HOUSE OF COMMONS
CANADA

IMPACTS OF PRIVATE TELEVISION OWNERSHIP CHANGES AND THE MOVE TOWARDS NEW VIEWING PLATFORMS

Report of the Standing Committee on Canadian Heritage

Hon. Michael Chong, M.P.
Chair

MARCH 2011

40th PARLIAMENT, 3rd SESSION

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THE STANDING COMMITTEE ON CANADIAN HERITAGE

has the honour to present its

NINTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the Impacts of Private Television Ownership Changes and the Move Towards New Viewing Platforms and has agreed to report the following:

TABLE OF CONTENTS

IMPACTS OF PRIVATE TELEVISION OWNERSHIP CHANGES AND THE MOVE TOWARDS NEW VIEWING PLATFORMS

1. Background

Over the last few years, a number of commercial transactions have had an effect on private television ownership.

In September 2010, Bell Canada Enterprises Inc. (BCE) struck a deal to take ownership of the CTV television network. The $1.3-billion deal gives BCE control of 27 television stations and 30 specialty channels.

In October 2010, the Canada Radio Television Commission (CRTC) approved the acquisition of Canwest Global's licensed broadcasting subsidiaries by Shaw Communications Inc. The $2-billion deal gave Shaw control over the Global TV network, with 11 television stations and 21 specialty channels.[1]

These changes are the most recent to take effect in private television, and are part of a growing trend of industry consolidation and vertical integration taking place in the broadcasting and telecommunication industry. Previous changes in this industry include the transfer of control of the TVA television network to Quebecor Media Inc. in 2001 and the transfer of five Citytv stations to Rogers Media Inc. in 2007.[2]

On October 21, 2010, the House of Commons Standing Committee on Canadian Heritage (hereafter the Committee) adopted the following motion:

> That given the dramatic ownership changes in the private television sector and the increasing move towards digital, mobile and next-generation viewing platforms that the Heritage committee examine: 1) the implications of increasing vertical integration between large content providers and ISP-mobile phone carriers; 2) the role and viability of small and independant television broadcasters; 3) the role of the CBC in an increasingly changed media viewing landscape; 4) the role of the CRTC in ensuring diversity of voices in a changing media landscape and; 5) the role of the Canada Media Fund and other funding mechanisms in ensuring the success of new programming on next generation media platforms.[3]

1 Jamie Sturgeon, "Canwest segues into Shaw," *The Province* (Vancouver), October 29, 2010, http://www.theprovince.com/Canwest+segues+into+Shaw/3744529/story.html.

2 CRTC, "Broadcasting Notice of Consultation CRTC 2010-783," October 22, 2010, http://www.crtc.gc.ca/eng/archive/2010/2010-783.htm.

3 *Minutes of Proceedings*, Committee, Meeting No. 24, 40th Parliament, 2nd session, October 21, 2010, http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4712130&Language=F&Mode=1&Parl=40&Ses=3.

The Committee held five meetings on this issue and heard 21 witnesses. This report examines the recent changes in private television ownership, the move toward new viewing platforms and the five points listed in the motion.

2. The Position of Canadian Communications Companies

The Committee wished to hear what Canadian communications companies think about vertical integration.

For Gary Maavara, Executive Vice-President and General Counsel for Corus Entertainment Inc., the concept of a domestic Canadian market is evolving quickly:

> The notion of a domestic market is rapidly changing. It is complex, and the most powerful players are not Canadian. You must align our domestic policies and rules so that we can have a Canadian-owned system that is globally competitive. We can no longer shelter our domestic market. The barriers that we have built to protect Canadian media will become a confining trap if we are not mindful of this change. The emergence of new media platforms has increased the competition for content and for advertising dollars.[4]

Corus Entertainment Inc. is a key player in the Canadian market for producing content. However, in the global marketplace, Corus Entertainment Inc. is in competition with industry giants like Disney, Google and Apple. Mr. Maavara believes that the taxes paid by these foreign companies for their activities in Canada must be examined:

> I believe Google probably does pay tax on its income in Canada, but one of the recommendations we've made to the government is that section 19.1 of the *Income Tax Act* be applied to digital media. That would result in making the advertising expensive on foreign sites, in the same way as that works for Canadian television. We believe that would be a great incentive.[5]

Corus Entertainment Inc. is in favour of creating larger, stronger Canadian communications companies. It believes investing in research and development is another avenue to consider. Corus Entertainment Inc. recommended establishing an expert panel to examine these questions.

