

1) Response to Commissioners Arpin, von Finckenstein, and Katz about Videotron, VOX, and the Official Language Minority in Quebec

As we said in our original intervention, Videotron serves 93% of Quebec Anglophones, yet it does not have an English-language community channel, nor any English-language community programming on its Montreal system.

We also pointed out in our intervention that:

“under the *Broadcasting Act*, 1991, Section 3(1)(t)(iv), the BDUs “may” originate local programming and “in particular provide access for underserved linguistic and cultural minority communities”. However, this OLMC mandate for BDUs is left up to the initiative of the BDU and the oversight of the CRTC. The initiative by Videotron and the oversight by the CRTC have been inadequate in this case, and the Quebec OLMC has been ignored.”

At the community TV hearing, Commissioner Arpin asked Eric Fournier, General Manager of Videotron’s VOX community channel, whether they broadcast English programs. Here is the transcript of that exchange.

1774 CONSEILLER ARPIN: Maintenant, faites-vous des émissions en anglais?

1775 M. FOURNIER: À VOX Montréal, on n'a pas de demande d'émissions en anglais. Il n'y a pas d'émissions en anglais à VOX Montréal. Il y a certaines régions qui ont eu des groupes qu'on aide à faire leur production qui ont des émissions en anglais. Mais il y a pas beaucoup d'émissions en anglais sur notre réseau présentement.

1776 CONSEILLER ARPIN: Parce que vous en sollicitez pas, parce que vous avez quand même des abonnés de langue anglaise...

1777 M. FOURNIER: Oui.

1778 CONSEILLER ARPIN: ...plus particulièrement à Montréal et ici en Outaouais. Il n'y a pas--

1779 M. FOURNIER: C'est ma surprise personnelle, Monsieur, qu'il n'y ait pas plus d'émulation de ce côté-là pour pouvoir être représenté sur notre onde, mais il n'y a pas de politique particulière d'exclusion ou de non-participation de la communauté anglophone sur nos ondes.

M. Fournier implied that the fact there is no English-language programming on Videotron’s French-language community channel was not a matter of policy, but a lack of initiative from members of the anglophone community. All they had to do was ask.

Later in the week, during the appearance of ELAN's Executive Director Guy Rodgers, Commissioners von Finckenstein and Katz brought up the comment of M. Fournier, implying it was only a matter of asking for access to the VOX French-language community channel, and, they seemed to think, English-language programs would blossom like dandelions in spring.

We quote the exchange:

5509 THE CHAIRPERSON: I see. Okay.

5510 And ELAN, we had VOX here earlier this week. I don't know whether you saw them when they were here, and my colleague Mr. Arpin --

5511 MR. RODGERS: I did hear about it.

5512 THE CHAIRPERSON: Yes. And my colleague, Mr. Arpin, asked them about English-speaking programming and they basically said that we have very little, but that's the problem is that there is no supply, we have not been contacted, in so many words, by English-speaking programmers to make use of our community channels.

5513 Presumably you have approached VOX and have you been turned down, or does VOX know of your existence?

5514 MR. RODGERS: VOX has had no communication with the English-speaking community.

5515 When CFCF owned the cable channel there was a dialogue between the community and the post.

5516 We had understood that when CF was sold and closed down that there was no longer access to English language distribution.

5517 We were both surprised and pleased to hear what VOX had to say and we will certainly be entering into discussions with them.

5518 THE CHAIRPERSON: Okay. I was just going to say, you should phone them and take them by their word because they said --

5519 MR. RODGERS: Definitely.

5520 THE CHAIRPERSON: -- right in this very room that they're quite prepared to do it but they have not been contacted by the English artistic community of Montreal and been asked to air their programming.

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5557 COMMISSIONER KATZ: Right. Okay. Thank you very much.

5558 Messrs Maynard and Rodgers, I guess I echo what the Chairman said, the folks from VOX were here, from Vidéotron were here as well.

5559 We also chatted during the week about possibly you folks approaching, or those people that are interested approaching Bell IP TV as well because Bell's now introduced their IP TV service in their territory and there might be some opportunity there for them to exhibit some of your content as well. So, I urge you to do that.

Immediately following our appearance on April 30th, and regularly over the last two weeks, ELAN has attempted to reach M. Fournier. We have emailed him, and left numerous telephone messages explaining our reason for calling. Though we have pointed out the importance of the May 17th deadline for additional submissions to the CRTC, there has been no response.

