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SUBMITTED VIA WEB FORM AND EMAIL

Amy Awad
Director General, Digital and Creative Marketplace Frameworks
Department of Canadian Heritage
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RE: Unifor comments on *Canada Gazette, Part I, Volume 157, Number 23: Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*

Dear Ms. Awad,

Thank you for the opportunity to provide comment on the draft policy directions, *Canada Gazette, Part I, Volume 157, Number 23: Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*.

Executive summary

Unifor is Canada's largest private sector union, with more than 315,000 members across Canada working in 20 economic sectors. Unifor is one of Canada's largest unions in the media sector, representing more than 10,000 media workers, including 5,000 members in the broadcast and film industries.

Our members work for radio and television stations serving local communities as well as national discretionary pay and specialty services, as well as distribution services that include cable, satellite and wireless telephony.

Unifor members are employed by large, private Canadian broadcasters and distributors, including Canada's largest Vertically Integrated (VI) firms: Bell Media (e.g. CTV), Shaw (e.g. Global) and Rogers (e.g. City and OMNI stations). As well, Unifor members work for independently-owned and locally-based television stations (such as CHCH TV in Hamilton, Ontario and CHEK in Victoria, BC) as well as public television stations (e.g. TV Ontario). Unifor members are anxiously anticipating the results of this hearing, as are many workers whose livelihoods are tied to the local television industry.

Local news holds power to account, strengthens democracy and builds community, and it has never been more important. However, we are at a crossroad. Traditional Canadian broadcasters, those who deliver our local television news, are in decline, while foreign streamers seem to be dominating the market. This isn't simply a function of a change in viewer habits, but more a function of a distribution method of television that changed and made it difficult for regulators to keep the system Canadian.

The creation of locally relevant programming, including local news, has always been a key component of Canadian broadcast policy. The revenue generated through the distribution of foreign (mostly American) broadcast content, was used by Canadian broadcasters to fund local programming and local news. This cross-support model was the main funding vehicle for local news for decades.

However, allowing foreign digital streaming services to sell programs directly to Canadians has up-ended the traditional funding model that supported broadcast TV for decades, and it is clear that Canadian broadcasting policy must be updated to reflect the new media landscape.

The other pressure on local news is the loss of advertising, and this issue is separate from the regulation issues in television. For years, Unifor has been advocating for an updated legislative and regulatory framework for Canada's media sector. Specifically, we have called for a new financial model that would require digital giants like Facebook and Google to pay their fair share and support the creation of Canadian cultural content, including local programming and local news. We have been actively involved in the development of the *Online Streaming Act* and the *Online News Act*, and we believe these pieces of legislation will provide important new funding streams for Canadian news outlets.

Unifor has consistently argued that leveling the playing field should be the priority for the new funding framework arising from the *Online Streaming Act* and the *Online News Act*, and related regulations. Legislators and regulators should maintain consistent and high standards for broadcast policy, especially for funding and expenditure obligations, rather than watering them down to improve corporate bottom lines and shareholder returns.

Unifor is concerned about one of the key elements of the proposed directions, specifically the direction regarding, "[c]reating an equitable, flexible and adaptable regulatory framework." The union urges caution regarding the notions of "flexibility and adaptability," as these can sometimes create loopholes that allow regulators to lower standards and abandon best practices. Both traditional broadcasters and digital undertakings – including the foreign digital giants – will no doubt emphasize the need for flexibility and adaptability.

However, in the quest for flexibility and adaptability, we must not stray from the foundational goals and principles of Canadian broadcast policy: the development and widespread distribution of Canadian cultural content, and the encouragement of

Canadian expression through a wide range of available and accessible programming that reflects linguistic, regional and cultural diversity.

Issues

In the Issues section, Unifor respectfully recommends that “local news” be named specifically in the final sentence, so it reads:

The *Online Streaming Act* and the subsequent policy directions are needed to ensure that those who benefit from the Canadian marketplace are also required to contribute proportionately to local cultural production, thereby upholding support for a wide range of Canadian music, **local news**, stories, and creators.

The protection and promotion of Canadian culture has been a foundational goal throughout the history of broadcast legislation in this country, and the creation of locally relevant programming, including local news, has always been a key component of this overall policy goal. The need for high quality, first-run, professional local news has never been more apparent, and Unifor believes that updated broadcast policy should specifically reference the need to support and promote local news as a foundational goal.

Background

The BTLR report also spelled out the causes of the funding crisis for news in Canada, specifically local television news, and recommended the following:

Recommendation 71: We recommend that the CRTC consider that some or all of the levies on media aggregation and media sharing undertakings contribute to the production of news content. These contributions would be directed to an independent, arm's length CRTC-approved fund for the production of news, including local news on all platforms. We further recommend that the CRTC consider redirecting a greater portion of the levy currently paid by broadcasting distribution undertakings to this same fund for the production of news.

Unifor would like to respectfully remind the federal government that the BTLR report recognized the need for a new funding model *specifically for the production of news content*.

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General

As outlined in Unifor's comments above, we believe that all updated broadcast policy should specifically reference and prioritize the need to support and promote the production of locally relevant program, and specifically local news. Given that goal, Unifor respectfully requests that the policy directions include the production of local news as an important element when determining if broadcasting undertakings are of exceptional importance.

Regulation

Regarding Section 6: "Discoverability and showcasing," in Unifor's experience, outcome-based policies and regulations can have value, but need to be tied to the collection and public availability of data, including financial performance and operating information, a subject also explored in Section 18. Policy objectives and outcomes need to be measured, so collecting and distributing a wide and thorough sample of detailed data, over a long period of time, is the only way to properly measure outcomes. Failure to properly collect and disseminate this data will undermine any outcome-based regulations.

