



Call for Comments: Responding to the New Environment

Review of the Canadian Communications Legislative Framework

January 11, 2019

by

**The Canadian Association of Community Television Users and Stations
(CACTUS)**

EXECUTIVE SUMMARY

The Canadian Association of Community Television Users and Stations (CACTUS) advocates on behalf of individual Canadians and community organizations for access to digital skills training, production support, and distribution platforms so that individuals—especially minority and alternative voices—and communities have the tools they need to be heard and express themselves in the digital environment. CACTUS' vision has evolved from its roots in community television to include multimedia and multiplatform access.

CACTUS was formed in 2008 by citizens (many of them former cable community TV station employees) who were alarmed by widespread closures of former cable access productions studios and a shift in production methodology at the remaining studios away from citizen-oriented content to corporate and cable staff-driven content.

CACTUS has participated in good faith for ten years at CRTC hearings, through two community TV policy reviews (in 2010 and in 2016) to draw the regulator's attention to the fact that the ownership consolidation and technical interconnection that has transformed the cable industry over the last 20 years has made it ill-positioned to continue to steward the so-called "community TV" sector. As in every other country that recognizes community media as a third sector in broadcasting (apart from the public and private sectors), and as in the community radio sector here in Canada, it is long overdue that communities themselves should manage the financial resources and facilities earmarked within the Canadian broadcasting system for "community TV".

Further, CACTUS has conducted significant research to modernize Canada's approach to the provision of community media services. Rather than silo-ing community radio and TV with separate policies, CACTUS' vision is that community media services could be offered more efficiently and in a way more reflective of digital convergence from single or at least interconnected access points within communities, possibly hosted by public libraries. Citizens could learn and create content with the latest technologies for communications, whether those be:

- audio (radio)
- video (TV)
- social media (a way of packaging content)
- video games (audio, video, coding combined)
- virtual reality (immersive video)
- augmented reality (immersive video overlaid over reality)
- other new media forms as they emerge

We envision the next generation of community media as the “creative hubs” referenced in the Creative Canada Policy Framework: supporting local democratic expression and discourse, digital skills training, and local news and content creation for the next generation. With a cost structure that is 1/10th the cost of producing content in the public and private sectors and with such a fast evolving digital media landscape, we need community media more than ever to ensure that communities can see and express themselves, and have the tools they need to participate in the digital economy.

Our specific recommendations for a revised and merged Telecommunications and Broadcasting Acts include:

- 1) **A Clear Definition**—A clear definition for “community media”, that makes explicit their not-for-profit community ownership and administration.
- 2) **Appropriate Funding**—A stipulation that each “element” within the system must be adequately resourced to fulfill its role. In the case of community media, it must be resourced with at least 1/10th the budget of the national broadcaster to be effective and accessible to at least 90% of Canadians.

BDUs and foreign ISPs operating in Canada like BDUs (in offering subscription audio-visual services) should equally support Canadian content production, including community media.

Although likely outside the scope of the new Act(s), to demonstrate viability and that this level of funding is possible for community media without raising costs for consumers, we provide several other suggestions for how community media could be funded, including:

- i) encouraging investment in community media by municipalities via a franchise fee paid by BDUs, as happens in the United States
 - ii) synergies with the Cultural Spaces Fund and Media Arts funding provided via the Canada Council for the Arts
- 3) **Multiplatform Carriage**—Community media must be carried by whatever broadcasting distribution services bring content to Canadian communities (cable, satellite, Internet) in order that the whole community can participate. We prioritize the continuation of over-the-air distribution of community media because it is free, and often needed most by those who are most vulnerable within communities and least able to pay subscription fees.
 - 4) **Net Neutrality Considerations**—We anticipate that net neutrality may in the future hold the key to the distribution of community media, to ensure that:

i) bulk or preferential streaming rates for large players do not discriminate against and drive the prices for streaming niche and local content higher

ii) community-generated content (and all culturally important and publicly funded Canadian content) can be found by search engines

iii) streaming subscription services operating in Canada must offer local and community-generated content (or at least links to such content) alongside content from national and international sources, to ensure that Canadians are aware of the availability of such content.