BCE and CTV appeared before the Committee on November 25, 2010 to share their observations on the effects of vertical integration on the broadcasting industry. Paul Sparkes, CTV's Executive Vice-President of Corporate Affairs, explained that vertical integration is a growing trend worldwide. He said that CTV must have access to a distribution network in order to remain competitive as a private broadcaster:

> [T]he best path for CTV to remain a leader is to align ourselves with a company that has a strong presence in broadcast distribution and telecommunications. Companies that both create the content and distribute it will be able to maximize the consumer experience and remain relevant in the media landscape moving forward. [...] Without

4 *Evidence*, Committee, Meeting No. 31, 40th Parliament, 3rd session, November 23, 2010, 1650.

5 Ibid*.*, 1710.

doubt, this is the right move for CTV, our viewers, consumers, and the Canadian broadcasting system.[6]

Mirko Bibic, Senior Vice-President of Government Affairs with BCE, believes that the transaction will benefit consumers by increasing the production of Canadian content on multiple platforms:

> The key point is that our transaction will enable Bell and CTV to achieve a measure of scale and scope that will support further network investment and innovation. It will also help to ensure the production of more and even better Canadian content. Producing high-quality, popular content can be expensive. The more screens on which that content is available, the more chances you have of attracting the largest possible audience. And the greater the audience, the larger the advertising revenue.[7]

Mr. Bibic denied that the transaction would result in media concentration:

> First, when it comes to this particular transaction, there is no level of media concentration at all. People say that quite quickly, but in this case it's not the case at all. Bell has had an ownership position in CTV for the last ten years. It so happens that we're going from 15% ownership today back to 100%, where it was ten years ago. In the meantime, we don't own any other content assets, so it's not as though we're horizontally merging two broadcasting companies and reducing them to one.[8]

Mr. Bibic ended his presentation by highlighting the positive changes that are taking place in the Canadian broadcasting and telecommunications industry. He believes that vertical integration should not be slowed down, and points out that the CRTC has the authority required to intervene if a vertically integrated company gives undue preference to services offered by its programming branch.[9]

Kenneth Engelhart, Regulatory Senior Vice-President for Rogers Communications Inc., informed the Committee that Rogers was the first company to implement a vertical integration strategy to leverage its cable and wireless distribution networks and broadcasting content. Rogers has had to make a significant investment in wireless and broadband infrastructure to develop these technologies. He believes that this type of business strategy was inevitable due to the global competition in this industry:

> Canadian broadcasting and distribution companies face more and more competition from unregulated over-the-top service providers like YouTube, Apple TV, Hulu, and Netflix, and various illegal black market services. These companies pose a serious threat to broadcasting and cable companies, as they compete with Canadian media companies for scarce advertising and subscription dollars and encourage consumers to cut the cord on the regulated system by offering niche low-cost or free on-demand content.[10]

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6 *Evidence*, Committee, Meeting No. 32, 40th Parliament, 3rd session, November 25, 2010, 1530.

7 Ibid., 1540.

8 Ibid., 1545.

9 Ibid., 1620.

10 Ibid., 1630.

Rogers does not believe that vertical integration will decrease diversity in the Canadian broadcasting system; rather, it believes that vertical integration can provide significant benefits in terms of developing, promoting and exploiting Canadian programming.[11] Furthermore, Rogers welcomes the CRTC hearings on the regulatory review of vertical integration, which will take place in May 2011. Mr. Engelhart called for the CRTC to be a bit temperate in the way it regulates.[12]

Michael Hennessy, Senior Vice-President of Regulatory Affairs with Telus Communications, also sees the upcoming CRTC hearings in a positive light. However, Telus cautioned that too much vertical integration will threaten diversity:

> [W]ithout clear and effective safeguards, unprecedented vertical integration could constitute the biggest threat to access, diversity, and choice in broadcasting. This is true not only for the public but for independent producers, broadcasters, and even distributors like Telus, which has itself invested over $2 billion in our new Optik IPTV service to compete with the cable industry. So I'm pleased that this committee and the CRTC are taking a closer look at this.[13]

Telus called for clear rules that forbid discriminatory practices, such as exclusive content. It called for the CRTC to govern vertically integrated companies as follows:

> Undue discrimination, we believe, on pricing, quality, access, and other terms has to be clearly prohibited to promote competition and to lower prices. What constitutes such undue discrimination and how complaints will be resolved must be made clear in advance of such complaints. [...] So we suggest the CRTC should set out in advance how it will determine pricing issues in such a way as to discourage attempts to overprice competitors. The Commission should establish that disputes would be resolved through timely and binding arbitration, where the arbitrator would refer to data concerning historical prices to see if things have changed in a vertically integrated environment.[14]

The commercial arbitration process put forward by Telus has the advantage of not requiring the CRTC to intervene to enforce the rules.[15]

Shaw Communications Inc. also appeared before the Committee on December 2, 2010. Shaw executives emphasized that the recent acquisition of Canwest Global Communications Corp. (Canwest Global) “did not raise any market concentration or common ownership concerns under the CRTC Diversity of Voices policy.”[16] On the contrary, Shaw Communications Inc. believes that the diversity of voices among English-language broadcasters has been reinforced.

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11 Ibid.

12 Ibid., 1710.

13 Ibid., 1635.

14 Ibid.

15 Ibid., 1715.

16 *Evidence*, Committee, Meeting No. 34, 40th Parliament, 3rd session, December 2, 2010, 1530.

According to Shaw, the current regulatory framework put in place by the CRTC, in particular the rules governing undue preference and the many regulations on distribution and access, is sufficient to protect unaffiliated broadcasters and independent producers. Shaw Communications Inc. has made a commitment to the CRTC that it will launch 21 unaffiliated programming services.[17]

Shaw Communications Inc. said that vertically integrated companies need maximum flexibility to remain competitive with foreign new media broadcasters,[18] which is why Shaw called for the exempt status of foreign content providers under the CRTC's *Exemption Order for New Media Broadcasting Undertakings* to be reconsidered. It gave the following reasons:

> First, the Canadian broadcasting rights market is threatened as a result. Foreign providers either own or have the power to acquire rights to the world's most popular content. Moreover, non-Canadian entities have no Canadian content or exhibition requirements. They make no financial contributions to the Canadian production industry. Canadian producers are negatively impacted by revenue being diverted from regulated services to exempt non-Canadian services. And by consuming valuable capacity, over-the-top providers threaten to undermine our significant network investments and impact the quality of service offered to our ISP customers. Finally, consumers will ultimately suffer, with fewer Canadian choices.[19]

Quebecor Media Inc. (QMI) submitted a brief to be considered by the Committee as part of this study. It stated that "the notion of convergence of content producers and content broadcasters and distributors is the very foundation of Quebecor Media's creation."[20]

QMI believes that vertical integration is "an inevitable response to audience fragmentation and the erosion of traditional advertising revenue resulting from the increasing number of new platforms." [21] Television successes such as *Star Académie*, *Le Banquier* and *Occupation Double* would never have happened without vertical integration.

However, the concept of vertical integration raises an important question with regard to exclusive content. QMI called for the regulatory authorities to "take a balanced, flexible approach to make some content universally accessible and other content exclusive."[22] Furthermore, QMI believes that banning exclusivity on video-on-demand platforms, which is the approach currently favoured by the CRTC, may prove damaging to the television production industry.

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17 Ibid., 1550.

18 Ibid., 1535.

19 Ibid.

20 Quebec Media Inc., *For a Dynamic and Profitable Canadian Broadcasting System*, January 21, 2011.

21 Ibid., p. 3.

22 Ibid., p. 4.

3. The Role and Viability of Small Broadcasters

The Independent Broadcasters Group (IBG) appeared before the Committee to express its members' concerns about vertical integration. The IBG was represented by TV5 Québec-Canada, Stornoway Communications, ZoomerMedia Television and Newcap Broadcasting. They pointed out that "increased ownership concentration and cross-ownership between programming services and cable, satellite, and telephone companies will do great harm to independent broadcasters."[23] The IBG called on the CRTC to use paragraph 9(1)(*h*) of the *Broadcasting Act* to control ownership concentration with a view to requiring "cable and satellite [broadcasting distribution undertakings] to distribute certain services on basic or other terms and conditions." [24]

Furthermore, the IBG denounced the CRTC decision to impose a moratorium on applications for mandatory distribution for basic service until June 2012.[25] Several members of the IBG had planned to file applications based on the understanding that they would be heard before September 2011. They believe that the moratorium may be harmful to the diversity of voices in the Canadian broadcasting system.