Regarding Section 8: "Flexible and adaptable regulatory framework," Unifor has already commented on our concerns with the call for more flexibility and adaptability. The union believes that leveling the playing field should not include eliminating that playing field. Unifor would likely to respectfully remind the federal government that the *Online Streaming Act* included language that would provide private broadcasters with relief from Part II fees associated with the Broadcasting Act. This money – which totals approximately \$120 million annually – could be used by those private broadcasters to offset losses arising from their news operations.

However, despite this relief, many broadcasters responded with more layoffs and requests and further regulatory relief. Unifor respectfully recommends that, until the full impacts of the *Online Streaming Act* and *Online News Act* are known and analyzed, all calls by broadcasters to relieve them of their regulatory obligations to produce and fund Canadian content, including local news and programming, should be rejected. Again, Unifor believes that "levelling the playing field" with online undertakings should not involve watering down existing standards and conditions. Bell Media has already quoted this policy directive to support its Part 1 application to reduce – and in our estimation severely weaken – local news in Canada, and cause irreparable damage to our democracy.

Section 12(g) directs the CRTC under section 11.1 of the current *Act* to "consider the need for sustainable and predictable funding to support participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under the Act;"

Unifor supported the amendment to the current *Broadcasting Act* that now enables the CRTC to ensure support for public-interest participants by regulation.

Specifically, subsection 11.1(c) says that “The Commission may make regulations respecting expenditures to be made by persons carrying on broadcasting undertakings for the purposes ofsupporting participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under this Act;”

In our experience, the experience and evidence brought forward by public-interest participants is essential to providing the Commission with a more complete public record from participants focused on Canadians’ needs and concerns. Such groups have, for example, undertaken surveys to measure Canadians’ views on the importance of certain broadcast policy initiatives, including those related to local news.

While we therefore agree with the reference to “sustainable and predictable funding” for public-interest participation in the proposed direction in 12(5), we are concerned that the direction is actually instructing the CRTC only to “consider” whether this funding is needed.

Our members do not believe that there is any need for the CRTC to think about whether public-interest participants need regulations for sustainable and predictable funding.

What public-interest participants actually need is for the CRTC to *immediately* launch a consultation on this point and then to enact regulations as quickly as possible thereafter so that public-interest organizations are able to participate in the next several years of CRTC proceedings to implement Bills C-11 and -18.

We therefore propose that proposed section 12(g) be amended as follows:

12 In exercising its powers under section 11.1 of the Act, the Commission is directed to

....

(g) [hold a public consultation on this issue so as to] implement sustainable and predictable funding to support participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under the Act;

Regarding Section 12(i), Unifor recommends that the word “consider” be changed to “prioritize, so that passage reads:

(i) **prioritize** the importance of sustainable support by the entire Canadian broadcasting system for news and current events programming, including a broad range of original, first run, local and regional news and community programming; and

The word “considers” is not strong enough, given the importance of local news to a healthy and thriving democracy. Updated broadcast policy must make the support and

promotion for local news an explicit priority. As noted above, Recommendation 71 of the BTLR report makes the case for a new and sustainable funding stream specifically for the production of news.

Regarding Section 12(j) Unifor again respectfully urges caution when we talk about flexibility. Regulators must ensure that we don't trade off core responsibilities like funding Canadian content and local news, with less core activities like those in (j), including "Training and conferences."

Information and Implementation

Unifor believes that Section 18: "Information — policy objectives" is critical to the overall effectiveness of the new broadcast policies and regulations. To reiterate, outcome-based policies and regulations can have value, but need to be tied to the collection and public availability of data, including financial performance and operating information. Policy objectives and outcomes need to be measured, so collecting and distributing a wide and thorough sample of detailed data, over a long period of time, is the only way to properly measure outcomes. Failure to properly collect and disseminate this data will undermine any outcome-based regulations.

Unifor recommends that the federal government and the CRTC should undertake additional stakeholder consultations to determine what criteria should be monitored and reported. That list could include, but is not limited to such elements as:

- The number of employees working directly in the production of news, listed by local outlets across the country, listed by general job category (in-house operations, filed operations, etc.)
- The locations of local outlets and operations where news is being produced
- Total spending on the production of news, broken down by location and outlet

Regarding Section 19: "Implementation," the CRTC's 3-step framework will create significant delays in the implementation of the *Online Streaming Act* and getting money into the system. The Commission has indicated that they intend to prioritize initial contributions, but there is nothing in the *Broadcasting Act* or the draft policy direction requiring this. Unifor respectfully recommends amending Section 19 as follows:

The Commission is directed to make changes to its regulatory framework that are necessary for the purposes of the implementation within two years after the day on which it comes into force. In doing so, the Commission is directed to prioritize the implementation of **significant initial contribution requirements on online undertakings pursuant to section 4 and as well as** sections 13 to 16, and to ensure that changes to its regulatory framework are made as soon as feasible and on a continual basis during that two-year period.

Conclusion

The *Online News Act* and the *Online Streaming Act* represent generational opportunities to update and improve Canadian media policy, especially regarding the support and promotion of local news and programming.

Unifor has consistently argued that leveling the playing field should be the priority for the new funding framework arising from both pieces of legislation and related regulations. Legislators and regulators should maintain consistent and high standards for broadcast policy, especially for funding and expenditure obligations, rather than watering them down to improve corporate bottom lines and shareholder returns.

Unifor is available if you have further questions or seek additional comments.

Thank you again for the opportunity to comment on this important matter.

Sincerely,

Randy Kitt

Randy Kitt
Media Director, Unifor