5) Addressing Regulatory Capture and Lack of Regulator Expertise—

Based on our difficulties getting the CRTC to understand, acknowledge, and address the underlying structural mismatch that has arisen between BDUs and the provision of community media services (and in recognition of the power that vertically and horizontally integrated companies exert on the CRTC), and given the critical role community media play in supporting democracy, promoting digital skills training, and the production of local content outside major markets, we propose going forward that there be:

- at least one permanent staff position at the CRTC whose exclusive focus is community media
- at least one permanent staff position at the department of Canadian Heritage whose exclusive focus is community media
- an Ombudsperson's office with at least three staff positions that can respond to complaints regarding the public, private and community sectors, with the power to liaise with the CRTC and the department of Canadian Heritage to settle such complaints
- a Community Media Secretariat to rebuild awareness and infrastructure for community media in Canada, to reverse its decline over the last two decades, and to position Canada strategically moving forward with strong and robust community media, to support our democracy, our digital economy, and our need for high-quality, trusted local news and information.

TABLE OF CONTENTS

Identification.....	6
Scope.....	6
Community Media Beginnings.....	8
<i>Community TV Philosophy and Roots.....</i>	<i>8</i>
<i>Technical Implementation.....</i>	<i>10</i>
<i>The Value of Community TV.....</i>	<i>11</i>
<i>Ownership of Community TV.....</i>	<i>12</i>
<i>Funding for Community TV.....</i>	<i>16</i>
Community TV Decline.....	18
Efforts by CACTUS to Modernize Community TV for the Digital Age.....	22
CACTUS' Vision.....	44
<i>New Forms of Audio-Visual Media Proliferate.....</i>	<i>44</i>
<i>The Potential Role of Public Libraries.....</i>	<i>45</i>
<i>How Much Will It Cost to Revitalize Community Media?.....</i>	<i>46</i>
Recommendations for the Broadcasting Act.....	49
<i>Preamble and General Recommendations.....</i>	<i>49</i>
<i>Suggested Rewording Based on the Current Act.....</i>	<i>54</i>
<i>Questions from the Panel Regarding the Act.....</i>	<i>62</i>
Recommendations for the Telecommunications Act.....	68
<i>Preamble and General Recommendations.....</i>	<i>68</i>
<i>Suggested Rewording Based on the Current Act.....</i>	<i>70</i>
<i>Questions from the Panel Regarding the Act.....</i>	<i>73</i>
Conclusions	
Appendix A: Digital Community Media Policy Proposed by the Community Media Policy Working Group (2016)	

IDENTIFICATION

- 1) The Canadian Association of Community Television Users and Stations (CACTUS) advocates on behalf of individual Canadians and community organizations for access to digital skills training, production support, and distribution platforms so that individuals - especially minority and alternative voices - and communities have the tools they need to be heard and express themselves in the digital environment. CACTUS' vision has evolved from its roots in community television to include multimedia and multiplatform access¹
- 2) CACTUS' members include:
 - not-for-profit over-the-air community TV and radio license holders, whose content is also distributed on cable, satellite, and the Internet. CACTUS' membership is not limited to television - one member trains the public in the creation of interactive content (web and video games) and three also distribute radio.
 - unlicensed not-for-profit community TV corporations, which stream their content on the Internet and provide it to Broadcast Distribution Undertakings (BDUs) for playback on BDU community channels
 - not-for-profit community organizations that want coverage and visibility, or which support the free speech and community development mandate of community media
 - individual Canadians concerned about the availability of local content, their capacity to leverage technologies to get their messages out, and plurality of voice in our digital democracy

SCOPE

- 3) CACTUS is pleased to provide these comments, and pleased that the government is initiating a review of the Broadcasting and Telecommunications acts, policies and systems.

