contrast to the service provided by our local cable community channel. Even with scarce resources, our community cable has sought to fill the gap in local programming. I have watched local community cable volunteers move on to successful careers in other

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<sup>1</sup> Mr. Greg McLaren, Manager MTS TV Content, BNC 2009-661, Transcript Vol. 6, 3 May 2010, paragraph 5987.

media, I have participated in telethons manned by our local service clubs to support the important work they do in our community, and I have been a direct participant in community programming.<sup>2</sup>

5. As MTS Allstream indicated during the proceeding that led to BRP 2010-622, access programming makes up a very high proportion – over 80% – of the programs currently available via its Winnipeg On Demand outlet for local expression. This is well in excess of current Commission requirements and of those that will be phased in over the next four years pursuant to BRP 2010-622. MTS Allstream had hoped to be able to help Winnipeggers to create even more new community reflective programs each year than the roughly 100 that it has been able to develop annually. However, this goal is likely to be unattainable given the newly implemented cap on how much of its contribution to Canadian programming MTS Allstream can direct to its outlet for local expression. Creating new access programming in smaller centres such as Brandon and Portage La Prairie will also be more difficult.

**(i) What is the most effective and administratively simple mechanism by which to maintain total contributions to community programming by licensed BDUs at current levels?**

6. There is no guarantee that total contributions to community programming by licensed BDUs will be maintained at current levels in light of the new cap on eligible funds. In Public Notice CRTC 1997-25, *New regulatory framework for broadcasting distribution undertakings*, 11 March 1997 (PN 1997-25), the Commission made the following determination:

The Commission considers that it would be neither beneficial nor practical to require all terrestrial distributors to provide and fund a community channel.<sup>3</sup>

In light of the above, the Commission intends to adopt an approach to local expression that will provide distributors maximum flexibility to meet their obligations under the Act to contribute to the creation and presentation of Canadian programming in a manner and form that takes into account their respective circumstances. While the Commission

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<sup>2</sup> MP Cheryl Gallant, Member of Parliament for Renfrew-Nipissing-Pembroke, BNC 2009-661, Transcript Vol. 6, 3 May 2010, paragraphs 5849 to 5851.

<sup>3</sup> PN 1997-25, paragraph 128.

remains of the view that community programming, and the broader goal of local expression, are vital components of the broadcasting system, it does not intend to require any distributor to provide an outlet for local expression under the new regulations.<sup>4</sup>

7. Consequently, the decision to produce community programming or not is at the BDU's sole discretion. As Rogers indicated at the oral hearing on the community television policy framework, there have already been previous drastic cuts to the level of funding for community programming.<sup>5</sup> These, in turn, led to staffing cuts and severe programming cutbacks. The danger here is that the new cap on funding in conjunction with increases in the minimum level of access programming that BDUs must attain could result in further cuts in programming.

**(ii) Should the reversion to the percentage of revenues formula be applied on an undertaking or group basis? In the case of the latter, once an ownership group's aggregate contributions represent 1.5% of revenues, all undertakings within that group would revert to the 1.5% allowable contribution.**

8. Reversion to the percentage of revenues formula should be applied on an individual undertaking basis. In MTS Allstream's opinion this would likely result in maximizing the amount available to fund local expression in smaller centres, where the least local programming would otherwise be available, since BDU revenues in those centres are likely to grow more slowly than in larger centres.

**(iii) What is the most appropriate use for the resulting difference? Please provide details and a rationale in support of your proposal.**

9. As MTS Allstream noted in the group licensing proceeding in 2009, there is very little "local" left in the local television product offered by the large broadcasting groups, especially in areas beyond Toronto and Vancouver. For example, in Winnipeg the CBC/Radio-Canada, CTV, Canwest and Citytv all operate over the air stations, yet apart from daily newscasts, there is virtually no programming produced locally by these

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<sup>4</sup>

PN 1997-25, paragraph 130.