Of course, we still can't say that VOX has turned us down. Yet, it seems clear to us that VOX does not want to discuss this issue despite anything implied by M. Fournier to the Commission.

We are back at square one. Namely, there is no English-language community channel anywhere in Quebec since Videotron bought CF Cable in 1997. Unless the CRTC requires that cable companies in Quebec carry an English-language community channel, we do not believe it will happen.

Furthermore, we do not believe that a few public-access programs on a French-language channel is sufficient community programming for 700,000 English-speakers in Montreal, or 200,000 English-speakers outside Montreal. As you and the Commissioner of Official Languages have said in your recent reports on official-language minority broadcasting, there is insufficient "regional reflection" of the linguistic minority in Quebec.

Only the CRTC can solve this problem. Unless there is an English-language community channel in Quebec, we do not believe the CRTC is fulfilling its obligations to the *Broadcasting Act* and the *Official Languages Act*.

On behalf of the official-language minority community of Quebec, we request that the CRTC establish a new regime making community channels as independent as possible from the cable licensees, and responsive to the communities being served. We believe an independent minority-language community channel in Quebec should be funded by 20% of the community programming expenditures now spent by the broadcast distribution undertakings on local expression. This percentage approximately represents the population of the minority community.

Based on 2008-9 expenditures of \$19.5 million by Videotron on its local expression in Quebec, and our estimate that COGECO spent about \$10 million on local expression in Quebec, this would mean about \$6 million should be earmarked for an independent English-language community channel carried by these BDUs.

We believe it is time that the Commission fulfills its mandate under the *Broadcasting Act* and the *Official Languages Act* to provide nearly one million minority-language Quebecers with the regional reflection we need, and which is so noticeably absent from our television screens. Now is the time for an English-language community channel.

2) Response to Question from Commissioner Katz about Advertising

Commissioner Leonard Katz asked the following question at the hearing:

5560 I do have a couple of questions on your original submission, specifically with regard to advertising. And in paragraph 29, if you have your document there, you indicate that you're opposed to advertising, but in paragraph 29 you say:

"We would urge the Commission to exercise caution before eliminating or reducing national advertising restrictions to support community channels." (As read)

5561 COMMISSIONER KATZ: And I emphasize the word national. Does that mean distinct from local advertising; you'd be supportive of local advertising but not national, or you're not supportive of any advertising?

5562 MR. RODGERS: As you understand, this brief was written by a committee of people from all different sectors and I'm trying to remember who did that particular clause.

5563 COMMISSIONER KATZ: Well, maybe you can expand upon it when you file your response.

5564 MR. RODGERS: We will indeed.

5565 COMMISSIONER KATZ: On May 17th --

5566 MR. RODGERS: We will indeed.

5567 COMMISSIONER KATZ: -- you can elaborate on it.

We believe that community channels should not become dependent on advertising revenue, nor seek to become competitive with ad-based media. Therefore, national or regional advertising should not be allowed on community channels. However, we understand there may be local businesses, such as a barber shop, local restaurant, or hardware store, which find it difficult to reach local consumers on television. Therefore, we suggested in our intervention some flexibility in community TV regulations that would allow some local advertising.

3) Response to Question from Commissioner Katz About LPIF

Commissioner Katz raised the question of LPIF at the hearing:

5568 And I guess just going on in paragraph 31, you indicate as well, that you request that:

"...independently operated community TV services be eligible for LPIF funding." (As read)

5569 COMMISSIONER KATZ: Is that regardless of whether there is an over-the-air broadcaster in the market or irregardless of that?

5570 MR. RODGERS: Well, the whole LPIF is a question that we're trying to clarify.

5571 At the moment English production in Quebec is not eligible under any production aspect, so we would like all legitimate production to have access to the LPIF so that it would not exclude other production.

5572 COMMISSIONER KATZ: Okay. Thank you very much.

We have consistently made several points in our interventions about the LPIF in CRTC PN 2009-411 and 2009-661. We would like to elaborate on them here.

