

Unifor intervention on Rogers Broadcasting Limited application for license renewal, multiple stations

CRTC Broadcasting Notice of Consultation
2014-26



Submission by Unifor

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Submitted by:

**Howard Law, Unifor Media Director; Randy Kitt, Unifor Media Council
Chair; and Angelo DiCaro, Unifor Research Department**

Executive Summary

1. Unifor is Canada's largest union in the private sector, representing more than 300,000 workers across a diverse range of economic sectors. Unifor represents approximately 550 workers employed by Rogers Media Incorporated (RMI), including under its Rogers Broadcasting Limited (RBL) division. Unifor members work at the company's English-language conventional television stations, multilingual ethnic television stations and speciality television services whose license are currently up for renewal.
2. The terms outlined in the Rogers Broadcasting Limited (RBL) application for license renewal of 17 of its English-language conventional television stations, certain specialty stations and multilingual ethnic television stations raise concerns, and will significantly limit access to quality local programming, especially that which services a diverse range of ethnic communities in major metropolitan centres.
3. The cumulative effect of recent program and staff cuts announced by RBL is limiting access to quality, locally-produced (in-house) ethnic programming for established Canadian ethnic and newcomer communities. Both local and ethnic programming plays a unique and important role in Canadian society.
4. Through its licenses, RBL has been granted the privilege to serve these communities in an exclusive way, by way of free OTA broadcasting for many years. But quality and inclusive ethnic programming – as required by the Commission's Ethnic Broadcasting Policy - cannot be achieved in the face of the severe cuts we have seen in recent years (including those cuts announced on May 30, 2013 that prompted a formal complaint filed by Unifor's predecessor union, the CEP), and that will come as a result of RBL's proposed licensing amendments.
5. Unifor outlines three major areas of concern regarding RBL's proposed amendments to the group-based license (including City stations and specialty stations) and the multilingual ethnic television license (OMNI stations);
 - a. The negative impact on ethnic programming is great and threatens to undermine key elements of the Ethnic Broadcasting Policy (EBP);
 - b. RBL has not been forthcoming with the Commission, or the public, with respect to its future conventional television and ethnic television programming plans;
 - c. RBL maintains privileged access to Over-the-Air (OTA) ethnic television audiences and, through that privilege, has an important responsibility to provide quality local programming to communities.

6. Unifor offers the following recommendations to the Commission on RBL's application for license renewal:
 - a. The CRTC must request an audited, detailed and comprehensive disclosure of financial information;
 - b. The CRTC must maintain the existing Conditions of License and require Rogers to restore cuts, rehire laid-off employees, if financial challenges are overstated and cyclical in nature;
 - c. The CRTC should provide measured and time-limited relief of the COL if the Commission deems that a business failure is imminent and that the challenges are structural;
 - d. No condition of license should be renewed at CJEO and CJCO without restoring local programming cuts and the requisite number of jobs to put "boots on the ground." If no commitment made, revoke the license;
 - e. Preserve the current COL requirements for OMNI broadcasting to distinct ethnic groups and in distinct languages. Unifor, however, would endorse raising the cap on single foreign language programming from 16% to 30%;
 - f. Require RBL to retain Advisory Boards, as per the Ethnic Broadcasting Policy;
 - g. The Commission should not support Rogers' request for relief from its Terms of Trade obligations.
 - h. The Commission should not accept Rogers' proposal for a trade-off between increased PNI expenditure requirements and its commitments to local programming for its City stations. The Commission should rather expand existing local programming requirements to 20 hours per week for metropolitan markets (14 for non-metropolitan markets), under Rogers' condition of license for City stations; and
 - i. The Commission should consider a staggered approach to 2016 group-based license renewals that encourage participation among interest stakeholders.

I - Introduction

7. Unifor is Canada's largest union in the private sector, representing more than 300,000 workers across a diverse range of economic sectors. Unifor was formed through the merger of the Communications, Energy and Paperworkers Union of Canada (CEP) and the Canadian Auto Workers union (CAW-Canada) on August 31, 2013. Unifor's founding convention was held during the 2013 Labour Day weekend in Toronto.
8. Unifor represents thousands of Canadians employed in the media sector. This sector includes the print newspaper, graphical/commercial printing, film and broadcast industries. Unifor members create and distribute Canadian programming content in communities and across the country. Our members work for radio and television stations serving local communities as well as national discretionary pay and specialty services, and distribution services that include cable, satellite and wireless telephony.
9. Unifor represents approximately 550 workers employed by Rogers Media Incorporated (RMI), including under its Rogers Broadcasting Limited (RBL) division. Unifor members work at the company's English-language conventional television stations, multilingual ethnic television stations and speciality television services whose license are currently up for renewal.
10. Specifically, Unifor members work at English-language conventional stations CITY (Toronto), CKVU (Vancouver) and CHMI (Portage La Prairie); multilingual ethnic television stations CFMT (OMNI 1 – Toronto), CJMT (OMNI 2 – Toronto) and CHNM (OMNI BC – Vancouver); and at speciality Category C television service Rogers Sportsnet.
11. This renewal application comes at a time of uncertainty around the future of Canada's television broadcast sector. Canadian television viewing habits are slowly changing, facilitated by the growing prevalence of new broadcast technologies (including online streaming and unregulated over-the-top services). Increasingly, Canadian viewers expect content that is available 'on-demand' and are asking for greater choice and responsiveness to viewer preferences, among other matters of interest.¹ This period of transformation in television broadcasting has prompted the CRTC to host an important national conversation about the future of television, a conversation that is ongoing.