Mike Keller, Vice-President of Industry Affairs with Newcap Broadcasting, agreed with the IBG, saying that the challenges that Newcap Broadcasting faces are similar to those faced by independent broadcasters: "our business is all about distribution."[26] Providing small-market radio and television stations is a risky business. Having a signal distributed by broadcasting distribution undertakings (BDUs) in certain local markets can never be taken for granted. Newcap Broadcasting emphasized that the Local Programming Improvement Fund (LPIF) has allowed local television stations to survive.

MétéoMédia and The Weather Network are owned by Pelmorex Media Inc. They provide weather information services using various media platforms such as cable, satellite, Internet, wireless and newspapers. However, Pelmorex occasionally has difficulty ensuring that its signal is distributed by BDUs. Mr. Keller said that some vertically integrated distribution companies use undue preference by using the viewing data from decoders to update their own broadcasting services. Pelmorex called for BDUs to make public certain non-confidential information so that it can study the viewing habits of its customers.[27]

Catherine Edwards of the Canadian Association of Community Television Users and Stations (CACTUS) said that the emergence of large BDUs has caused many

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23 *Evidence*, Committee, Meeting No. 30, 40th Parliament, 3rd session, November 18, 2010, 1640.

24 Ibid.,1640.

25 CRTC, "Broadcasting Regulatory Policy CRTC 2010-629," August 27, 2010, http://www.crtc.gc.ca/eng/archive/2010/2010-629.htm.

26 *Evidence*, Committee, Meeting No. 30, 40th Parliament, 3rd session, November 18, 2010, 1700.

27 *Evidence*, Committee, Meeting No. 34, 40th Parliament, 3rd session, December 2, 2010, 1645.

community television stations to shut, which is a loss for the Canadian broadcasting system:

It's a keen loss to the system, because this volunteer-assisted form of production generates six to eight times as much local programming dollar for dollar as the public and private sectors.[28]

Ideally, the community television broadcasting sector should be made up exclusively of non-profit television stations. CACTUS believes that it is unacceptable for BDUs to administer television channels in this niche market. When they do, the community sector can no longer act as a democratic safety valve against "hyper-concentration in the private sector."[29] CACTUS called for the creation of a community access media fund to offset its members' losses.

4. CBC/Radio-Canada's Role

The President and Chief Executive Officer of CBC/Radio-Canada, Hubert Lacroix, said that he was concerned about the convergence of businesses and technologies in the communications and media industry. Because it is a publicly owned corporation, CBC/Radio-Canada is not vertically integrated:

> CBC/Radio-Canada is now the only national broadcaster not owned by a cable or satellite company. We have concerns about the control and distribution of content by these integrated companies: how do we ensure Canadians will have equal access to a diverse range of Canadian content in this new environment?[30]

In certain markets, CBC/Radio-Canada has negotiated agreements with BDUs to distribute its signals. It says that these agreements are satisfactory overall, although it still has problems making its local programming available by satellite through BDUs:

[S]atellite subscribers in Prince Edward Island can't watch their local Charlottetown CBC station because it's not offered by either Bell Expressvu or Shaw Direct. In Quebec, Radio-Canada has six local TV stations. Bell carries only three of them on satellite. Shaw carries just one.[31]

CBC/Radio-Canada believes that satellite carriage of local television stations by BDUs must be guaranteed: "We believe the only way is through effective regulatory safeguards that ensure Canadians have access to Canadian content regardless of who owns the distribution network."[32]

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28 Ibid., 1645.

29 Ibid.

30 *Evidence*, Committee, Meeting No. 35, 40th Parliament, 3rd session, December 7, 2010, 1530.

31 Ibid.

32 Ibid.

CBC/Radio-Canada also mentioned that it believes that new platforms are a unique opportunity that allows it to reach Canadians and engage with them. One concern is that Internet service providers may reduce the broadband connection speed, which would limit access to CBC/Radio-Canada's online platforms.[33]

5. The Canadian Radio-television and Telecommunications Commission

The Committee began its study by having the CRTC Chair, Konrad Von Finckenstein, appear. He said that the Canadian radio-television and telecommunications industry is changing very quickly through the consolidation of ownership and the adoption of new media platforms. He defined vertical integration as follows:

Major transactions have produced vertical integration, that is, the ownership by one entity of both programming and distribution properties, or of both production and programming properties, or of all three—production, programming, and distribution properties together.[34]

The CRTC is questioning whether recent commercial transactions in the broadcasting industry could lead to anti-competitive behaviour. An example of such behaviour would be if a vertically integrated company gave undue preference to the services offered by its communications branch, to the detriment of outside producers. The CRTC also said that it is sensitive to the survival of the smaller broadcasters in a market filled with communications giants.