In this response, we provide for the benefit of the The Broadcasting and Telecommunications Legislative Review Panel ("the Panel"):

- a summary of the history of community media and community television in Canada, and the policies that have affected community broadcasters.

¹ For more information, see www.cactusmedia.ca.

- a summary of CACTUS' efforts over the last decade to modernize the sector by updating these policies, to reflect the digital environment in which it now operates. We go into considerable detail, in order that i) the Panel will understand who we are as an organization and ii) have sufficient context to understand why we make our recommendation.
- our recommendations for updating the Broadcasting and Telecommunications Acts to ensure that community media achieves its potential in supporting our democracy, generating local content, and providing opportunities for digital media skills training
- answers to the those of the Panel's questions regarding both the Broadcasting and Telecommunications Acts that pertain to community media, with suggested wordings that reflect our recommendations.

COMMUNITY MEDIA BEGINNINGS

Over the last five years, several influential reports regarding Canadian broadcasting have been published, in which almost no mention is made or consideration given to the role of community media, despite:

- i) their importance in the 1991 Broadcasting Act, as one of three 'elements' in the Canadian broadcasting system along with the public and private sectors, each expected to play its distinct role and;
- ii) despite the recent focus on the paucity of local programming generally and local news and information programming specifically².

For this reason, we summarize the history of the sector or 'element' for the Panel, as understood by us, its practitioners.

Community media is not a new element in Canada's media landscape. Prior to either community-owned and -operated TV or radio stations, there have been community-owned newspapers since the 1800s. These publications were owned and operated by the community, and often leveraged voluntary contributions and citizen journalism.

There have been campus- and community-owned and -operated radio stations since 1922, when CFRC-FM of Queens University began broadcasting as the first radio station in Canada. The community radio network has grown from a handful of stations in the late 1970s to almost 200 licensed on-air stations and many more that exist on the internet.

Community TV Philosophy and Roots

There have been so-called 'community TV stations' (although the majority are actually owned and operated by BDUs) since the late 1960s. Community TV's roots were established by the National Film Board of Canada and its groundbreaking "Challenge for Change" stream of film-making.

The "Challenge for Change" stream of film-making was a project in the 1960s that was financially supported by 10 federal government ministries as a means to reduce poverty. One of the early projects involved sending a team of 16 mm film-makers to Fogo Island off the coast of Newfoundland when the federal government was considering moving islanders out of the community because of their heavy reliance on welfare. As a preliminary step, someone suggested

² For examples, *The Shattered Mirror* (<https://shatteredmirror.ca/>), and the *Creative Canada Policy Framework* (<https://www.canada.ca/en/canadian-heritage/campaigns/creative-canada/framework.html>.)

sending an NFB film crew to find out what the islanders thought about their situation. To the film-makers' surprise, the islanders refused to speak on camera unless they could watch the footage and edit it before it was sent to Ottawa. The NFB agreed. In the course of watching the footage as a community assembled in the town hall, the islanders discovered:

- the Fogo Islanders were more articulate individually and as a group about their own problems than they had realized;
- they listened to one another in a respectful way rather than arguing in the usual combative town hall process as they worked to collectively solve their problems;
- they discovered the solution to their own problems, and developed the unity of purpose to implement them. These solutions included an island road system, elimination of duplication in their school systems, and a new fishery. It was problem-solving, action-oriented media.

The federal government was so amazed, that the process was repeated in other communities across Canada experiencing entrenched poverty; for example, Rosedale, Alberta and St. Jacques in Montreal. As the project progressed, Video Portapak became available. Rather than the citizens having to edit and repackage expensive and complicated 16mm footage with the assistance of professional film-makers, the citizens were taught to shoot and edit their footage with full control over the subjects and treatment of content.

In each case, the process of focussing dialogue in a community through media created by community members themselves led to resolution of problems that had previously been intractable. Communities found their voices and the means of addressing their own problems. The new tool of video was called “the mirror machine” in NFB Challenge for Change newsletters documenting the process³.