¹ See discussion in Let's Talk TV: A report on comments received during Phase 1 (accessed online at www.crtc.gc.ca on January 29, 2014).

12. Interestingly, (but not surprisingly), Canadians who participated the Commission's consultation did so from the perspective of citizens, emphasizing the importance of broadcasting on enhancing participatory democracy. According to the Commission:

“(Participants) also say that the broadcasting system should be more responsive to their needs as citizens including access to content to facilitate their participation in the democratic and cultural life of their country, region or city. This includes content for those in official language minority communities, in third-languages, and for persons with disabilities.”

13. We raise this point as it serves to reinforce Unifor's constant argument on the need for Canadian broadcasters to enhance and expand original local programming (including local news programming), making that programming accessible to local audiences and in a manner that is both reflective of and responsive to those audiences.²

14. We also raise this in conjunction with RBL's current application for license renewal, as it focuses predominantly on matters related to the future of local, multilingual and ethnic community programming (among other issues) in Canada. The proposed changes to the Conditions of License (COL) sought by RBL for its OMNI stations as well as its proposed deletion of local programming expenditure requirements for City stations (as outlined below) will significantly limit access to quality local programming, especially that which services a diverse range of ethnic communities in major metropolitan centres.

15. We also fear that RBL's proposed license amendments will exacerbate a trend toward job reductions and the redirection of staff resources away from local programming needs, that follows the devastating announcement of job and program cuts in May, 2013 – which prompted Unifor's predecessor union (the Communications, Energy and Paperworkers union of Canada) to file a complaint with the Commission.

16. A recent report published by Scotiabank outlines the financial challenges faced by Canadian broadcasters in the face of over-the-top distribution, the maturing speciality television market, the changing habits of viewers and other matters. The report also points to the internal “cost-rationalization” and “restructuring” that is occurring among broadcasters, in response to squeezed profits margins and softening advertising

² For instance, see Unifor's latest submission to the CRTC (re: BNOC 2013-558, January 13, 2014). See also, the former Communications, Energy and Paperworkers Union of Canada's Media Policy, entitled Canadian Media: How to make it diverse, democratic and responsive (<http://www.cep.ca/docs/en/mediapolicy-e.pdf>)

revenues.³ Unfortunately, between 2008 and 2012, employment among the major television broadcasters has dropped by 18.3%⁴, suggesting that the cost of this industry-wide profit squeeze is being born predominately by in-house staff through lay-offs and job cuts. If local programming plays such a vital role in the health and vibrancy of our broadcasting system, hiving off the jobs of those charged with producing, creating and delivering that content is, in our view, counter-productive.

17. In fact, Rogers recent job cuts (in 2013, and explained further below) coupled with these broader industry trends should raise serious warning signals for the Commission. The “canary-in-the-coal-mine” metaphor is apt in respect of the relationship between staff levels and local programming: if the canary is in danger, so are the miners.

II – Unifor/CEP Complaint Review

18. On June 26, 2013 the CEP filed an application with the CRTC pursuant to Part 1 of the Commission’s *Rules of Practice and Procedure* and section 12 of the *Broadcasting Act*, requesting the Commission “inquire into and hear the reasons of Rogers Broadcasting Limited to cancel twenty-one programs directed to thirteen ethnic groups, and to make an order to reinstate such programming to ensure compliance with the terms under which it was granted over-the-air ethnic broadcasting licenses, the *Ethnic Broadcasting Policy* and the CRTC’s local advertising policy.”⁵
19. On May 30, 2013 RBL announced that it would cancel its CityNews channel as well as a number of locally-produced ethnic programs that were broadcast by the over-the-air ethnic stations (OMNI stations) it operates, including various weekly news and magazine-style shows in Italian, Hindi, Ukrainian, Japanese, Tamil, Greek and others. At the time of the announcement, Rogers had provided only a partial list of programs to be cut.
20. The program cuts announced in May 2013 were slated to impact about 60 staff, or 2.5 percent of the broadcast workforce.⁶ However, the announcement followed a string of other staff reductions that had taken place in the months and years prior (with rounds of mass lay-offs occurring in June 2012, January 2013 and May 2013), including the closure of RBL’s CJEO studio in Edmonton in 2011 and its decision to stop program production at its CJCO studio in Calgary in 2012.

³ Scotiabank (November 2013) Progress Amid Digital Transformation: A Macro Perspective on Trends Impacting Investments in the Media Sector (page 34).

⁴ Aggregated corporate financials; M.L. Auer (internal correspondence, February 2014).

⁵ See CEP union application to the CRTC (June 26, 2013, Paragraph 2)

⁶ http://www.huffingtonpost.ca/2013/05/30/rogers-citynews-cancelled_n_3359865.html