As a result, the CRTC announced on October 22, 2010 that it would hold public hearings on vertical integration in early May 2011.[35] The CRTC does not intend to intrude into the commercial environment unless absolutely necessary to achieve the purposes of the *Broadcasting Act*. In Broadcasting Public Notice 2008-4 on the diversity of voices, which was published in January 2008, the CRTC affirmed its position in favour of maintaining a diversity of editorial voices and programming choices offered to Canadians, at both a local and a national level, while encouraging a strong and competitive industry.[36]

The CRTC ended its statement by addressing the issue of the powers at its disposal when licensees do not comply with their licence conditions or with the *Broadcasting Distribution Regulations*. The CRTC would like to have the authority to impose administrative sanctions and penalties to deal with non-compliance.

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33 Ibid., 1550.

34 *Evidence*, Committee, Meeting No. 30, 40th Parliament, 3rd session, November 18, 2010, 1530.

35 CRTC, "Broadcasting Notice of Consultation CRTC 2010-783," October 22, 2010, http://www.crtc.gc.ca/eng/archive/2010/2010-783.htm.

36 CRTC, "Broadcasting Public Notice CRTC 2008-4," January 15, 2008, http://www.crtc.gc.ca/eng/archive/2008/pb2008-4.htm.

6. The Canada Media Fund and Support for Creating Canadian Content

The Canada Media Fund team appeared before the Committee to explain how the Fund works to support creating content for television and other digital platforms.

The Canada Media Fund acknowledged that the Canadian communications industry is being transformed. The percentage of funding allocations is increasingly being given to broadcasters who are part of vertically integrated groups:

For example, in the English market, if we look at the performance envelopes that we calculated for this year and apply what we know are probably going to be the new ownerships, including that of Bell, the broadcasters within those vertically integrated groups received 50% of the CMF performance envelopes. That includes Bell, obviously, for CTV; Quebecor; Rogers; and Shaw, for both Corus and CanWest. When we also consider that 35% went to CBC, that leaves 15% of our English performance envelopes allocated to 10 channels that weren't part of a vertically integrated broadcast group.[37]

Norm Bolen, President and Chief Executive Officer of the Canadian Media Production Association (CMPA), shared the concerns of the independent production sector. He said that producers are a key part of Canada's broadcasting system. The consolidation and integration of the television sector has created a severe imbalance between broadcasters and independent producers that is undermining content innovation. The CMPA made four recommendations to address the situation, one of which addresses the Canada Media Fund:

> One, recognize the imbalance that currently exists between independent producers and television broadcasters in the negotiation of rights and the detrimental effect this has on diversity and innovation in the system. Two, recommend that the Minister of Canadian Heritage issue a policy direction to the CRTC, pursuant to section 7 of the *Broadcasting Act*, requiring the commission to ensure that broadcasters have taken all appropriate steps to reach an equitable arrangement with the independent production sector regarding the ownership and exploitation of program rights. Three, support the renewal of the Department of Canadian Heritage's contribution to the Canada Media Fund on an ongoing basis. This will introduce much-needed stability in the funding system. It will also allow all stakeholders to plan long term and continue enhancing the effectiveness of the fund. Four, endorse the proposal that all distribution platforms, including those that are currently not regulated, be required to make a financial contribution to a fund to support the creation of Canadian content.[38]

The *Association des producteurs de films et de télévision du Québec* (APFTQ) agreed with the CMPA and pointed out that four large groups control six of the seven national and regional conventional networks.

37 *Evidence*, Committee, Meeting No. 31, 40th Parliament, 3rd session, November 23, 2010, 1535.

38 Ibid*.,* 1545.

They account for 80% of total revenues for optional private services. These are the same businesses that control Internet access, cable television, and mobile telephony.[39]

The APFTQ also pointed out the abusive practices of certain broadcasters when they negotiate commercial rights with producers. Some producers are being forced to agree to conditions that state they cannot negotiate contracts with other broadcasters for a set period of time.[40]

Furthermore, the APFTQ called for the CRTC to consider Internet service providers an integral part of the Canadian broadcasting system. As such, they would be required to contribute to funding the creation of Canadian content. The APFTQ believes that the Government of Canada should give the CRTC the authority to penalize broadcasters who do not respect the conditions of their licences.[41]