Simultaneously:

- Cable television was being introduced to Canada, and the CRTC was concerned that the influx of dozens of US stations would dilute viewership to Canadian TV content.
- The NFB did not have the resources to support every community in Canada to make its own media.

³ Challenge for Change is well-documented in numerous books, films, and web sites; there is an introduction here: https://en.wikipedia.org/wiki/Challenge_for_Change.

- The CRTC saw cable television as an opportunity to ensure that communities had access to Canadian, local content. The Commission also believed that communities should have the opportunity to enjoy the same benefits of self-expression and public discourse as had been enjoyed by those that participated in Challenge for Change.
- Cable operators preferred to be regulated under the Broadcasting Act, as opposed to the Telecommunications Act. It was a 'win-win' situation for communities and cable companies alike.

Technical Implementation

In the earliest days of cable television, the CRTC asked cable operators to provide one cable channel in each community for the distribution of community-created content. Cable operators were also expected to provide a studio for community production and to offer training to community members in its use.

At the time, there were on average 30 cable channels per system, so the allocation of 1 channel for community use represented just over 3% of available cable bandwidth. In other countries such as the USA, bandwidth was allotted as a percentage, often as much as 10% of total available channels. For example, in the USA, at least one channel was set aside in each cable system for use by:

- the general **P**ublic ("public-access TV")
- the **E**ducational sector (schools, colleges, universities)
- local **G**overnment

This tri-partite allocation was and is still known as "PEG". In larger jurisdictions, there might be multiple P, E, and G channels carried on the cable system, depending on the volume of content and local institutions that want access.

As cable delivery grew, the discussion of bandwidth became relevant as the carriage capacity of cable infrastructure increased. Today, the single 'community TV' channel in Canada has become just one channel among several hundred in most markets, if it exists at all.

Technically, cable systems were initially geographically separate from each other. In each community there was a 'head end', from which coaxial cable radiated to the homes in the community. Cable companies microwaved remote signals to these head ends from the large centres where they originated. The local head ends enabled local community channel content to be inserted into the channel line-up.

At the time, most cable companies were small locally-owned operators. The possibility of originating their own content was generally well received by these owners, and viewed as an opportunity for good local public relations.

The National Film Board took an active interest in these early cable channels. To help stimulate experimentation and promulgate the spirit and intent of the *Challenge for Change* program, the NFB distributed newsletters about media making to cable program managers across the country, and their achievements and early experimentation was carefully documented. Many of the early program managers (for example, at Winnipeg Videon) were social workers rather than television producers, and staff were called “animators”. Their skills animating the community were what distinguished them from the staff hired at public- and private-sector stations.

The Value of Community TV

During those early years, the Federal government understood that media made by communities had a transformative power. The value and rationale for those early cable stations was often explained in CRTC reports as follows:

- ***Reinvesting in Communities***—Because cable companies extracted revenues from communities by importing foreign programming content, it was reasonable to expect them to 'give back' a portion of their revenues to enable communities to produce local content for themselves.
- ***Media Literacy***—The channels enabled “media literacy” in the still relatively new medium of television. Citizens who participated in community TV production were more critical about what they watched on commercial, national, and international services. Governments throughout the Western world, including Canada, were nervous about the potential power of television to manipulate much more than they had been with either radio or print because it was believed that images are more visceral and bypass the brain’s higher analytic functions.
- ***Training***—Community TV helped people develop journalistic, writing, directorial, and technical skills. Community TV launched the careers of a generation of television professionals and film-makers - names like Dan Aykroyd, Mike Meyers, and Guy Maddin. It is important to understand that the training offered by community TV stations was not just for media industry neophytes. Many mid-career professional also used them to expand their skills. Radio personalities who wanted TV experience would audition for roles. CBC TV camera operators who wanted to learn to edit would use them. Established and emerging independent producers and

directors would test out new ideas and create pilots in their studios. Community TV became the “farm teams” for the professional production community, a low-risk and low-cost environment to test ideas before committing scarce internationally-sized budgets to Canadian productions.