21. In its complaint, the CEP union argued that RBL expressly violated the commitments it made when acquiring the OMNI television licenses. RBL emphasized that it was focused on maintaining and strengthening ethnic programming. The CEP submission cites a series of contrary quotes pulled from transcripts, specifically during hearings to obtain a license for CJMT (OMNI-2) in 2001, as well as CJEO (OMNI-Edmonton) and CJCO (OMNI-Calgary) in 2007.⁷ In fact, as of the time of Unifor's filing, Rogers does not operate a news bureau that is charged with reporting original local ethnic news in the province of Alberta, despite being granted licenses to operate two over-the-air ethnic television stations.
22. In raising these concerns over the programming cuts, staff reductions and the loss of OMNI's local ethnic character, our efforts generated important public awareness on the matter that resulted in widespread concern from a significant number of multicultural groups across Canada (including the National Congress of Italian-Canadians, the Council of Agencies Serving South Asians)⁸ as well as Vancouver City Council and the Alberta and British Columbia Federations of Labour, among others.
23. The cumulative effect of these program and staff cuts is limiting access to quality, locally-produced (in-house) ethnic programming for established Canadian ethnic and newcomer communities. Ethnic programming plays a unique and important role in Canadian society. Through its licenses, RBL has been granted the privilege to serve these communities in an exclusive way, by way of free OTA broadcasting for many years. But quality and inclusive ethnic programming – as required by the Commission's *Ethnic Broadcasting Policy* - cannot be achieved in the face of the severe cuts we have seen in recent years.
24. In light of RBL's recent track record, we fear that more staffing reductions and a further elimination of original local multilingual and ethnic programming will occur should the Commission grant RBL the leverage it is seeking to limit both the production and variety of original ethnic programming on its OMNI stations.
25. Despite the Commission's dismissal of our complaint in December 2013 (citing Rogers' continued compliance with its conditions of license and regulatory requirements) we were heartened that the Commission expressed concern regarding the extent of RBL's program cuts and the impact it has had on communities.⁹ We also recognize, and

⁷ See CEP union application to the CRTC (June 26, 2013, Paragraphs 45-49)

⁸ Ibid, Paragraph 24

⁹ CRTC Broadcasting Decision 2013-657

appreciate, the Commission's decision to require an early renewal and review of RBL's OMNI programming licenses and to consider "appropriate measures related to local programming."¹⁰

III – Rogers' application for English-language conventional and multilingual ethnic television stations and for certain speciality television services

26. RBL has applied to renew the licenses for 17 of its television services. This list includes English-language conventional television stations (and transmitters, where applicable): CKVU in British Columbia (Vancouver, Courtenay and Victoria); CKAL in Alberta (Calgary and Lethbridge); CKEM in Alberta (Edmonton and Red Deer); CHMI in Manitoba (Portage La Prairie); CJNT in Quebec (Montreal) and CITY in Ontario (Toronto, Woodstock and Ottawa).¹¹
27. The list of renewals also includes Category A specialty services The Biography Channel, G4TechTV, the Outdoor Life Network and Sportsnet 360 as well as Category C specialty service Rogers Sportsnet.
28. RBL has also applied to renew the licence of its multilingual ethnic (OMNI) television stations (and transmitters, where applicable): CFMT and CJMT in Ontario (Toronto, London and Ottawa); CJCO and CJEO in Alberta (Calgary and Edmonton); and CHNM in British Columbia (Vancouver and Victoria).
29. RBL has agreed to the CRTC treating certain services, including City television stations and specialty services (listed above), as a designated group under the Commission's group-based license approach, as set out in Broadcasting Regulatory Policy 2010-167.
30. We understand the group-based license approach means to ensure the ongoing financial stability of Canada's broadcast industry that is increasingly dominated by few exceptionally wealthy private ownership groups.¹² Applying expenditure requirements for single services does not take into account the financial health and viability of other services controlled under the same corporate umbrella, which is of critical importance for the industry and for its workers.

¹⁰ Ibid, Paragraph 33

¹¹ CRTC 2014-26

¹² According to the 2013 CRTC Communications Monitoring Report, the largest five firms (at the time – Bell has since acquired Astral Media assets) in the Canadian broadcast sector account for four-fifths of all sector revenues in 2012, which totalled \$16.8 billion.

31. We believe the Commission should be vigilant in ensuring that the flexibility afforded to designated ownership groups through the group-based policy achieves its intended objectives. This includes continued support for the creation of high-quality Canadian programming and a diverse range of program offerings, especially for under-represented groups.
32. The growing concentration of media ownership in Canada raises concerns on matters that are of importance to not only Unifor and its member but consumers as well. Matters that include: quality and diversity of editorial content, the growing influence of advertisers and commercialism in media. Nonetheless, the spirit of the group-based policy is to extend the diversity of television choice to viewers, by ensuring resources are shared and spread across stations and programs in a particular broadcast enterprise. In our view, this approach ensures profitable programming not only continues to succeed, but also help subsidize other important television offerings, creating a stronger, more vibrant sector overall.
33. In fact, there is an implicit quid pro quo in the Commission's willingness to sanction increasing corporate concentration of ownership. The Commission should expect a significant degree of quality service delivery to Canadians that falls in line with the principles laid out in the *Broadcasting Act* (and other relevant policy governing Canadian-content and local programming) and that will, at times, require cross-subsidization of broadcasting services.

IV – RBL's renewal application and proposed amendments to the conditions of license

34. For the purposes of the group-based license, Rogers has proposed a two-year renewal term in an effort to align the expiry date of this license with that of other English-language designated ownership groups (Bell, Shaw and Corus).¹³ The license term would expire, for all four of these ownership groups, on August 31, 2016.
35. Unifor is concerned that the alignment of these group-based licenses will make the participation of various groups – including labour unions – much more difficult and onerous.
36. Our union represents thousands of workers across the broadcast industry, including at Bell, Shaw and Rogers stations in 8 provinces and at multiple locations in dozens of communities. We have appreciated the opportunity to intervene on matters relating to

¹³ CRTC 2014-26

license renewals in past, and we value the opportunity to provide feedback to the Commission that reflects the point of view of workers impacted by the decisions made by their employers, as well as the conditions of license. The ability of our union to participate in simultaneous consultations and closely-timed hearings will unfairly constrain our ability to do so thoroughly. A similar concern was brought to the Commission's attention during the past round of group-based licenses in 2011 by Unifor's predecessor union, the CEP.¹⁴ This challenge would likely be exacerbated for interested smaller (and insufficiently resourced) community groups and advocacy groups.