The issue of access to broadcasting services for people with a visual or hearing disability also came up during the Committee's meetings. Media Access Canada (MAC), which heads the Access 2020 Coalition, has a goal to make all television programs on all distribution platforms 100% accessible by 2020. MAC called on the CRTC to set accessibility requirements for broadcasting services when the CRTC considers transfer and acquisition requests for media property.[42]

Ferne Downey, National President of the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), confirmed that vertical integration is the new reality. A strong regulatory framework is necessary so that Canadians have access to a diversity of independent and Canadian voices. Ms. Downey suggested four fundamental measures to ensure Canadian content is not lost:

> One, effective and enforceable regulation of broadcasting on both conventional and digital platforms; two, maintain Canadian control of our telecommunications corporations; three, increase public and private investment in the production of new Canadian content; and lastly, support independent and local voices.[43]

Of course, the CRTC tried to intervene in 2008 when it issued its regulatory policy on the diversity of voices. However, ACTRA believes this policy is ineffective and that the CRTC should be able to impose more severe fines. It suggested that the CRTC should adopt a more aggressive approach to ban exclusive content deals, and to ensure that separate management structures are in place for the various departments of a media corporation:

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39 Ibid*.,* 1630.

40 Ibid*.,* 1715.

41 Ibid*.,* 1645.

42 *Evidence*, Committee, Meeting No. 34, 40th Parliament, 3rd session, December 2, 2010, 1635.

43 *Evidence*, Committee, Meeting No. 35, 40th Parliament, 3rd session, December 7, 2010, 1635.

These conglomerates should not be able to lock down content, especially when taxpayers have paid for it. We would also like to see a mandate that vertically integrated companies maintain separate management structures for cable, satellite, broadcasting, and telecommunications operations.[44]

ACTRA also recommended that all Internet service providers be required to contribute to the creation of Canadian content by paying a percentage of their revenues to the Canada Media Fund.[45]

The Communications, Energy and Paperworkers Union of Canada (CEP) does not believe that vertical integration has been beneficial for Canadians: "programming employment, spending on local programs, and local broadcast hours have all dropped as ownership has concentrated." [46] CEP challenged the CRTC's motivation to regulate the sector. CEP Vice-President Peter Murdoch made a strong statement to this effect, even going so far as to question the CRTC's transparency:

> We have learned that the CRTC has spent $2.7 million on consultants and research since January 2007. Yet, as our table shows, it has not undertaken or commissioned any research on the impact of concentrated ownership, or on cross-media ownership, or on BDU ownership of programming services. It has not researched integration's impact on programming investment, and does not know how many broadcast news bureaus exist, or how many reporters work in broadcasting. It has not measured diversity in news or the impact of diversity of voices policy. So how can the CRTC or Canadians understand the impact of vertical integration? The CRTC won't even release the raw data needed to prove why or when regulation works. This is partly because it cannot. The CRTC recently destroyed most of its own data, from 1968 to 1990. Since 2007, it has opposed requests to access the data it still has.[47]

CEP is not calling for an abrupt end to vertical integration; rather, it is calling for studies to be carried out based on solid empirical data with a view to understanding the impacts of vertical integration:

> [W]e recommend that Canada obtain research explaining the dynamics of ownership, and media content. We propose a creation of a national, independent policy research institute to undertake impartial, quantitative research on electronic media regulation and policy.[48]

The Canadian Media Guild called on the federal government and Parliament to actively intervene so that Canadians can continue to benefit from a diversity of voices in the media. It called for a rule requiring the separation of operations and management between content distribution and programming elements within a single company, and for

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44 Ibid., 1640.

45 Ibid.

46 Ibid.

47 Ibid.

48 Ibid.

measures enabling the CRTC to act on infringements against this rule.[49] The Guild also called for increased investment in local programming, in particular through the Local Programming Improvement Fund. It believes that proceeds from the spectrum auction for licences that were freed up due to the shift toward digital should be considered as a source of funding to improve local programming and increase the financial resources available to CBC/Radio-Canada.

The Executive Director of the Writers Guild of Canada, Maureen Parker, asked the Committee to think of the Canadian broadcasting system as:

> one integrated system that can offer Canadians a wide variety of Canadian programming on any platform that they choose. To do otherwise is to undermine the goals of the *Broadcasting Act*.[50]

7. The Committee's Recommendations

The Committee is grateful for the informed testimony it heard, and would like to thank the witnesses for all their hard work. On March 9, 2011, the Committee adopted the following recommendations:

Recommendation 1

That the Government of Canada ensure that taxpayer-supported content be available on as many distribution platforms as possible.