- **Local and Niche Content**—Community TV enabled relatively small communities with no source of private or public TV content to enjoy audio-visual coverage of their own events. In larger towns and cities that did have public and private TV broadcasters, community TV created niche programming for minority groups and interests which were not covered on 'mainstream' media'.
- **Democratic Public Discourse**—Since any Canadian could voice their opinions on cable television, community TV offered a vital democratic outlet and platform for public discourse.
- **Cost-Efficiency**—In a country as large as Canada with such a small and widely dispersed population, community TV was inexpensive. Over its history, community production centres have produced local, Canadian content, including news, for an average of one tenth the cost of private and public-sector TV production⁴.
- **Responsible Content**—In the early days, community productions were well funded and employed professional journalists and media makers to train, coordinate and curate content made by citizens. With oversight by the CRTC, journalistic standards relating to media law, balance, and ethics were high; volunteers were well trained⁵.

Ownership of the Community Channel

Interveners to the first 1970 cable hearings raised the alarm that cable company ownership of 'community' TV stations might result in content that served cable companies, at the expense of communities. However, for many years, the CRTC's policy appeared to work well. By the 1980s, over 300 community TV

4 For an analysis of the cost of community TV compared to public- and private-sector TV, see pages 13-14 of CACTUS' submission to the CRTC's 2009 review of community TV policy, 2009-661, available at https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=127914&en=2009-661&dt=c&Lang=e&_ga=2.33450238.192824801.1547224543-2129307666.1536772093

5 Two such early reports include the CRTC's 1974 *Resource for the Active Community* and the 1982 report it commissioned from Frank Spiller entitled *Cable Community Programming in Canada*. In the same year, Maclean Hunter commissioned its own report, with similar glowing findings entitled *A Community Channel Experience*.

stations were in existence according to CRTC reports and the Matthews Cable TV Directories⁶. Since Statistics Canada reports only 168 communities in Canada with more than 10,000 residents, this implies that most communities with 10,000 residents or more could enjoy the services of a local cable community station, in addition to many smaller communities. Many larger cities, such as Vancouver, Toronto and Montreal, had multiple neighbourhood offices (as many as 12) where citizens could access training and access to production equipment, and where residents could watch hyperlocal content focussed on their own neighbourhood within large metropolitan areas.

These stations produced news, public affairs programming, children's programming, comedy, drama, book reviews and cultural programming, health and sports coverage, and alternative content. While the Canadian Cable Television Association existed until 2006, the achievements of these stations and their citizen programmers were celebrated at yearly programming awards ceremonies. Relatively few complaints surfaced from citizen programmers in those early years that their efforts were censored by cable management.

Direct administration of community TV by the cable companies that funded them was the model that developed in English Canada, but it rapidly became an anomaly in community media policy elsewhere in Canada and around the world.

In Canada:

- In Quebec, most community TV studios are maintained by not-for-profit organizations, although the content is played back on cable-managed channels.
- Under Canadian campus and community radio policy, community radio licenses must be held by not-for-profit corporations, run by community-elected boards of directors.

Other countries:

- In the United States, which developed its own “public-access TV” policies from the same NFB “Challenge for Change” beginnings (the American George Stoney, managed the Challenge for Change program, and returned to the US to implement parallel cable policies in the US), cable

⁶ We listed over 700 communities that had cable community TV stations in Appendix E of our submission to the CRTC's 2016 review of Local and Community TV (CRTC 2025-421) that are reported by Matthews. (See <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=226182&en=2015-421&dt=c&Lang=e&S=C&PA=b&PT=nc&PST=a>.) However, the number reported over the years in CRTC documents is closer to 300; some of those listed in Matthews may have been alphanumeric bulletin boards only, or may have been of short duration.

companies were expected to pay for community TV, but did not directly administer it. The amount they paid (up to 5% of their gross revenues) was negotiated with the municipalities in which they operated as a 'franchise free'. This amount was passed through to a local not-for-profit organization to administer the production studio and cable channel schedule.

