

Public Hearing CRTC 2010-926

Application By BCE Inc. For Authority To Change The Effective Control Of CTVGlobemedia Inc.

Notes prepared for Presentation of Dr. Gregory Taylor

Feb 3, 2011

Good afternoon Mr. Chair and Commissioners,

Thank you for the opportunity to speak today. My name is Dr. Gregory Taylor. I'm a postdoctoral fellow at Ryerson University's Broadband Research Program and I have spent most of the last three years studying and writing about digital television. In this past year I have written a book entitled *Shut Off: the Canadian Digital Television Transition* (currently under review with a major Canadian Press) and my PhD dissertation at McGill University was entitled *Canadian Broadcasting Regulation and the Digital Television Transition*. I have published on this topic in newspapers and academic journals and in 2010 I addressed the Upper Canada Law Society Conference: *New Developments in Communications Law and Policy* on the topic of the future of over-the-air television.

It is on the topic of over-the-air television that I wish to speak today. As Canada's largest private broadcaster, the approach to OTA television taken by CTV has great implications for the success of the overall transition. Despite BCE's assertion that their proposed benefits package will assist in making that conversion "*a smooth one*", it does very little to ensure that OTA continues to make a significant contribution to the Canadian broadcasting system. Yes, they have announced they will upgrade the transmitters on the A stations, but they have made this offer before. In a July, 2010 letter to the CRTC, CTV vice president Kevin Goldstein wrote: "At this time, we have budgeted to convert all transmitters in mandatory markets for both our CTV and 'A' stations." The letter adds that this will be influenced by the outcome of the fee-for-carriage hearings. The transition of all OTA transmitters should not be open to negotiation.

Among the conclusions of my research is that the digital television in Canada, in particular the OTA sector, currently finds itself on very shaky footing because it remained an industry-guided affair for far too long. By the time the CRTC took some degree of control by establishing the analogue shut-off date in 2007, Canada's transition was already well behind schedule. I am not alone in making this observation: industry insiders like Michael McEwen and journalists like Greg O'Brien have been making the same point for years. The August 31, 2011 deadline is fast approaching and I am convinced many Canadians are ill-prepared. I currently teach a third year communications course at Concordia University in Montreal and the overwhelming majority of my students (mostly communications majors) had no idea the digital transition was scheduled for

this year or that digital OTA is even an option. The proposed regulations for the digital TV conversion do not go far enough to ensure Canadians will be well informed of the transition and how it will affect them.

I request that the CRTC use a portion of the benefits package from the Bell purchase of CTV to support the establishment of a body to oversee a national awareness campaign for the digital television transition. This is not a proposal to be considered at an undisclosed future date – the time for establishing this organization is now. I know the Commission has made efforts to move this process forward and has recommended that the government co-ordinate and fund a national consumer awareness program. The government, as it has done throughout the digital television transition, has taken no initiative.

The body I request would be what Digital UK refers to as a *single-purpose organization*. Such a campaign should be mounted immediately under the leadership of the CRTC, with additional representation from public, private and community broadcasters, Heritage Canada, consumer groups, and other industry stakeholders. This proposal for the Bell tangible benefits contribution would enable the Commission to undertake directly the work of convening and financing the campaign implemented by the group. The CRTC has an obligation to make sure the broadcasting system runs properly and will be entirely within its mandate to establish such an organization.

At the very least, Canada must provide a detailed website (the current site run by Industry Canada is inexcusably weak) and a call centre for citizens with questions. This could be an ideal summer position for an undergraduate student interested in communication policy. There also needs to be PSAs to be aired by all broadcasters to provide an overview of the transition and suggestions on where to find further information. It is inappropriate to leave it solely to broadcasters to communicate the changes to the OTA sector given that increasingly their corporate parents have an interest in shifting over-the-air viewers to BDU subscriptions.

I am sympathetic to the position of the CRTC since the 2006 Order in Council requiring market forces to determine most decisions. The CRTC has already made concessions to ease the transition for the broadcasting industry: the original insistence of an all-HD transition was changed in 2008, and most importantly in Broadcasting Regulatory Policy 2009-406 the CRTC has changed the switch to digital from a nation-wide shut-off, as in the US, to only requiring specified urban centres. In the Shaw purchase of Global earlier this year, a new precedent was set requiring Shaw to complete the transition to digital broadcasting outside mandatory markets within five years. The Canadian digital television transition has backpedalled enough.