Recommendation 2

That the Government of Canada consider the issue of fair terms of trade between independent producers and vertically integrated media companies when reviewing the Canada Media Fund.

Recommendation 3

That the Canadian Radio-television and Telecommunications Commission establish timely deadlines for Canada's communications system to be fully accessible to persons with visual and auditory disabilities.

Recommendation 4

That the Canadian Radio-television and Telecommunications Commission examine the growing emergence of non-Canadian broadcast players in the new digital realm and initiate a public consultation process to determine whether and how such non-Canadian companies should support Canadian cultural programming.

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49 Ibid., 1650.

50 Ibid., 1700.

Recommendation 5

That the Government of Canada reaffirm the importance and necessity of Canadian control and ownership of Canadian broadcasting.

APPENDIX A
LIST OF WITNESSES
Third Session, 40th Parliament

Organizations and Individuals	Date	Meeting
Canadian Radio-television and Telecommunications Commission	2010/11/18	30
Konrad W. von Finckenstein, Chairman		
Rita Cugini, Acting Vice-Chair, Broadcasting		
Scott Hutton, Executive Director, Broadcasting		
Independent Broadcasters Group		
Bill Roberts, President and Chief Executive Officer, ZoomerMedia Limited, Television Division		
Joel Fortune, Barrister and Solicitor, Joel R Fortune Professional Corporation		
Suzanne Gouin, President and Chief Executive Officer, TV5 Québec Canada		
Monique Lafontaine, Vice-President, Regulatory Affairs, ZoomerMedia Limited		
Newcap Inc.		
Mike Keller, Vice-President, Industry Affairs, Newcap Broadcasting (Jim Pattison Group)		
Stornoway Communications		
Martha Fusca, President		
Association des producteurs de films et de télévision du Québec	2010/11/23	31
Suzanne D'Amours, Consultant		
Claire Samson, President and Chief Executive Officer		
Canada Media Fund		
Stéphane Cardin, Vice-President, Industry and Public Affairs		
Sandra Collins, Vice-President, Finance and Administration		
Valerie Creighton, President and Chief Executive Officer		
Canadian Media Production Association		
Norm Bolen, President and Chief Executive Officer		
Reynolds Mastin, Counsel		
Corus Entertainment Inc.		
Sylvie Courtemanche, Vice-President,Government Relations		
Gary Maavara, Executive Vice-President and General Counsel, Corporate		

Organizations and Individuals	Date	Meeting
Bell Canada	2010/11/25	32
Mirko Bibic, Senior Vice-President, Regulatory and Government Affairs		
CTV Inc.		
Paul Sparkes, Executive Vice-President, Corporate Affairs		
Rogers Communications Inc.		
Kenneth Engelhart, Senior Vice-President, Regulatory		
TELUS Communications		
Michael Hennessy, Senior Vice-President, Regulatory and Government Affairs		
Canadian Association of Community Television Users and Stations (CACTUS)	2010/12/02	34
Catherine Edwards, Spokesperson		
Media Access Canada		
Beverley Milligan, President		
Yves Séguin, Acting Project Manager, French Language Descriptive Video Working Group		
Pelmorex Media Inc.		
Luc Perreault, Vice-President, Communications and Regulatory Affairs		
Paul Temple, Senior Vice-President, Regulatory and Strategic Affairs		
Shaw Communications Inc.		
Charlotte Bell, Vice-President, Regulatory and Government Affairs, Shaw Media		
Peter Bissonnette, President		
Michael Ferras, Vice-President, Regulatory Affairs		
Ken Stein, Senior Vice-President, Corporate and Regulatory Affairs		
Alliance of Canadian Cinema, Television and Radio Artists	2010/12/07	35
Joanne Deer, Director, Policy and Communications		
Ferne Downey, National President		
Canadian Media Guild		
Marc-Philippe Laurin, President, CBC Branch		
Karen Wirsig, Communications Coordinator		

Organizations and Individuals	Date	Meeting
CBC/Radio-Canada		
Hubert T. Lacroix, President and Chief Executive Officer		
Sylvain Lafrance, Executive Vice-President, French Services		
Kirstine Stewart, Interim Executive Vice-President, English Services		
Communications, Energy and Paperworkers Union of Canada		
Monica Auer, Legal Counsel		
Peter Murdoch, Vice-President, Media		
Writers Guild of Canada		
Kelly Lynne Ashton, Director, Policy		
Maureen Parker, Executive Director		

APPENDIX B
LIST OF BRIEFS
Third Session, 40th Parliament

Organizations and Individuals
Canadian Media Guild
Canadian Olympic Committee
Communications, Energy and Paperworkers Union of Canada
Media Access Canada
Quebecor Media Inc.