37. We urge the Commission to consider a staggered approach to these group-based renewal hearings in a manner that is more conducive to public participation, especially for groups (like ours) who have an interest in each of the proceedings. We would be happy to work with the Commission, and the affected licensees, to establish a compromise scenario on this matter.
38. At the very least, we would ask the Commission to provide exceptional lead-time on these upcoming license-renewals that extends well beyond the standard 4-week window of participation.
39. Further to RBL's recommended license term, the broadcaster is also proposing a series of drastic changes to the existing condition of license (COL) for its OMNI television stations and to its expenditure commitments (including Canadian Programming Expenditures and local programming commitments) for its City stations.
40. On the proposed group-based license, Rogers has indicated it is willing to accept CPE requirements in line with the group-based policy at 30% of revenue, on condition that Category C specialty service Sportsnet 360 is included in the target group. Rogers is also willing to accept the 5% expenditure requirement for PNI, but on condition that it no longer be bound by expenditure requirements on incremental local programming.
41. We understand the special exemptions granted by the Commission to Rogers under the group-based policy as outlined in CRTC 2011-447 for the three-year license term. And we are encouraged that Rogers' City stations have since expanded their reach, including into British Columbia, Montreal and Saskatchewan (as noted in RBL's group license application, Section B). Today, RBL is truly a national chain, with all of the additional

¹⁴ Making Bigger Better: Local Television in 2016 (February 9, 2011) – remarks submitted to the CRTC by CEP on BNOC 2010-952.

revenue advantages that brings – something the broadcaster lamented they were not during their last license renewal (which prompted the Commission to grant them special exemptions from the group-based policy).

42. It is undoubtedly in RBL's interest to attain the flexibility in the group-license with respect to CPE. It is very likely that the commitment to the 30% threshold will be met simply by virtue of the addition of Sportsnet 360 into the mix (with a current level of CPE at 47.8%). This implies that Rogers will effectively meet their group-based expenditure requirement by way of an accounting switch, rather than any actual new Canadian programming and Canadian content investments – which, as explained above, is the ultimate goal of the group-based policy approach.

43. More concerning is RBL's proposal to have incremental local programming expenditure requirements waived under the COL, in light of its PNI commitments. Local programming is vital to Canadian broadcasting. Rogers has long expressed its commitment to ensure City stations are locally-focused, urban and diverse¹⁵ – and we firmly agree. But we have little evidence to suggest that Rogers has lived up to its past commitments on local programming, including a promised 2.5% of revenue dedicated to incremental local programming in year one, 2.5% in year 2 and 2% in year 3.¹⁶ RBL has helpfully provided us with a listing of programs that benefitted from the required local expenditure, although it remains unclear whether these allocations fulfilled the COL.

44. What we do know is that job cuts and program cuts have taken place in recent years at City stations where Unifor members are employed. Seven union and non-union staff positions have been eliminated at City TV in Manitoba over the recent license period. Shortly after its last license renewal (wherein Rogers provided the Commission with specific examples of new programming strategies aimed at “enhancing its local presence and attracting local audiences”), Rogers reneged on two of its three programming commitments directed at City Vancouver. Rogers axed its LunchTV and The CityNews List programs shortly after they were promised.¹⁷ Rogers also axed its CityNews channel over the course of the most recent license term. We raise this only to add emphasis to the need for a clear accounting of local programming expenditures, especially for broadcasters whose primary focus is on local programming.

¹⁵ Rogers Application to the CRTC to renew the broadcast licence of CityTV (2010)

¹⁶ CRTC 2011-447

¹⁷ In Rogers 2010 license application the company committed to producing new local news programs at City Vancouver, including “Lunch TV” and “City News, The List”, both of which ended a short time after the license was granted and then taken off the air.

45. With respect to its OMNI stations, Rogers is proposing significant changes to the condition of license.
46. Among a series of license amendments, Rogers is asking the Commission to:
- a. Delete the condition of license requiring Rogers to devote not more than 16% of its programming to programs in any one foreign language during each month;*
 - b. Delete the condition of license requiring Rogers to broadcast a minimum of 75% of ethnic programming between 8 p.m. and 10 p.m.;*
 - c. Delete the condition of license that prohibit the overlap of English-language and third-language programming with Rogers' City stations, and the overlap of other programming to 10%;*
 - d. Amend the broad service mandate to provide programming aimed at a minimum of 10 distinct groups and 10 distinct languages, rather than 20 of each; and*
 - e. Amend the Canadian content obligations to reduce them from not less than 60% to not less than 40% between 6 a.m. and midnight, and from not less than 50% to not less than 40% between 6 p.m. and midnight.,*
47. RBL has also requested that the CRTC waive local programming requirements for OMNI stations broadcasting in both metropolitan markets (14 hours of Canadian local programming per week) and non-metropolitan markets (7 hours of Canadian local programming per week).
48. Unifor is appreciative, and encouraged, by the Commission's close attention to detail on these very dramatic changes to Rogers' condition of license for multilingual stations, as evidenced in the correspondence between the two parties and filed for public view. Upon reviewing BNOC 2014-26 as well as the company's license application filings, we believe there is an urgent need for RBL to provide clarification on the impact of these proposed amendments, specifically on how these changes will affect local jobs and local programming.

V – Unifor's concerns with RBL's license application and recommendations

49. In this intervention, we submit to the Commission three overarching concerns that we hope will be considered over the course of your deliberations.

