Opening Statement of Unifor
CRTC BNOC 2016-225, 2016-0377
November 30, 2016

Check against delivery

Good afternoon Mr. Chairman and commissioners. Thank you for the opportunity to appear.

We would like to address the local news issues raised in the group licencing notice, and more briefly the OMNI 9(1) h application.

In this proceeding the Commission has the opportunity to set Conditions of Licence requiring licensees to live up to the letter and spirit of BRP 2016-224. There is a broad policy consensus shared by everyone --- including the Commission, Heritage Minister and the Heritage Parliamentary Committee--- on the importance of local news to our democracy, at every level of government and society.

We don't think that the broadcasters' identical requests on weekly minimum exhibition of local news, and the expenditure required to support that minimum, comes anywhere close to meeting the spirit of 2016-224.

Yesterday, Bell Media explained very clearly how the broadcasters arrived at the proposal for a minimum of 6 and 3 segment hours of local news.

1. Minimum local news exhibition is a subset of minimum local programming exhibition which is 14 or 7 hours depending upon the size of the market. *Therefore the calculation of minimum news exhibition begins with the 14 or 7 figures.*

2. Using the large markets as an example, you recalibrate the "14 hours" to 10 on account of the fact that we are going to measure local news in programming segments, not full broadcast hours; a discount figure of 25%.

3. Next, Bell Media estimates ---at least for CTV--- that 60% of actual local programming is actual local news. Therefore, 60% of 10 segment hours = 6 segment hours of local news.

4. Next, Bell Media says that the 11% of revenue figure for expenditure is what it takes to fund those 6 segment hours (or 3 segment hours for smaller markets) across the broadcaster's local news stations.

Here are problems with that approach:

There is no policy reason, in 2016-224 or elsewhere, why minimum local news hours (i.e. 6 hours) should be established as a 60% subset of 10 minimally required local programming segments hours.

We reluctantly accept Bell Media's legal argument that the minimum exhibition of local news should not exceed the minimum exhibition of local programming, given that the Commission has reaffirmed those local programming minimums.

But so long as we respect that “14 and 7” ceiling on how high we can set the minimum segment hours of local news, there is no further logic to the argument that standards for local news should be a discount of minimum local programming requirements *that are actually exceeded by the broadcasters.*

Rather, if we are going to use this “discount” method of establishing the minimum threshold for local news, the 60% discount should be based on the *actual* local programming hours, since the whole point of the “60%” is based on “what local news we actually broadcast as a percentage of our actual local programming broadcasts.”

The chart at page 10 in our brief demonstrates that the actual local news hours (each “hour” being measured as 60 programming segment minutes) as reported by the broadcasters in their filings are mostly far in excess of 6 and 3, in fact an average of 85% above the proposed threshold in metropolitan markets.

Furthermore, the Commission needs to look behind the broadcasters’ key figures and satisfy itself that they are reliable for the purpose of robust regulatory standards supporting local news:

1) The 25% discount establishing programming segments as a portion of broadcast hours.

2) The 60% discount establishing local news as a portion of local programming. The Commission needs to be satisfied that Bell Media’s 60% figure is the right figure for each broadcaster, over an appropriate period of time, and not across the board for all broadcasters. We actually prefer a more straightforward approach to setting the minimum weekly exhibition of local news: 100% of historical levels at each station.

3) The 11% expenditure figure. That figure should be tied to what it actually takes each broadcaster to support an appropriate minimum of local news segments. Whatever the right figure is, the Commission needs to look behind it. We should all be uncomfortable with the fact that all of the broadcasters are reporting the exact same percentage figure to support different groups of broadcasting stations across the country, with different labour costs.

In Unifor’s view, the Commission should also consider that the relationship established by the Commission in 2016-224 between the expenditure figure and a percentage of the previous year’s revenue is not ideal in an environment in which conventional TV revenues are declining. Accordingly, we support adjusting the percentage-based expenditure figure within the five-year licence term to keep the level of absolute spending firm.

Moving on from the exhibition and funding of news, we want to comment on quality.

In the appendix to our brief, we charted the 10% decline in staffing levels experienced at Unifor-represented local stations at Rogers, Bell Media and Global over the last two years, not including the massive layoffs at OMNI. Reduced staffing affects quality.

