

Oral Remarks of the Public Interest Advocacy Centre, Consumers' Association of Canada, Canada Without Poverty, and the Council of Senior Citizens' Organizations of British Columbia

**Broadcasting Notice of Consultation CRTC 2012-370:
Application of Bell Canada Enterprises Inc. on behalf of Astral Media inc.
(Application 2012-0516-2)**

Delivered September 12, 2012

1. Good afternoon Mr. Chair and Commissioners of the panel. My name is Janet Lo, and I am Counsel with the Public Interest Advocacy Centre (PIAC). On my left is John Lawford, Executive Director and General Counsel at PIAC. Today we appear on behalf of PIAC, the Consumers' Association of Canada, Canada Without Poverty and the Council of Senior Citizens' Organizations of British Columbia to collectively voice our opposition to this transaction as consumer groups. With us is Dr. Dwayne Winseck, professor at the School of Journalism and Communication at Carleton University and lead Canadian researcher in the International Media Concentration Research project.
2. Before we begin, I would like to request the panel's permission to present evidence that supports statements we have already put on the public record in our intervention dated August 9. We designed a survey with Environics Research Group that ran in the field from August 23 to 26, 2012. The survey shows public opinion support for our statements that consumers are dissatisfied with prices, choices, and competition for television services. I will refer to our survey results in my remarks.
3. We oppose this transaction. Bell has not established that its acquisition of Astral Media is in the public interest. Bell has not provided sufficient evidence that there will be benefits that flow to the entire broadcasting system, not simply to Bell and its shareholders, that outweigh the disadvantages that result from the elimination of the largest remaining independent broadcaster, reduction in the diversity of voices and increase in media concentration.
4. Bell boasts that its acquisition of Astral will result in "efficiencies", "synergies" and "benefits for consumers". Bell wants to focus on its claims that there will be competitive benefits for Quebec consumers.

5. Speaking as consumer groups that represent consumers across Canada, we disagree. This deal is broader than competition and choice in Quebec. This deal is about Bell - a leading distributor of television services, internet access services and wireless services - adding to its already vast and valuable array of broadcasting content, so that Bell can push its content on Bell subscribers and its competitors' subscribers. If Bell's plan works, its competitors' customers would switch their bundle of communications services to Bell. These strategies are designed to maximize Bell's revenues and profits.
6. Further entrenchment of Bell's market power will produce anti-competitive effects and harm consumers in the following ways:
7. **Harm #1: Consumers will pay higher prices for Bell's content.** When the Commission deregulated BDU prices in 1997, basic service cost \$18.70/mo. Today, basic BDU service costs \$32 to \$44 per month, and Bell's basic Fibe TV tier in English Canada costs \$44.43/mo. BDU subscribers pay on average \$61.86 per month. PIAC's August 2012 survey shows that 82% of consumers think the cost of television service is too high.
8. Bell already has the ability to impose wholesale rate increases for its broadcasting services on its competitors in the distribution market. For example, the industry has stated that Bell demands excessively inflated wholesale rates for its broadcasting services. If Bell unilaterally decides to increase wholesale rates for Astral services, consumers will have to pay. The Commission's expectations that BDU competition ensure affordability, choice and flexibility will not materialize if Bell acquires Astral.
9. **Harm #2. Consumers will have less choice for services offered by BDUs.** Despite Bell's promise that this deal will provide "innovative packaging to increase consumer choice",¹ Bell in February this year reduced the number of packages it offers and eliminated its à la carte choices for TV services in English Canada. PIAC's survey shows that consumers continue to be dissatisfied with the level of choice offered, especially in English Canada. As

¹ BCE Reply Comments, Application No. 2012-0516-2 at para. E2.

VI conglomerates get bigger and more profitable, consumers pay more for TV packages that are bigger and offer less choice.

10. **Harm #3: Consumers will not have choices to access broadcasting services on other screens.** Bell promises "[delivery of] the best content to any screen consumers may choose - TV, smartphone, tablet or computer - whether they are Bell customers or not."² But Rogers and independent BDUs state that they are unable to negotiate commercially reasonable terms for non-linear rights with Bell. Consumers lose when they cannot access popular programming on any screen they choose unless they switch to Bell.
11. **Harm #4. Consumers will have no real choice of service providers.** 71% of consumers said they do not have real choice of TV service providers. New innovative service providers will be unable to launch if Bell does not want them to.
12. **Harm #5: This deal reduces diversity of voices for Canadian viewers.** Bell's acquisition of Astral eliminates Canada's largest remaining independent broadcaster, reducing the plurality of voices in the private element of the system.
13. Bell's methodology for calculating the combined Bell/Astral TV audience viewing share is not consistent with the *Diversity of Voices* policy. When considering only the viewing share of Canadian services, Bell and Astral's combined TV audience viewing share reaches a threshold that requires careful examination. The Commission should consider other metrics to understand the full impact of this transaction on diversity of voices. Dr. Winseck will now explain the value of other metrics such as revenues.

