ENGLISH-LANGUAGE**ARTS**NETWORK

November 5, 2015

John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Traversy,

**Re: A Review of the policy framework
for local and community television programming
CRTC 2015-421**

1) ENGLISH LANGUAGE ARTS NETWORK

1. ELAN is the English-language Arts Network of Quebec and we represent 8,000 English-speaking artists in Quebec. For more information, see www.quebec-elan.org. ELAN collaborates with the Quebec Community Groups Network (QCGN) to represent the broadcasting concerns of Quebec's minority official language community, and with the Quebec English-language Production Council on industry issues.

2. ELAN wishes to participate in the public hearing on local and community TV policy scheduled to begin January 25, 2016.

3. We have responded to your 20 questions in Appendix A. Our priorities are discussed in the main body of our intervention.

2) BETTER OLMC TELEVISION STATISTICS

4. As we have often said, the OLMCs need better financial statistics from the CRTC. We have poor data because OLMC data often involves fewer reporting units than three, which raises confidentiality questions. However, we believe concerns about commercial confidentiality should not take precedence over the public interest and transparency.

5. Aside from using the public airwaves, commercial broadcasters also depend heavily on public funding from sources such as CMF, provincial agencies, or the various tax credits. This public funding supports their programming and helps them meet their regulatory obligations.

6. In addition, concentration of ownership has led to increasingly powerful and vertically integrated BDUs. The result is greater control of our broadcasting system in fewer and fewer hands.

7. For these reasons, we believe the needs of the public interest should supersede the need for commercial privacy when these are in conflict.

8. We request that the CRTC reconsider its rules on confidentiality when releasing financial data, especially as they apply to OLMC data.

3) COMMUNITY TV

OLMC Community TV Channel

9. Under the current *Broadcasting Act*, community television is a required element of the broadcasting system, along with public and private TV. For official language minority populations, community television provides important content that is not available anywhere else.

10. After a hiatus of nearly twenty years, we have only recently been able to again access English-language community TV in Quebec. Bell Media has established a VOD community channel (TV1) for its Fibe service in Quebec City and Montreal. This could be considered a regional service since programs are produced in both of these locations. Some of these programs are also available on the internet (YouTube) for community members who are not Fibe subscribers.

11. Quebécor applied for an English-language linear channel (MYtv) in its Montreal area Vidéotron cable systems. CRTC accepted this application, but denied new funding for the channel. Nevertheless, Vidéotron decided to include English language programming on its French-language community channel. Since September, Vidéotron has been broadcasting 20% of its MAtv schedule in English. The percentage roughly reflects the demographic weight of Anglophones in the Greater Montreal area.

12. We are now seeing the importance of this mirror on our community, and are favourably impressed with the quality of English programming on both the Bell and Vidéotron systems.

13. We do not have any other regional or educational or local channel. As we see from your data, the three private conventional OLMC stations broadcast about 795 hours of local non-news programs annually. This is 5 hours/week per station. The format of lengthy breakfast shows is not accessible for most viewers, who tune in for a short period to check news, weather, and sports etc. Any true non-news programming gets lost and is not subsequently made available on websites in easily accessible formats.

14. We have heard some Commissioners ask at public hearings if community television is still needed, or has it been replaced by social media? Despite its name, social media is very isolating. Community TV brings people together and if done well, it reflects the whole community in all its diversity. It is also impossible to create quality content without quality resources, which cost money.

15. The creation of quality content, whether on the community channel or elsewhere, needs an appropriate level of funding. Therefore, we request that the CRTC allow Quebécor to establish an

English-language community channel in its Montreal area cable systems funded from additional eligible revenues, as is currently the case in other bilingual zones.

16. Quality OLMC 'community TV' programming deserves to be seen by as many OLMC community members as possible. Therefore, we also ask that all community TV programming be made available on the internet to all viewers (not only Fibe or Videotron subscribers) after a short period of exclusivity on the producing channel.