V (i) – The potential negative impact on ethnic programming is great and threatens to undermine key elements of the Ethnic Broadcasting Policy

50. RBL has proposed significant changes to its condition of license that, we fear, will negatively affect not only the future investment in incremental local programming, but that also threaten to disenfranchise ethnic communities and disconnect more of Canada's multicultural community from local television.
51. Ethnic programming is vital to promoting Canada's multicultural mosaic. Not only is the preservation and enhancement of the multicultural heritage of Canadians enshrined in the *Charter of Rights and Freedoms*, it frames the *Canadian Multiculturalism Act* which binds organizations, like the CRTC, to ensure its policies and programs are responsive to the needs of multicultural communities and contributing to the ongoing evolution of Canada.
52. We believe local ethnic programming fosters community interaction and engagement, and that's reflected in the outpouring of concern for Canadian ethnic groups and interested individuals following the announcement of OMNI cuts in May 2013.¹⁸
53. Diverse ethnic programming provides employment opportunities to individuals (including journalists, on-air personalities, producers, etc...) representing minority groups, opening up doors to careers in the broadcasting sector that might not otherwise be made available. This statutory objective is acknowledged by RBL in its renewal application,¹⁹ but more importantly it is explicitly endorsed by Section 3 (iii) of the *Broadcasting Act*, which states that Canadian broadcasting policy should:
- “through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural, and multiracial nature of Canadian society and the special place of aboriginal peoples within that society...”*
54. RBL, as the major ethnic OTA broadcaster, has an additional responsibility under the Act, to serve the needs of ethnic communities, in part as an employer with a privileged connection to those communities. Locally-produced ethnic programming is the primary means through which RBL can demonstrate that responsibility. The significance of the recent job and program cuts are magnified when viewed through the lens of the Act.

¹⁸ More than 800 petitions were signed by groups and individuals expressing concern and opposition to the OMNI cuts.

¹⁹ Section D – Conventional Ethnic Television Stations (Paragraph 110).

55. In our view, ethnic broadcasting is a critical part of Canada’s larger broadcasting sector, serving a very distinct and important role. We acknowledge (but have some reservations fully submitting to) Rogers’ portrayal of the economic challenges in the sector. In its filings, RBL presses the point that “competitive pressures” and “changing consumer behaviour” have impacted OMNI’s ability to generate advertising revenue,²⁰ that advertising revenues have declined (on a cumulative basis) by 40% in the past two years²¹ and that “the challenges to OMNI’s viability have mounted over the last decade.”²²

56. We also acknowledge that the prevalence of specialty stations serving ethnic markets (including Telelatino and Fairchild TV), and the additional revenue streams available to them (e.g. subscriber fees, that are not accessible to OTA broadcasters like OMNI) are both drawing advertising revenues away from conventional OTA stations and putting RBL at a disadvantage.

57. Nonetheless, the intended purpose of ethnic broadcasting (to serve a range of ethnic groups in a variety of languages) cannot be overlooked. In fact, under the Ethnic Broadcasting Policy – with respect to the particular benefits of ethnic broadcasting for smaller ethnic groups – the Commission states:

“(21) As is the case with larger groups, the Commission continues to consider that smaller ethnic groups benefit from a basic level of broadcasting in their own languages and from programming that assists in their full participation in Canadian society, reflects their culture and promotes cross-cultural understanding. Therefore, it will maintain its objective that service should be provided to smaller as well as larger ethnic groups.”

58. The Commission goes on to note (in Paragraph 22 of the EBP) that a distinction must be drawn between two priorities: servicing as many groups as practical and providing high quality programming to those served.

59. Through this lens, there’s no denying the fundamental importance of the ethnic programming service. Naturally, the financial sustainability of the service must be considered by the Commission with respect to who may hold the broadcasting license, but it’s clear (in our view) that Rogers is arguing the merits of its condition of license by

²⁰ Ibid, Paragraph 4

²¹ Ibid, Paragraph 16

²² Ibid, Paragraph 41

making a business case for OMNI, charting a path towards profitability. And they are proposing amendments – that *might* return the operation to profitability, by undermining the intent of the EBP.

60. The “flexibility” that RBL is looking for in its amended COL will limit access to ethnic programming – and local programming. By allowing Rogers to broadcast in half the number of third-languages, to half the number of distinct ethnic groups, for instance, entirely conflicts with the requirements of the EBP – despite RBL’s assertions to the contrary.²³ Once these programs are cut, they are likely not going to return and this will be to the detriment of Canada’s growing multicultural population.
61. We would be remiss not to acknowledge the results of a study filed by RBL to the Commission, entitled *New Canadians: A Review of Media Usage*. While we do not venture to criticize the study (which, in fact, is quite detailed and contains very interesting information), we would submit to the Commission two ways of assessing newcomer communities relationship with ethnic media. One is by taking stock of current television viewing behaviour of Canada’s immigrant and newcomer populations (which, according to the study conducted by Strategic Inc., indicates a declining preference for third-language programming as a function of time spent in Canada, among other findings). Another is to examine what it is immigrant and newcomer communities want out of ethnic broadcasting services, to keep them connected to the service. In our view, this latter assessment is far more pertinent for the purposes of building a stronger, more responsive, ethnic broadcasting sector. To what degree RBL has (or has not) collected this forward-looking information through its former Advisory Boards and/or its Community Liaison Officers is unclear.