First, broadcasters in English-speaking Montreal should be eligible for the LPIF based on a definition of English-speaker followed by Treasury Board and the entire Federal Government, except the CRTC in this one case. The linguistic definition used by CRTC for the LPIF seems only designed to ensure that English-language broadcasters in Montreal are not eligible for funding. This CRTC definition of the official-language minority in Quebec is incomprehensible, anomalous, and the CRTC has not attempted to justify or explain it in any of its decisions.

Secondly, we believe the LPIF should continue at 1.5%, and be used to support local programming beyond broadcast news, including independent community channels. Thus, we do not believe BDU owned and operated community channels should be eligible for LPIF funding.

4) Response to Commissioner Morin on his Proposal to Fund Community Programming

April 28-10 CRTC

Written Questions by Michel Morin about Community Programming

1) Assuming the Commission decided to grant community programming licenses throughout Canada, and assuming the Commission decided to grant half of one per cent (0.5%) of the contributions currently allocated to terrestrial broadcasting distribution undertakings (BDU) to community programming licensees (by serving area in accordance to an established schedule), would you agree that the Commission requires the new community programming entity to raise the equivalent of half of one per cent (0.5%) of the revenues of terrestrial BDUs in the form of individual or collective memberships (municipalities and non-profit organizations) before granting the other half of one per cent (0.5%) of subscriber revenues to the new community programming entity?

The idea behind this suggestion is that ultimately, and in accordance to a Commission-established schedule, one per cent (1%) of the current revenues of terrestrial BDUs be available for community programming licensees provided they directly participate in funding based on active, recurring and predictable membership.

For example, Télé-communautaire in St-Donat, Quebec would sell its bingo cards as memberships instead of selling them as part of one of many fundraising activities. Members would no longer be simple users; they could vote at the annual general meeting and also identify more with their community-programming-licensee community television.

2) Should other conditions be imposed on community programming licensees?

Here are some examples. If they obtained half of one per cent (0.5%), should they be required by the Commission to produce a minimum of five hours of programming per week? Why not emphasize quality over quantity? I ask the question because you have unique hands-on experience. I also ask the question to large terrestrial BDUs that are in touch with local communities (Shaw Communications, Rogers, Videotron, etc.).

Of course, if they obtained one per cent (1%) of BDU contributions, they would already have collected a first half of one per cent (0.5%) through membership. Should the required minimum of community programming be augmented?

To provide you with another example, six hours instead of four, as is the case in Quebec to obtain the provincial government grant.

3) You are now working on an interactive community website. Assuming the Commission implemented this revenue-sharing proposal between corporate community channels as they are now being run by the BDUs and access community programming undertakings, who would be in the best position to run this interactive website and why?

In other words, the underlying question is: Who between the corporate community channel and the community programming licensee should accommodate new technologies such as those related to interactivity (video on demand and websites)?

4) Should the Commission establish an access programming percentage at peak hours, as is the case now for all hours (between 30 % and 60 %)?

By the end of this hearing, on May 4, I may want to ask other questions to all terrestrial BDUs. However these questions are in fact for everyone (CACTUS, the Fédération, cooperatives, etc.). So I would ask you to pay attention to discussions in this hearing keeping in mind that often those who do not respond or express an opinion will always be wrong, as they say.

Thank you. These were all my questions, Mr. Chairman.

Notes

-grant community programming licenses throughout Canada

- divide 2% with 1% to community licensees and 1% to BDUs

if community programming licensees can raise 0.5% before receiving the last 0.5%.

At \$136 million, that means communities must raise about \$30 million from bake sales, bingo cards, donations, membership fees, etc. for 0.5% Unrealistic, and puts all their volunteer energies into fund-raising and not community programming. Contradiction that same conditions do not apply to both BDU channels, and community channels have higher hurdles.

Should allow fund-raising, or make fund-raising a requirement as a condition of license to be reviewed in 7 years like other broadcasters- for minimum 25%, not 100% of BDU money.

Need charitable status for general programming fund or trust fund to manage community funds, establish charitable status for fund-raising, and operate at arm's length from both BDUs and community channels.

Should be equitable- if \$30m must be raised by community licensees, why not same for BDUs?

Other conditions? How much regional reflection vs local expression? How much public access vs professional production to meet regional reflection needs?

There should be hearings for licenses open to non-profit groups, just as there are for other broadcast licenses. Let community channels experiment with new media. Key is independence from BDUs, even if using their distribution system or facilities.