Governance of Community TV

17. When community TV was first established by the CRTC in the early seventies, the media world was quite different. The CRTC believed that these community channels needed the stability and financial accountability that licensed cable companies could provide. The Commission may have been correct at that time, but a review of this policy is long overdue.

18. That is especially true since most of the 222 community TV "reporting units" are owned and controlled by a handful BDUs. This concentration of control by the largest media companies over "community" channels is no longer appropriate.

19. We are not suggesting that community channels should be completely independent of the BDUs. However, we do believe a new policy should be designed to ensure that community programming reflects the needs and interests of the community, via engagement, governance and control.

20. To that end, we request that the CRTC establish governing and programming committees for each community channel with equal representation from the BDU and the local community.

21. The BDU would continue to manage the community channel that it distributes, but overall policies on governance and programming would be decided by these joint BDU-community committees.

22. To encourage transparency and identify areas of progress and concern, each Community Channel Governance Committee would be required to publish an annual public report, including financial information on operating costs.

OLMC community TV across Quebec

23. About 75% of Quebec's OLMC population is located in the Montreal area. The English-speaking population is sufficiently large and concentrated to justify English TV stations. Outside Montreal it is a different story. These 250,000 Anglophones are spread out across the province without any geographic concentration that justifies an OTA station.

24. CBC tries to serve these OLMCs, especially with radio. These communities are isolated and underserved in local reflection, if served at all.

25. We believe an English-language community channel, such as the proposed MYtv, could provide the base for a province-wide communications link if it were distributed on all Vidéotron's regional cable systems, and the internet.

26. We support current CRTC regulations that 60% of the community schedule should be local reflection, but we believe there should be some flexibility to encourage the distribution of English community TV in small communities outside Montreal. In areas with very dispersed or small Anglophone populations, the Montreal channel might become a base for a province-wide OLMC channel. To do that, the level of local reflection might have to be lower than 60% when distributed outside Montreal.

Balance between access and other community programming

27. The public notice seems to be focused on "community access programming" and seems to downplay "non-access" programming. We would like the Commission to keep in mind both types of community programming which each occupy 50% of the schedule and 50% of the program resources.

28. We think this 50% division between access and other programming remains appropriate and we discuss the difference between these types of programming further in Appendix A.

Aboriginal community programming

29. We note that aboriginal programming is specifically identified as an objective of the *Broadcasting Act.* Section 3(1)(o) says:

"programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose".

30. We believe English-language aboriginal programming, especially by Mohawks in the Montreal area, should be actively supported with Quebec's English-language OLMC. This should include specific outreach initiatives for Kahnawake, Kahnasatake and Akwasasne.

4) LOCAL TV

31. Most viewers get their local or regional news and other information from their conventional TV station, usually delivered by cable, but available over the air (OTA). Local news is often the only time viewers see their city or region reflected on television. As the CRTC noted, 81% of poll respondents find local news important.

32. Despite the importance of local reflection, the advertising-based financial model for conventional television is in serious disarray. We need to find a financial solution to this problem, or risk losing local TV.

Importance of CBC

33. We also want to point out that the CBC is not included in the statistics released by the CRTC for this policy review. Regardless, those who believe public broadcasting is no longer needed should consider the private sector financial statistics released by the CRTC. The OLMC in Quebec needs the CBC, on television, radio and internet.

34. We look forward to the additional funding promised by the new Government for the CBC, and with it, a strengthening of the public broadcaster's service to Quebec's OLMC.

OLMC advisory committees for all conventional broadcasters

35. Public funding is not limited to the CBC. Private broadcasters take advantage of program support mechanisms such as CMF, and tax credits, both federal and provincial. We believe it is time that the public had better access to broadcasters between their licence hearings.

36. Right now the CBC has specific OLMC obligations, the other broadcasters don't. We request that the CRTC establish an OLMC advisory committee for each conventional broadcaster. The details should be established at their licence renewal hearings. As for community TV, we discuss joint governance committees elsewhere.