V (ii) – RBL is not being forthcoming with the Commission, or the public, with respect to its future conventional television and ethnic television programming plans

62. RBL has requested significant amendments to its existing COL (that will affect the diversity of community programs and, potentially, jobs), without providing sufficient detailed financial information to justify their claims and about the ramifications on community programming.
63. In the publicly-filed correspondence, RBL told the Commission that “there are no clear solutions to stabilizing OMNI’s revenue losses.”²⁴ RBL also told the Commission that

²³ Ibid, Paragraph 52

²⁴ Letter to John Traversy (January 15, 2014), page 6

they “can no longer afford to be heavily regulated,”²⁵ that they are requesting “flexibility” in the COL “to experiment with different models for ethnic television” and asks that the Commission “trust in our promise to continue to uphold the core elements of the EBP.”²⁶ RBL also warned it would be forced to “evaluate its future in ethnic OTA broadcasting” should the Commission deny their COL amendment proposals and revenue loss continues.²⁷

64. Unifor feels this is a very difficult, and bold, proposition for RBL to make, especially in light of the program and job cuts the company had announced in May 2013 and prior (25 first run ethnic news and information programs were cut between 2012 and 2013). RBL’s contention that the financial challenges at OMNI illustrate structural changes in revenue streams, mostly driven by advertising, may very well be true. Nevertheless, RBL’s inability (or unwillingness) to disclose its future programming plans and provide (in full and comprehensive detail) its past, current and projected financial situation, leaves those of us in the public having to simply “trust” in their financial reporting and “trust” in their ability to uphold the highest standard for local ethnic programming.
65. Unifor requested from RBL, and received (on the condition of consent to a non-disclosure agreement), some of the financial information redacted from their public filings, including revenue and programming expenditures - aggregated across the OMNI chain. This was cooperative of RBL and likely would not have occurred in a better economic climate. Despite this candour, however, these figures did not resemble anything like an audited financial statement which we maintain the CRTC should insist upon if it is going to seriously consider RBL’s request for unprecedented regulatory relief – relief that is, incidentally, not available to its competitors.
66. We do know that past company initiatives to broadcast high-revenue English-language programming through OMNI (e.g. NFL football) have since been abandoned. In its application and submissions RBL provides the Commission and the public no accounting of successful revenue-generating efforts, or any critical analysis of how their own internal efforts to generate revenue have failed. All we are told is that the current model is failing, and that there is no alternative other than to award RBL significant programming “flexibility” by amending the COL.
67. It is very hard (if not impossible) to fathom that RBL cannot outline, to the Commission, its future programming schedule, even a hypothetical or tentative schedule (identifying

²⁵ Section D – Conventional Ethnic Television Stations (Paragraph 48).

²⁶ Ibid, Paragraph 54

²⁷ Letter to John Traversy (January 15, 2014), page 6

local, non-Canadian and third-language programs), with or without the COL changes it is requesting. A sophisticated company like RBL, which is demanding severe changes to its programming requirements, can provide a more concrete detail of the real impacts on communities, far better than what they have done.

68. Is this matter indicative of a structural, unfair advantage given to speciality television broadcasters that compete with Rogers for advertising dollars? If so, then Unifor would support a more thorough review of the competitive landscape, to determine how best to level the playing field. Getting to the root of the competitive problem is vital and far more productive than gutting conditions of license aimed at achieving the objectives of the Ethnic Broadcasting Policy.
69. It is insufficient for RBL to request a change of its broad service mandate (servicing no less than 10 ethnic communities and languages, instead of 20) without providing the Commission, and the public, a clear articulation of how that will impact access to programming. The Commission pointedly asked RBL which of the potential 10 ethnic groups and languages would be impacted by the change in the broad service mandate, to which RBL responded: “we have no immediate plans to reduce the groups and languages OMNI currently serves.”²⁸
70. Understanding RBL’s natural desire for greater programming flexibility, it’s is not enough to simply insinuate programming cuts without providing further information on the impact, even potential impact, on communities those programs serve. In our view, RBL must be required to fully explain how they intend to fulfil their responsibility under the EBP should these changes come into effect and should they choose to eliminate third-language programming.
71. Similarly for its City licenses, RBL is also requesting that its incremental local programming commitments be waived by the Commission for its conventional English-language television stations (City stations), as a result of RBL meeting more stringent PNI requirements. It is not clear how RBL fulfilled its past mandate to invest an annual share of revenues in incremental programming (as laid out in CRTC 2011-447), and to what extent those monies helped expand and strengthen quality local program offerings. The Commission should ensure this information is made public and subject to a full review (and public scrutiny) as part of RBL’s license renewal application.

²⁸ Ibid, page 9

V (iii) – Rogers maintains privileged access to Over-The-Air ethnic television audiences and, through that privilege, has an important responsibility to provide quality local programming to communities