I request the CRTC maintain the usual 10% public benefits package in this transfer of ownership and I urge the CRTC to refuse to accept upgrades to Bell's private services as public benefits. In

the 1999 Building On Success - A Policy Framework For Canadian Television, the Commission wrote: *“The Commission recognizes that the cost of digital transition will be significant for broadcasters, cable and, to a lesser extent, program producers. The consensus among participants was that the cost of digital conversion is a cost of doing business”*. This was reiterated in the 2006 Regulatory framework for the licensing and distribution of high definition pay and specialty services which states *“In the Commission's view, the cost of the transition to HD is a cost of doing business for both distributors and programmers”*. In its proposed benefits package Bell states *“increased HD conversion and exhibition capacity would not be possible in the near future without dedicated benefits funding given the extensive capital upgrades that broadcasters are obligated to make to ensure digital transition”*. Again I ask the Commission to hold to its original statement that expenses associated with the digital transition is the cost of being a Canadian broadcaster in the 21st century.

Remaining questions:

There are two overarching questions which will inevitably greet this proposal: one concerning the amount requested, and the other concerning the audience for OTA broadcasting.

First, I will concede I am uncertain if the \$10 million requested will be sufficient to mount an effective campaign; however, I am quite certain that there is enough money in the 10% benefits package to run the public outreach program that the industry has long resisted. I invite you and others in the room today to look at the efforts in the US, UK, France, Australia and draw your own conclusions on the state of our transition.¹

I am not asking for the \$1.5 billion the US set aside for coupons for set top boxes, nor the 277 million Euros requested by the French Prime Minister. I do not have expertise in funding public awareness campaigns and I would welcome a financial reassessment of this proposal by the commission. I propose we cover PSA announcements, a call help centre and clear and helpful website – this seems to me the bare minimum to run a public outreach on this significant moment in Canadian communication.

The second point concerns the audience for OTA and the oft-quoted number that more than 90% of Canadians receive television via a BDU. It is ironic that, of all television delivery systems, the beleaguered OTA sector in Canada potentially stands to benefit most from the transition to digital in terms of quality of product. The accuracy of the 90% number has been repeatedly called into question and it has been demonstrated to fluctuate by region and city. Whatever the number, it should not be required that Canadians purchase BDU services in order to access the medium of television. The newly converged, BDU-dominated Canadian broadcasting market will not support OTA without encouragement from the regulator. Since the completion of the American digital transition in 2009, the Los Angeles Times and New York Times have each run

stories about the resurgence of OTA in their markets.² It may be too early to ring the death knell of the OTA sector.

In the end, if the OTA numbers are truly too low to be financially viable and broadcasters keep demanding concessions for use of public air space, then perhaps the CRTC should consider ending OTA altogether and asking broadcasters to surrender the 6 MHz of frequency they have been allotted so that it may be auctioned. I suspect broadcasters will not embrace this idea. It must be reinforced that 6 MHz of spectrum is a significant public trust.

Conclusion:

In conclusion I would like to express my support for the Chair, when he said in a 2008 speech in Cambridge Ontario:

I would like to make the CRTC's position very clear. Over-the-air transmission has always been the cornerstone of our broadcasting system. We expect that OTA will move to digital and will continue to play that key role. It is here to stay...

Among the benefits proposed for the Shaw purchase of Global, I would like to commend the Commission on encouraging multiplexing in the context of the transition of its transmitters outside mandatory markets. This is a position I have advocated for years. I believe the same must be asked of Bell. I would also like to add my voice my support for the CACTUS proposal, as well as the PIAC submission for the creation of a fund to support public participation in policy hearings. It is important to have a wide range of voices to truly gage the scope of opinion. Citizens should not be financially penalized for participating in a public forum.

I thank you for your time today.

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¹ See <http://dtv.gov/> (US); <http://www.digitaluk.co.uk/> (UK); <http://www.tousaunumerique.fr/> (France); <http://www.digitalready.gov.au/> (Australia)

² Sarno, David. "Rabbit Ears Make Comeback in Digital TV Era." *Los Angeles Times*, (December 25, 2009) <http://articles.latimes.com/2009/dec/25/business/la-fi-rabbit-ears25-2009dec25> ; and Richtel, Matt, Jenna Wortham. "Rabbit Ears Perk up for Free HDTV." *New York Times* (December 5, 2010) <http://www.nytimes.com/2010/12/06/business/media/06rabbitears.html> .