<sup>5</sup>

See, for example, the exchange between Chairman von Finckenstein and Ms. Colette Watson, Vice President Rogers TV, BNC 2009-661, Transcript Vol. 6, 3 May 2010, paragraphs 6308 to 6315.

affiliates of the large national broadcasters. Consequently, community programming is playing an increasingly important role in providing local content in smaller centres.

10. As indicated above, producers in smaller centres like Winnipeg receive far less from centralized funds like the CMF than the BDUs serving those centres contribute to these funds and little of the money that does make its way back is used for production of local-specific content. Therefore, it is not appropriate for the incremental contributions to be directed to these funds.
11. A use of the funds that would benefit local broadcasting in Canada would be to direct the incremental contributions to independent broadcasters operating outside of major metropolitan markets. This would differ from the Local Programming Improvement Fund (LPIF) established in the BDU Framework Policy<sup>6</sup> in that incremental contributions would be directed towards producing new, local, non-news programming. By contrast, the LPIF focuses on sustaining existing local programming, virtually all of which is news programming.

**(iv) What is an appropriate methodology for determining the contribution amounts of new entrants and systems that have undergone changes in structure and size?**

12. In MTS Allstream's opinion, the only practical methodology for determining the contribution amounts of new entrants and systems that have undergone changes in structure and size would be to apply the percentage of revenues formula from the outset.

**(v) Are there additional factors that need to be taken into account in implementing a set contribution amount?**

13. Notwithstanding the Commission's assertion in its previous policy framework for community-based media,<sup>7</sup> that "the Commission considers that the public service orientation of the community channel can be best achieved through stable funding

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<sup>6</sup> Broadcasting Public Notice CRTC 2008-100, *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, 30 October 2008 (the BDU Framework Policy).

<sup>7</sup> Broadcasting Public Notice CRTC 2002 61, *Policy framework for community-based media*, 10 October 2002 (the 2002 Policy Framework for Community-based Media).

provided by cable licensees,”<sup>8</sup> the Commission’s determination to implement the new 1.5% funding formula marks the third time that the Commission has inflicted damaging funding cuts on community programming.

14. During Rogers' appearance at the oral hearing on the community television policy framework, their spokeswoman, Ms. Watson, provided a description of the negative impacts that some of these cuts had on Rogers' community programming operations. Similar impacts may result from implementation of the new funding cap.
15. On one hand, the Commission insists that the focus of the community channel is one of active citizen participation, that “[t]he factor that most distinguishes the content of community programming from conventional television services is the ability of community programming to turn the passive viewer of television into an active participant.”<sup>9</sup> The Commission also “reaffirms its view that the role of the community channel should be primarily of a public service nature, facilitating self-expression through free and open access by members of the community.”<sup>10</sup>
16. On the other hand, the Commission seems to imply that viewership, not public access, is the main goal:

The Commission considers that the community television sector has benefited significantly from the growth in total contributions to local expression that has resulted from increases in BDU revenues and recognizes the improvements in community programming over the last decade. Further, although the Commission acknowledges that various metrics can be used to evaluate the success of community channels, it nonetheless considers that overall viewing to community channels remains modest relative to the growth in contributions to this sector.<sup>11</sup>

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<sup>8</sup> 2002 Policy Framework for Community-based Media, paragraph 79.

<sup>9</sup> 2002 Policy Framework for Community-based Media, paragraph 51, and restated at paragraph 3 of BRP 2010-622.

<sup>10</sup> BRP 2010-622, paragraph 21.

<sup>11</sup> BRP 2010-622, paragraph 38.

17. The Commission seems to ignore the previous two funding cuts and on this basis determines that "the current level of contributions to local expression is sufficient to allow the community sector to attain its objectives."<sup>12</sup>
  
18. However, if the priority for the funding of local expression is citizen access, then the justification for cutting funding cannot be viewership. Those licensees like MTS Allstream that have been embracing and supporting access programming are now being penalized, under the auspices of modest viewership, for the behaviour of licensees that have chosen to ignore access requirements and produce most or all programming in-house.

Yours truly,



for Teresa Griffin-Muir  
Vice President, Regulatory Affairs

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<sup>12</sup> BRP 2010-622, paragraph 39.