Dr. Dwayne Winseck:

14. Measuring and evaluating media concentration and trends is not easy, and there are several ways to do so. The CRTC uses *audience ratings* as a proxy for market share. This is not unreasonable, but it has its limits.

² BCE News Release, "Bell-Astral to drive broadcasting investment, innovation and choice in Quebec" (15 August 2012).

15. Using revenue as a proxy for market share makes comparisons across media sectors, time and with the rest of the world easier to do and more reliable. In a more complex and intertwined media ecology, revenues serve as a common denominator that allow us to examine trends within specific sectors and across the media as a whole.
16. While Bell claims that its purchase of Astral will enhance competition with Quebecor in French language markets, Astral is already a strong rival with more television revenues (\$582.2m) than Quebecor (\$379.8m). Astral is not just a strong competitor to Quebecor, it's a strong rival to Bell.
17. The effects of this transaction on concentration in the specialty and pay television and 'total television' markets will be significant by the CRTC's own criteria, historical norms, global standards and by CR and HHI measures.
18. The impact will be most extreme in the specialty and pay TV market, where Bell's share of the market will rise sharply from 26.6% to 42.2% -- well in excess of every other major player.³ Together, the top five companies will control 92.5% of this market. Out of the sixteen countries studied, Canada is now the 8th most concentrated market. Approving the Bell/Astral deal would see it drop to 11th place.
19. The "total television" market is already more concentrated than it has ever been in the last twenty-five years. The HHI score is now an already high 1918; it will be 2308.8 if the Bell/Astral deal is approved.
20. Lastly, Canada already has the second highest levels of cross-media ownership consolidation and vertical integration in the 32 countries examined by the International Media Concentration Research project; it will be number one if this deal is approved.

Janet Lo:

21. For all these reasons, we ask that the Commission **deny** Bell's application to acquire Astral Media as it does not serve the public interest.

³ Shaw (32.3%), Rogers (10.7%), CBC (4.1%) and QMI (3.2%).

22. The steady rise of BDU pricing since deregulation demonstrates that the level of competition is insufficient to protect consumers. VI and media concentration further undermine consumer choice and flexibility to pay only for services that consumers want to watch. Thus we urge the Commission to immediately initiate a public proceeding to examine BDU pricing. The proceeding must ensure that VI and independent BDUs will meet the objectives stipulated in s. 3(1)(t) of the *Broadcasting Act*. A proceeding should study the manner in which VI firms establish wholesale rates for their broadcasting services, rules for TV packages, and the impact on the affordability of BDU services and choices in the retail market.

23. Finally, I turn it over to John Lawford to discuss Bell's proposed tangible benefits package.

John Lawford:

24. Bell's proposal to direct \$40M to BCE's subsidiary Northwestel in order to modernize broadband infrastructure in the North does not meet the Commission's test for tangible benefits: it is directed to telecommunications, not broadcasting; it must be undertaken in any event to respond to the Commission's direction to modernize NWTel's infrastructure; and it directs money back to the applicant, not to independent third parties.

25. PIAC requests that the tangible benefits package include a contribution to the recently approved Canadian Broadcasting Participation Fund. The Commission previously stated that the Fund should be funded from tangible benefits packages going forward. We suggest that 1% of the total tangible benefits package would be an appropriate contribution Fund to ensure sustainability. When it rains, the barrel must be refilled.

26. We would be pleased to answer any questions from the panel about our submissions.

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**Evidence of the Public Interest Advocacy Centre, Consumers' Association of
Canada, Canada Without Poverty, Council of Senior Citizens' Organizations of
British Columbia**

Consumer Opinion on Cost, Choice and Flexibility for Television Services

Presented September 12, 2012

Section 41 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (SOR/2010-277) states that only evidence submitted in support of statements contained in an application, answer, intervention or reply, or in documents or supporting material filed with the Commission, is admissible at a public hearing.

In accordance with this provision, PIAC/CAC/CWP/COSCO wish to submit new consumer survey findings to the Commission. The Canada-wide survey was conducted for PIAC/CAC/CWP/COSCO by the Environics Research Group between August 23 and 26, 2012 as a follow-up to our 2005 survey for the Telecommunications Policy Review Panel. The 2005 results are referenced in paragraphs 61 and 71 of our August 9 intervention to this Application.