Sustainability of local television programming

37. We are concerned about the future sustainability of conventional local television, and of the entire advertising-based television system. We can see from the 2013-14 data provided by the CRTC for this policy review that 86 private stations generated total programming-related revenues of $365.6 million and total expenses of $472.3 million. They lost $106.7 million producing both news and non-news programming.

38. The 22 stations in the largest markets lost $91 million with costs 28% higher than revenues. The 49 stations in the smallest markets lost $14.8 million (21%). The 15 mid-market stations almost broke even with only a $300,000 loss. Both English and French stations lost money at about the same rate with revenues roughly 23% lower than costs.

39. CRTC data for the first half year of 2014-15 shows the same level of losses which can be estimated at over $100 million for the entire year.

Future of Montreal's private OLMC stations

40. The three private OTA stations in Montreal lost money at a greater rate than any other identified group in 2013-14. Together, they had revenues of $10.2 million and costs of $19.2 million, or 47% in the red.

41. For reasons of confidentiality, the CRTC did not release data for 2012-13. We do have six months of data for 2014-15, and the OLMC station losses appear to be growing. They had total half year revenues of $4.0 million and costs of $9.4 million, or 56% in the red.

42. We wonder how long Bell, Shaw, and Rogers will absorb these losses. If this trend continues, we imagine the future of one or more of these OLMC stations will be in jeopardy at their next licence renewals. It is time for the CRTC to reconsider the financial system supporting Canadian programming in general, and OLMC programming specifically. The old system is no longer sustainable.

5) FUNDING LOCAL AND COMMUNITY TV

43. We do believe both local television, especially local news, and community television are important. Arguably, local reflection is the essence of this television, and the center of the Canadian broadcasting system.

44. The arrival of Netflix and other OTTs has disrupted the financial model of Canadian broadcasting. Cancon production funding is now under siege. BDU revenues are declining. Conventional television is losing its advertising revenues to the internet.

45. The magnitude of the losses of the advertising-based local television system is so great that they cannot be covered by simply taking existing community TV revenues to plug this gap.

46. The total CRTC-mandated BDU funding of community TV raised $151.6 million in 2013-14. Out of this, 60% was spent on programming, or $90.2 million. This money will decline if BDU revenues continue to decline as cable customers switch to internet-delivered television.

47. The *Broadcasting Act* will not allow the CRTC to close down community television. However, for the sake of argument, let's imagine that the CRTC decided that every dollar of community TV's $90 million in program funding should be allocated to the local TV system to cover its $106 million in losses. The local TV system would still have lost $16 million that year. This is not a solution to the Canadian broadcasting system's production funding crisis.

48. We believe that the CRTC's 2%+2% OLMC policy, which it has applied to support English and French community TV channels in the regions of Ottawa and Moncton where both official languages are strongly present, should be used to support an English community TV channel in the Montreal region with large numbers of viewers from both official language communities. However, the 2% of Vidéotron revenues needed to fund this channel will result in an estimated loss of $10 million to the CMF. For that reason, funding must be found to replace this loss to the CMF budget.

49. How do we replace this production money? Some options have been put forward to the CRTC in the past. Even if it was once rejected by the CRTC in the past, we believe any policy option to raise programming money should now be re-considered.

50. Some options to increase production funding are outside the scope of this hearing, such as a "Netflix tax", tax on e-commerce, or internet service providers. An excise tax could be placed on funds paid to foreign program sellers.

51. We are sure others will come up with creative financial programming options. We need them if we are to save local television.

Thank you.

Guy Rodgers
Executive Director
ELAN

APPENDIX A

Broadcasting Notice of Consultation CRTC 2015-421

Local programming

Questions

o **Q1. How should local programming be defined? How should local news be defined?**

The current CRTC statement in paragraph 10 of this notice provides an appropriate basic definition: "produced by these stations with local personnel or by locally based independent producers and that reflects the particular needs and interests of the market's residents."

o **Q2. Should the regulatory approach focus on local news programming, or should it include other types of local programming?**

While local news is a priority, we want to see diversity of local programming. Therefore, the regulatory approach should include other types of local programming, such as documentaries, human interest, arts, etc..

o **Q3. What role should the community element play in providing local programming?**

We need to begin by distinguishing two different types of local programming; 1) local content produced by conventional stations (produced by employees or independent producers), and 2) 'access' content produced by community services (using access producers or independent producers).