72. Rogers controls all Over-The-Air ethnic television broadcasting currently in Canada. RBL has been in the ethnic broadcasting game since acquiring CFMT in 1986, and has expanded its control over ethnic broadcasting stations from 2002 (with the acquisition of the license for OMNI-2) through 2007 (with the acquisition of the license for CJEO and CJCO), ironically within the same decade that RBL indicates OMNI's viability challenges were mounting.
73. Despite any declines in advertising revenue, the audience potential for OMNI stations in major urban centres – who receive an inflow of newcomers each year – emphasizes not only the critical importance of high quality OTA ethnic programming provided to these communities (in many cases, their first point of contact with Canadian media and television) but of the ever-present potential of accessing an important urban viewership base. Quality programming, that is responsive to community needs, will drive viewers to OMNI stations.
74. Despite this privileged access to ethnic markets through OTA services, OMNI's performance in delivering quality and responsive ethnic programming has, despite the sincerest community gratitude for the mere existence of ethnic programming, fallen short because of the rapidly disappearing exhibition of local ethnic programming.
75. Since 2005, employment levels at OMNI's Toronto stations have dropped from around 350 to less than 70 today. Included in that list are approximately 125 non-union staff cuts, the bulk of which occurred in consecutive rounds of layoffs in June of 2012, January of 2013 and May of 2013. In British Columbia, there are only 35 employees responsible for local ethnic programming. In Alberta, RBL does not currently have any news bureaus responsible for delivering local ethnic news coverage in either Calgary or Edmonton, despite promises to the contrary.²⁹ Between 2012 and 2013, OMNI eliminated 25 ethnic programs from its roster.
76. We appreciate Rogers' stated commitment to support "the brand of local ethnic broadcasting OMNI has established in each of its markets," but the past experiences for workers at OMNI stations (both during and prior to Rogers' acquisition of broadcasting rights) leaves much to be desired.

²⁹ <http://crtc.gc.ca/eng/transcripts/2008/tb0305.htm>

77. It is difficult for us to fully understand how RBL plans to strengthen the OTA ethnic broadcasting service in the face of these cuts to local ethnic programming. We suppose it is fair to assume that should Rogers successfully improve the financial conditions of OMNI stations that workers, including on-the-street journalists, will be re-hired and certain cancelled programs will be returned and existing programming strengthened. But there's no indication in Rogers' application that this supposition defines the company's plan for OMNI moving forward. The Commission should demand better.
78. Our view is that ethnic broadcasting is not intended (and should not be viewed) as solely a profit-making enterprise. In any event, when a large vertically integrated broadcasting enterprise such as RBL (in tandem with related companies RML and RCI) incorporates ethnic OTA as part of a national chain, it reaps and immediate advertising revenue gain to the entire operation.
79. OTA ethnic broadcasting is a vital service to communities. We believe RBL understands this. But we are left wondering how RBL plans to continue servicing Canada's multilingual communities, in future. Right now, the plan is to cut – and that is worrisome. At some point, the cuts have to end for the good of the service and for the good of communities. We have no clear indication of what the future holds for ethnic broadcasting, and that is alarming.
80. Rogers Communications (RCI) is an extraordinarily successful and profitable Canadian business operation. In 2013, the company generated \$12.7 billion in operating revenues, with net income totalling \$1.7 billion.³⁰ The Rogers Media business segment (which includes various television and radio broadcasting properties) also posted healthy financials in the last year, with a reported \$1.7 billion operating revenue and a \$161 million adjusted operating profit. Rogers Media revenues account for 13% of RCI's total consolidated revenue for the year.
81. We raise these figures, not to necessarily refute – or undermine – the financial challenges that RBL raises with respect to its OMNI stations, but to suggest that Rogers' obligations to ensure that its ethnic broadcasting services are fully responsive, accessible and of the highest quality, can be met.

VI - Unifor recommendations to the Commission on RBL's application for license renewal

³⁰ Rogers Communications Inc Management Discussion and Analysis (Financial Highlights) 2013, accessed through www.sedar.com

82. Based on the three aforementioned concerns regarding Rogers' proposed amendments to its ethnic programming conditions of license and its proposal to waive local programming obligations for its City stations, Unifor submits the following recommendations to the CRTC for consideration in its deliberations.

Recommendation 1: CRTC must request an audited, detailed and comprehensive disclosure of financial information

83. We ask that the Commission require RBL to provide an audited, detailed and comprehensive disclosure of its financial statements regarding OMNI in order to prove its key argument that the business model is broken. These financial statements must be subject to a thorough and detailed investigation and audit by the CRTC. In particular, the Commission should require adequate explanation of the following financial items:

- Any unusual or temporary accruals or accounting charges that affect PBIT;
- Whether OMNI's programming obligations (and charged costs) within RBL's allocation and assignment of programming acquisitions among its different properties are reasonable and reflect a good faith representation of OMNI's true financial condition.

Recommendation 2: Maintain the existing Conditions of License and require Rogers to restore cuts, rehire laid-off employees, if financial challenges are overstated and cyclical in nature.

84. If, upon this investigation and audit, the CRTC deems the financial challenges faced by OMNI are overstated (and that the challenges expressed are cyclical, rather than structural), we encourage the Commission to hold fast on the existing conditions of license and also require Rogers to restore the 2013 programming cuts and rehire the laid off employees impacted by those cuts.

Recommendation 3: Provide measured and time-limited relief of the COL if the Commission deems that a business failure is imminent and that the challenges are structural.

85. If, upon this investigation and audit, it is determined that Rogers is losing significant amounts of money on its OMNI stations, and that the financial challenges it faces are deemed structural (not simply cyclical), and a business failure looks imminent, then we believe the Commission should consider a measured and time-limited relief of its

conditions of license. Unifor advocates for a short, 18-month license whose expiry will coordinate with the CRTC's impending Ethnic Broadcasting Policy review in 2016 – a more appropriate forum in which to assess and address any competitive imbalances among broadcasters of ethnic media (including RBL's claim that they face an unfair competitive disadvantage with cable television ethnic stations that enjoy more secure revenue streams).

86. This time-limited relief should also reflect the following aspects of RBL's proposed amendments:
- a. No relief on Rogers' Canadian-content requirements, except to the extent that measured relief is needed;
 - b. No relief on Rogers' prime-time ethnic programming requirements, except to the extent that measured relief is needed.
87. The Commission should offer no relief on minimum local programming thresholds at OMNI stations.