In paragraph 61 of PIAC/CAC/CWP/COSCO's August 9 submission, we wrote that "many consumers believe that the rates for cable television services are unreasonably high and are not satisfied with their ability to pick and pay for cable television services that they want." Our August 2012 survey findings continue to support and strengthen this statement.

Cost of television services: In 2005, 44% of respondents said that cable television service prices were unreasonably high. In August 2012, 82% of respondents said the cost of television service was too high.

Choice of competitors: In 2005, 58% of respondents said that there was not enough choice of competitors for cable television services. In August 2012, 71% of respondents said that there was no real choice between television service providers.

Flexibility in television service packages: In 2005, 41% of respondents were dissatisfied with their ability to pick and pay for cable television services. Our August 2012 findings show that Canadian consumers continue to be dissatisfied with the level of flexibility and choice offered for television services:

- 39% were dissatisfied with the choice of pre-set packages offered by their television service provider;
- 35% were dissatisfied with the choice of additional pre-set "theme packs" of television channels;
- 43% were dissatisfied with their ability to pick and pay for a set number of television channels on top of their pre-set package; and
- 47% were dissatisfied with their ability to pick and pay for individual television channels on top of their pre-set package.

Consumers in English Canada are notably less satisfied with cost, service provider options, and the level of flexibility and choice offered for television services than consumers in Quebec. (See below for breakdown of results by English Canada and Quebec.)

**Public Interest Advocacy Centre
Telephone Survey about Consumer Choice in TV Service**

TOPLINE RESULTS

Field dates: August 23 - 26, 2012
Total sample size: 1,005 Canadians (aged 18 and over)
Margin of sampling error: +/- 3.1 percentage points at 95% confidence level

** indicates less than 1%*

1. Which company do you subscribe to for your television service?
 IF NECESSARY: We mean the company that provides cable TV or satellite TV to your home.
 DO NOT READ – CODE ONE ONLY

CAN	EC	QC	
<u>%</u>	<u>%</u>	<u>%</u>	
18	16	25	Bell
17	23	*	Rogers
17	22	3	Shaw
11	-	43	Québecor/Videotron
6	8	2	TELUS
6	6	7	Cogeco
2	3	-	Eastlink/Bragg
1	1	-	MTS
7	6	10	Other
10	11	8	Do not subscribe to television service provider
4	5	1	DK/NA

2. Do you feel that the cost of television service for the average consumer is...?
 READ

CAN	EC	QC	
<u>%</u>	<u>%</u>	<u>%</u>	
48	53	34	Much too high
34	32	39	A little too high
14	10	24	About right
*	*	-	A little too low
*	*	-	Much too low
4	4	3	DK/NA

3. Do you feel that you have real choice between companies who offer significantly different options for your television service, or do you feel that there is no real choice?

CAN %	EC %	QC %	
25	22	32	Yes, real choice
71	73	63	No, not real choice
5	4	5	DK/NA

4. Are you very satisfied, somewhat satisfied, somewhat dissatisfied or very dissatisfied with each of the following aspects of television service currently available to you?
READ IN ORDER SHOWN

- a) The choice of pre-set packages offered to you by your television service provider

CAN %	EC %	QC %	
9	6	18	Very satisfied
45	41	57	Somewhat satisfied
21	23	13	Somewhat dissatisfied
18	22	6	Very dissatisfied
1	1	2	Don't have that option with my current provider
5	6	3	DK/NA

- b) The choice of additional pre-set "theme packs" of television channels, such as news, sports or movie packs

CAN %	EC %	QC %	
10	8	14	Very satisfied
43	41	51	Somewhat satisfied
20	22	14	Somewhat dissatisfied
15	19	4	Very dissatisfied
3	2	5	Don't have that option with my current provider
9	8	11	DK/NA

- c) The ability to pick and pay for a set number of television channels you want on top of your pre-set package

CAN %	EC %	QC %	
10	8	14	Very satisfied
35	29	51	Somewhat satisfied
24	26	18	Somewhat dissatisfied
19	24	6	Very dissatisfied
3	3	3	Don't have that option with my current provider
10	10	7	DK/NA

d) The ability to pick and pay for individual television channels you want on top of your pre-set package

CAN %	EC %	QC %	
11	10	14	Very satisfied
29	25	44	Somewhat satisfied
23	24	19	Somewhat dissatisfied
24	29	10	Very dissatisfied
3	3	5	Don't have that option with my current provider
10	10	9	DK/NA