We believe that diversity of local programming is important. To achieve that, we believe there remains an important role for community TV as well as local off-air stations. However, following decades of ownership consolidation, four or five BDUs now control most of the local programming in all markets, whether delivered by local off-air stations or community channels. This degree of concentration limits diversity, and has tended to restrict the community's role.

Therefore, to maintain or increase diversity and community engagement, we believe control of community TV services must be shared between BDUs and representatives of their local communities, and not controlled solely by the same corporations that also control the local stations. This community-based governance of community TV will assure that the service responds to community needs and not the needs of the BDU.

To fulfill the local content requirements of the Broadcasting Act, budgets must be sufficient to enable local content to be produced by independent producers as well a station employees on conventional stations, and by independent producers as well as access producers on community stations. This might be accomplished with a local programming fund accessible to both conventional and community stations. The types of content supported by such a fund might vary depending on the needs of each market or community area.

> o **Q4. Should the Commission place a greater emphasis on expenditure requirements (the amount of money spent on the programming) or on exhibition requirements (the number of hours of programming broadcast) when it comes to ensuring the presence of local programming in the broadcasting system? What other measures, if any, should be taken to ensure that appropriate amounts of locally relevant and reflective news content is made available to Canadians across the country whether through local television stations or community services?**

Both expenditure and exhibition requirements are important in order to maintain quality local programming. We believe one important measure to ensure local reflection and relevance are advisory committees for both conventional TV and community TV. In the case of community TV, they should have shared control over governance and programming as we describe elsewhere. In the case of conventional stations, there should be a community advisory committee to ensure that the content best fits community interests and that optimal use is made of limited resources.

> o **Q5. Is a physical local presence still needed in the digital age? In considering this question, are studio facilities and local staff required to provide meaningful locally reflective and locally relevant programming? If so, what financial resources, infrastructure and staff are necessary?**

Local staff are essential. These should include OLMC staff where OLMC content is being produced. Studio facilities can be local or remote.

It is difficult to imagine local programming without a physical local presence. In addition, while salaries are the largest expense of local news and other programming, the training and jobs created are very important. That is especially true for the OLMCs.

> o **Q6. Is regulatory intervention needed to foster local programming by both the private and community elements of the broadcasting system and to ensure the presence of local programming?**

Yes. We have seen many examples of what happens without regulatory intervention. In fact, that is the reason the Cancon quota exists and has been successful in developing Canadian artists who tell Canadian stories, which contribute to establishing a strong Canadian identity at home and abroad.

- o **Q7. Should the Commission differentiate between small and large markets? Should there be a different approach for small market independent stations?**

Small market and OLMC stations are more vulnerable, and require additional support. However, the advertising-based conventional networks are in danger because the largest markets are losing the most money: $91 million out of $106 million in total losses in 2013-14.

In the case of Montreal, we see from CRTC data that the three private stations are spending roughly twice as much on programming as their local revenues. If these stations are in peril, then we think the CRTC should consider a local programming fund managed, for example, by CMF with appropriate conditions to support program quality and diversity.

- o **Q8. BDUs currently allocate approximately 40% of local reflection contributions to indirect costs (facilities, equipment, etc.) and 60% to programming. Is this still an appropriate allocation of costs? If not, propose an alternative allocation.**

We cannot offer a precise percentage, but we agree with Robert Fowler that the most important thing in broadcasting is programming. All the rest is housekeeping. Therefore, the current percentage of programming should not decline below 60%.

We believe that these financial statistics need to be more widely available to the public on an annual basis. More transparency is needed.