Recommendation 4: No condition of license should be renewed at CJEO and CJCO without restoring local programming cuts and the requisite number of jobs to put "boots on the ground." If no commitment is made, then the license should be suspended or revoked.

88. Regardless of financial considerations, it is not sufficient for OMNI stations in Edmonton and Calgary to have no production of in-house local community programming. The Commission should require that Rogers move quickly to restore job cuts at OMNI stations in Alberta, where there are currently no staff reporting on and producing local community news. Without a firm commitment, the Commission should grant no license to Rogers at CJEO and CJCO. Should Rogers refuse to commit to these program restorations, the Commission should take steps to suspend the company's license, or revoke it if needed.

Recommendation 5: Preserve the current COL requirements for OMNI broadcasting to distinct ethnic groups and in distinct languages. Unifor, however, would endorse raising the cap on single foreign language programming from 16% to 30%.

89. The Commission should deny Rogers' request to loosen monthly exhibition requirements with respect to ethnic groups and distinct languages. The current COL requires the company to broadcast to not less than 20 distinct groups and languages. It already enjoys the flexibility to make monthly changes, in and out, to that group.

Rogers' request to reduce that requirement to 10 is, in our view, needless and unnecessary "flexibility" and it conflicts with the fundamental tenets of the Ethnic Broadcasting Policy, specifically in regard to paragraph 21, and the importance of small ethnic group broadcasting.

90. As a corollary, RBL has requested a lifting of the 16% cap on exhibiting any single foreign language over the course of the month. This argument assumes that a high revenue generating program is discovered, within a single programming niche, and that RBL's ability to maximize revenues on that will be limited. There is merit to this claim. However, a full cap reduction seems extraordinary to achieve RBL's desired end (while also preserving the principles of the EBP). We therefore would endorse the Commission raising this cap from 16% to 30%.

Recommendation 6: Require RBL to retain Advisory Boards, as per the Ethnic Broadcasting Policy.

91. Unifor believes the Advisory Boards are an essential to soliciting useful community input in which to ensure a stronger and more responsive ethnic broadcasting system. In the complaint filed by our organization with the CRTC in June of 2013 we raised serious concerns about the degree to which the community Advisory Boards were consulted with respect to the programming and job cuts. We believe Advisory Boards can function effectively as a means to (as is noted in the EBP) help "ethnic communities become more involved in broadcasting" and ensure broadcasters "provide programming in an appropriate number of languages."³¹ These Boards elicit intelligent discussion on how to not only improve programming but how to appeal to the ethnic audiences that Rogers, through its submissions, seems to think are uninterested and elusive. In our view, well-functioning Boards are part of the solution to those challenges Rogers' identifies in its application. A single Community Liaison Officer, appointed by (and paid by) Rogers cannot possibly offer the same level of engagement, insight and involvement.
92. At the same time, Unifor feels that a better system for selecting Board members should be examined, to ensure the entire selection process is not entirely within the broadcasters' control. We strongly endorse including representatives from programming staff (not managers), and that those staff representatives be appointed by Unifor at its unionized locations.

³¹ CRTC 199-117

Recommendation 7: The Commission should not support Rogers' request for relief from its Terms of Trade obligations.

93. In light of this request, our view is simple and straight-forward. Other media companies in Canada are expected, and required, to adhere to these Terms. Rogers has spent an extensive amount of time in its application submission expressing concern around the unbalanced playing field they face with respect to revenue-generation, Canadian programming requirements, and others. If the Commission grants Rogers reprieve from the Terms of Trade conditions, then that will only exacerbate the unbalanced playing field that Rogers laments.

Recommendation 8: The Commission should not accept Rogers' proposal for a trade-off between increased PNI expenditure requirements and its commitments to local programming for its City stations. The Commission should rather expand existing local programming requirements to 20 hours per week for metropolitan markets (14 for non-metropolitan markets), under Rogers' condition of license for City stations.

94. In our view, there is no concern expressed by RBL in its filings that the business model for its City stations is in jeopardy. Unifor's concern (as noted above) focuses the absence of accountability mechanisms in place to ensure Rogers lives up to its incremental local programming commitments, and ensures local programming levels are sustained and potentially increased over time. We reference the programs cuts experienced at City Vancouver as an example of this ongoing concern. Not only would we expect a full accounting of how incremental local programming expenditures were allocated over the most recent license period, we can find no good reason why there should be any trade-off between PNI and future local programming requirements in this license renewal.

Local programming is the lifeblood of City stations. In some cases, certain City stations exceed the 14 hours threshold (in Toronto, it exceeds 20 hours), which suggests the additional hours are manageable (and profitable) – although nothing holds RBL to those levels. It is imperative that City stations ratchet up local programming hours, and ensure the COL holds Rogers to account for programming promises made and encourages greater local investment.

Recommendation 9: The Commission should consider a staggered approach to 2016 group-based license renewals that encourage participation among interest stakeholders.

95. As expressed above, we fear that simultaneous group-based license renewals will put an extraordinary burden on our union, and limit our full participation and intervention in the proceedings. We urge the Commission to spread out its public consultations and public hearings in reasonable over a reasonable time frame, and avoid (where possible) overlap in the consultation timelines.

96. Lastly, Unifor would appreciate the opportunity to participate in the Commission's April 8th hearings on the matters raised above.

Submitted by:

Howard Law
Unifor Media Director

Randy Kitt
Unifor Media Council Chair

Angelo DiCaro
Unifor Research Department

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