The Commission's own aggregated data up to August 31, 2015 shows a steep decline in Rogers' staffing of local stations. Bell and Shaw filed data indicating their staffing levels have been steady over the last four years. This is difficult to square with our own experience of layoffs in the editorial and operational staffing categories, so we recommend that you require updated data from the Applicants and ask them to break down the staffing into the same categories we used in our Appendix.

It is our view that the Commission should impose COLs that guard against the opportunity for broadcasters to cut local television costs and quality by;

(1) expanding the use of category 2a current events talk shows,

(2) using less original programming instead of more,

(3) expanding the use of centralcasting and Toronto-based anchouring, strategies that run cross-stream to the reality that the Commission's definition of "local reflection" says that "local news" must be "produced by the station's staff or by independent producers specifically for the station."

and

(4) allowing broadcasters to regard local presence ---- bureaus, local reporters, and local editorial control---- as nice-to-haves, aspirational goals rather than what they are: the core of local news.

Unifor submits that the Broadcasting Act allows the Commission, even requires it, to set COLs according to the circumstances and resources of each broadcaster.

It may be that flexibility on points 1 through 3 above, or allowing aspirational goals on local presence can be tolerated in the case of struggling independent stations.

But that flexibility is neither tolerable nor necessary for VI-owned stations, VIs that the CRTC allowed to come into existence on the express understanding that they were going to deliver for viewers, consumers and citizens.

Finally, we endorse FRPC's position on annual monitoring. We appreciate that the Commission has indicated in 2016-436 that it intends to issue a further BNOC to discuss monitoring requirements, but this proceeding provides the right opportunity to link vigilant, annual monitoring requirements to COLs.

OMNI

As Commission knows, we have been deeply engaged on this file for some time.

This application is by far the best solution out there for local third language news. In fact we believe Rogers is not asking for enough. For three pennies a month more we can restore the level of free OTA local news programming to these four major linguistic communities that English and French language communities are fortunate enough to take for granted.

Local third language news is of national and regional political importance. The elimination of those OMNI newscasts in 2015, the nation's only free OTA newscasts in Italian, Punjabi, Cantonese and Mandarin impacts 1.5 million Canadians who identify these languages as their mother tongue. Of those 1.5 million Canadians, a 2014 study previously submitted by Rogers indicates that 25% of them consume OMNI television; further about 30% (450,000) choose to consume news in their mother tongue.

Because of that, we believe the case for exceptional content is a no-brainer. Without local third language news, we might as well capitulate to foreign cultural programming for these communities, and then candidly admit to these communities that they will have to pay significant subscriber fees for their local news in their languages, while first language communities do not.

We don't unconditionally support Rogers' application. We urge important licence conditions be put on the applicant, whether it's at 12 cents or 15 cents:

a. OMNI Regional must broadcast an hour of daily news programming for each third language news show;
b. Rogers Media must immediately provide to the CRTC a proper expense accounting for these expanded newscasts and include it in their financial projections in order to determine whether there is a need to increase the wholesale fee rate beyond Rogers Media's current proposal of a 12¢ monthly carriage fee for anglophone subscribers (10¢ for francophone subscribers);
c. Rogers must adopt all local presence expectations as identified in BRP 2016-224, including maintaining editorial staffing levels, as licence conditions;
d. OMNI must maintain full editorial control of its news packages that are aired, and a 5% restriction on overlapping content (between OMNI Regional and City TV);
e. OMNI must maintain bureaus in Ottawa and Victoria; and
f. The Commission should not grant Rogers Media further COL relief to non-news programming on OMNI OTA stations.

In the end if you deny the 9(1) h, which we would find disappointing, the second best solution would be to impose all of the local TV expenditure and exhibition requirements that the Group licenced stations would have, along the lines that we have proposed.

If you do neither 9(1)h, or our second best solution, we don't think there is a third best solution. In that case, Rogers should not hold the licence anymore on such pitifully weak conditions. The Commission should open up the licencing to all comers, and see if there is any programming model worth licencing at all as an OTA station with the privileges of the basic cable package.

Thank you considering our views.