- o **Q9. How should funding for locally relevant and locally reflective programming be allocated from the various existing funding sources to ensure the continued presence of this programming in the Canadian broadcasting system as a whole?**

Locally reflective content is essential. Without it, we do not have a Canadian broadcasting system, or OLMC broadcasting. Obviously, we don't lack for English-language content, but like everyone else in the world, we need to see ourselves. We need a shared vision of who we are, and where we are.

The question is how to pay for diverse and high-quality local content that viewers will choose to watch as the internet transforms the traditional broadcasting system.

We can see that local stations are underfunded. These 86 private stations lost $106 million in 2013-14. Average revenues covered only 77% of costs (both news and non-news production). Large and small market stations lost the most money, and medium market stations broke even that year.

The three private English OLMC stations are among the most vulnerable. They had $10.2 million in revenue and $19.2 million in expenses that year. Average revenues only covered 53% of costs. One or more of these stations is not sustainable without funding from another non-advertising source.

The CRTC has said there is enough production funding, but this funding could be distributed more efficiently. In 2013-4 there was about $470 million in local TV program expenses, and $90 million in community TV program expenses. Certainly, $560 million is a lot of production money, but is it is enough? Is it sustainable?

We can see from the data released by the CRTC that local TV revenues are declining in some, if not all markets. National advertising sales might be declining at a faster rate. The conventional TV advertising-only business model does not appear to be sustainable. The CRTC has rejected mixed advertising and subscriber-supported business models for conventional television, but not come up with an alternative source of funding.

A few years ago, the CRTC cancelled the Local Programming Improvement Fund, and now the industry is facing a local programming deficit. We think a new local television fund is needed that could support both conventional local TV and community TV. Local TV is now losing money and being cross-subsidized by the BDUs. This can't continue without a new source of programming money.

We believe the entire financing structure of Canadian television production- national, local, and community- needs to be re-examined with the objective of ensuring that local content is adequately funded.

- o **Q10. How should the Commission and Canadians measure the success of proposed approaches?**

CRTC policies should result in more diversity and better quality of local programming watched by more viewers. At a minimum, viewers should have access to a wide variety of original OLMC programming, produced by locals, and providing information that is otherwise unavailable.

Community access programming

Questions

Q11. How should access programming be defined?

The *Broadcasting Distribution Regulations* define community access television programming as

"programming produced by an individual, group or community television corporation residing within the licensed area of a cable distribution undertaking."

We believe this remains a useful definition as far as it goes, but does not go far enough.

We believe that control over the community television station should be <u>shared</u> equally between the BDU and the community through governing and programming committees. The community representatives need to be chosen by their community through a democratic process.

We don't propose any particular community structure in this intervention, but suggest the CRTC use this hearing to consider the alternatives. These community committees should be implemented as soon as possible at licence renewals for each community channel.

Greater community engagement and participation in the direction of "our" community channel will improve access programming.

Q12. How should an access producer be defined?

The current definition of access programming in CRTC 2010-622 defines an access producer as a member of the local community who is not employed by the BDU and has creative control over his or her program.

"The Commission considers that the key criterion for defining access programming is that creative control is in the hands of a community member, i.e. an individual or group residing within the licensed area of a terrestrial BDU. Creative control consists of two elements:

1. The idea for an access program must originate from a community member not employed by a BDU; and

2. The community member must be involved in the production team:

1. in an on-camera role (e.g., a personality or actor that appears in a predominant portion of the production); and/or

2. as a creative member of the production crew (e.g., directing, producing, writing)."

We believe this definition remains useful. We would add that ownership of the copyright is in the hands of the producer whether an access producer or a professional independent producer making "non-access" community programming.

> **Q13. Is access programming on the community channel still necessary? Should the Commission approach linear community channels and community channels offered on video-on-demand services differently?**

Access programming is of particular importance to an OLMC, because it provides community members opportunities for employment and training, which are otherwise limited.