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (Meeting Nos. 30, 31, 32, 34, 35 and 46) is tabled.

Respectfully submitted,

Hon. Michael Chong, M.P.

Chair

<u>BLOC QUÉBÉCOIS DISSENTING REPORT</u>

"This report does not address Quebec's issues and problems"

While the initial title of the study was *Impacts of Private Television Ownership Changes and the Move Towards New Viewing Platforms*, committee evidence and the Committee's concerns focused on the emergence of vertically integrated companies across Canada, mostly excluding Quebec.

The fact that Quebecor did not have the opportunity to appear before the Committee, despite the insistence of the Bloc Québécois representatives, seriously undermines the validity of this report's recommendations. Quebecor's brief, while very relevant, was too short, and it prompted questions that deserved to be fully explored. As it was not possible to receive any further clarification from Quebecor, this report is incomplete.

Furthermore, if Quebecor had appeared before the Committee, other actors in the Quebec broadcasting industry would have appeared as well. For example, ACTRA appeared, but not the *Union des artistes* (UDA), CACTUS appeared, but not the *Fédération des télévisions communautaires autonomes du Québec*, etc.

Quebecor acquired TVA and Vidéotron in 2001. It has 10 years of experience with vertical integration, which is far more than any other Canadian media company. All the observers agree that Quebecor dominates the Quebec media market, not only through TVA, its general-interest television network, but also through Vidéotron, its cable and internet services, as well as through its specialty channels, daily newspapers (*Le Journal de Montréal* and *Le Journal de Québec*) and magazines.

As Quebecor and other important Quebec stakeholders were unable to testify, the report and its recommendations reflect the experience and vision of Canada only. This report does not address Quebec's issues and problems.

Transferring Jurisdiction to Quebec

The Bloc Québécois would like to reiterate its belief that jurisdiction over the arts, culture, telecommunications and broadcasting should be transferred to the Government of Quebec, as the National Assembly has always called for. The current Conservative Minister of Foreign Affairs, Lawrence Cannon, called for this jurisdiction as well, when he was a minister in Quebec’s Bourassa government.

On March 23, 2009, Quebec’s Minister of Culture and Communications, Christine St-Pierre, wrote to federal Minister of Canadian Heritage, James Moore, on behalf of the Government of Quebec, saying “*Entering into a communications agreement would guarantee that Quebec's specific content would be taken into account more in broadcasting and telecommunications*.”

In 2010, the Quebec Minister responsible for Canadian Intergovernmental Affairs, the late Claude Béchard (MNA for Rivière-du-Loup), repeated the Quebec government’s wish to have the Constitution reopened in order to give Quebec full jurisdiction over culture and communications (*Le Devoir*, “Québec veut rouvrir la Constitution,” June 19, 2010).

> *“We are working hard on a new approach to conclude bilateral negotiations with the federal government in order to obtain certain constitutional amendments,” said Béchard. These amendments would address culture and communications. “Regarding being a nation, it could be beneficial to see that enshrined in the Constitution,” he added.* [Translation]

The vitality of Quebec culture is needed to strengthen the Quebec nation. That is why it is important for Quebec to have control of the promotion and broadcasting of Quebec culture, which reflects its identity, its language and its values. The Quebec nation must control all the instruments that contribute to the development of its culture, just as the Canadian nation is able to do through the CRTC.

With an administrative agreement, Quebec could create a Quebec Radio-television and Telecommunications Commission (QRTC) that would have its own regulations to protect the interests and address the concerns of the Quebec nation.

The Bloc Québécois believes it is unacceptable that the study on the *Impacts of Private Television Ownership Changes and the Move Towards New Viewing Platforms* will affect the future of Quebec television, and therefore Quebec culture, without the Committee having heard from the key players in the Quebec broadcasting industry.

Quebec’s unique situation requires Quebec-specific solutions. In this situation, it would mean that decisions on the vertical integration of the media would be made by Quebeckers based on Quebec’s interests.

In a sovereign Quebec, the Quebec nation would have the full authority to adapt its policies and regulations to the interests of the nation.

Carole Lavallée
MP for Saint-Bruno–Saint-Hubert
Bloc Québécois Heritage Critic

Roger Pomerleau
MP for Drummond
Bloc Québécois Deputy Heritage Critic

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