VOD channels, such as Bell, and, such as Vidéotron, function quite differently. Linear channels require greater resources. All community channel content should be available on the web, even for linear channels, after a short period of exclusivity.

> **Q14. Are there ways other than the community channel to ensure that access programming is provided in the broadcasting system as a whole, including both on licensed and exempt services?**

After a short exclusive period on the sponsoring channel, community programming should be available for second window sales by the producer, and free distribution on the internet sooner.

> **Q15. Are the current access programming requirements for community channels appropriate? Should a different approach to current expenditure and exhibition requirements be taken? Should a different approach for small and large markets be taken? Should there be a different approach for zone-based or regionally licensed services?**

The OLMC outside Montreal needs to have access to English-language programming. There needs to be cross-subsidization of the cost. Aboriginal production also needs special attention.

We believe there needs to be programming and governing committees with real power, as we said above. These should apply to Bell as well as Vidéotron.

At some point, community programming should be available to the entire community, and not only BDU subscribers.

> **Q16. How can the Commission ensure that the smaller markets and the communities served by BDUs operating under regional licences or zone-based approaches are provided with appropriate levels of locally relevant and locally reflective programming, including community access programming?**

Given the demographic variations in OLMC populations in Quebec, flexibility should be the rule in deciding the size of zone or region on a case by case basis. As we have stated elsewhere, we believe an English community channel in Quebec should be available across the province, and its programming accessible to everyone on the internet.

Smaller communities should be able to provide programming for this OLMC channel. Appropriate programming policies should be ensured through a programming committee with equal representation from the BDU and the OLMC communities.

> **Q17. Should BDUs operating in competitive markets or in markets that are close geographically continue to offer distinct technical and production facilities or are there other options to make more efficient use of funding?**

The public good of local programming and local production outweigh any advantage procured by the elimination of local technical facilities.

> **Q18. What measures should be taken to ensure that programming from diverse linguistic groups including OLMCs and ethnic groups as well as Aboriginal groups is made available and is reflective of the communities BDUs serve?**

We believe the CRTC's policy of funding separate OLMC channels remains necessary. We support equality of funding, or the 2% + 2% policy. That policy has allowed an OLMC community channel to be established in Ottawa and Moncton in addition to the channel for the majority language community.

Vidéotron was not granted additional funds for a separate English-language channel, although the principle of 2% + 2% funding in dual language regions is well established and Bell creates content in both English and French in the Montreal region. An important policy precedent should not be set aside so lightly.

The population of the official language minority in Montreal justifies the resources needed to support an English community channel as well as conventional stations in this market.

The 2% of Vidéotron revenues allocated to fund this channel will result in a loss to the CMF. How do we replace this production money? Some options have been put forward to the CRTC in the past. Even if it was once rejected by the CRTC in the past, we believe any policy option to raise programming money should now be re-considered. Some options to increase production funding are outside the scope of this hearing, such as a "Netflix tax", tax on e-commerce, or internet service providers. An excise tax could be placed on funds paid to foreign program sellers.

> **Q19. How should funding for community access programming be allocated from the various existing funding sources to ensure the continued presence of this programming in the Canadian broadcasting system as a whole?**

We believe an English community channel in Montreal needs to be properly funded from 2% of Vidéotron's Montreal area revenues. At the same time, CMF revenues need to be maintained at current levels and not reduced by the funding needed to establish an OLMC community channel in Montreal.

Access programming on the community channel, using volunteers and others, needs to be distinguished from non-access programming. We believe that non-access programming should be produced professionally, and funding should be available from other funding sources, such as CMF or tax credits. The programming content should be locally reflective.

As we have stated, control of OLMC community channels should be shared between the BDU (Videotron or Bell) and the OLMC communities through governance and program committees.

> **Q20. How should the Commission and Canadians measure the success of any framework that is proposed?**

CRTC policies should result in more diversity and better quality of community programming watched by more viewers. At a minimum, viewers should have access to a wide variety of original OLMC programming, reflecting our community, and providing information that is otherwise unavailable.

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