- Other countries that developed community TV policy, often based on Canada's model, have defined 'community broadcasting' as broadcasting carried out by not-for-profit organizations owned and operated by communities themselves, managed by community-elected boards of directors⁷.

The impact of placing the management of “community TV” under the stewardship of the private sector in Canada—even in the early days—had the unfortunate effect of silo-ing “media art” and “community media”, denying benefits to both groups and to the broadcasting system as a whole. In the decade following the establishment of community cable stations, a parallel system of video and film co-operatives developed in Canada that continues to the present day, funded by the Canada Council for the Arts. Video and film co-operatives operate in many ways just like community TV stations used to operate. They offer training and equipment access to members of the community to make audio-visual media content. But there are specific differences between artist-run media centres and community television and radio stations:

- Canada Council and provincial arts organizations will fund “media arts” only. Traditional television and radio stations are not regarded as places where media art happens. For example, the criteria for eligibility for Ontario Arts Council, for example, states that television projects, (including journalistic or reporting-style documentary projects, police dramas, movies of the week, news reports) are ineligible.
- Arts funding bodies require that artists be paid for their work, which is incompatible with the open-access philosophy of community media.

Individual artists have tended to view cable-controlled “community TV” as a corporate platform and have been unwilling to contribute their work for cablecast, yet have been limited in their ability to showcase their work to the community at large. Simultaneously, cable community TV, while alternative in nature in its early years, drifted toward commercially imitative formats as the years wore on, and

⁷ See *Community TV Policies and Practices Around the World* by TimeScope Productions (commissioned by the CRTC prior to its 2010 review of its community TV policies) at <http://www.cactusmedia.ca/node/519>.

suffered from having no leadership by the most creative and artistic members of the local community.

The 1986 Report on the Task Force on Broadcasting, which preceded the writing of the 1991 Act, recognized the importance of community broadcasting, and made the following recommendations, only the first of which was implemented. The recommendations are worth reproducing in full, because they capture the essence of what we are asking for today, almost 30 years later: separate licensing for community TV and not-for-profit structure. Had these recommendations been implemented at the time, community TV would not have suffered the decline we have seen over the last two decades. It would be at least as robust as our community radio sector:

- 1. The Canadian broadcasting system be recognized as comprising not-for-profit community elements as well as the "public and private elements" already acknowledged in the 1968 Broadcasting Act*
- 2. The CRTC license community television associations on terms similar to those developed for community radio stations. As in the case of community radio, with the distinction between Type A and Type B stations, more latitude of operation should be given to associations working in communities where there are no local TV services.*
- 3. The CRTC regulate the relations between licensed community television broadcasters and cable system operators, recognizing the rights and responsibilities of community broadcasters. Other than those currently exempted by reason of size, the regulations should include the existing obligation of cable system operators to contribute to the communities they are licensed to serve through material support of the community channel. The CRTC should keep a record of the contributions to community channels of operators throughout the country.*
- 4. Cable system operators who themselves program community channels be licensed separately as community broadcasters.*
- 5. The CRTC when necessary provide for the licensing of community TV associations in addition to the local cable operator in communities where the cable system already offers a community service.*
- 6. The licences of all community radio and television broadcasters recognize the need of fair access for various ethnic, cultural, interest and opinion groups. Regulation should cover both the case of large metropolitan centres, where several community broadcast organizations need right of access for their services, and the case of smaller centres where a single licensee may have to provide for the diverse access requirements of the community..*
- 8. The federal government establish a focal point in the Department of Communications for coordination of funding, grants and programs which have a direct bearing on the aims and objectives we have established for community broadcasting. The federal, provincial and territorial governments should consult on appropriate measures to develop the community broadcasting sector.*

Funding for Community TV

- In the experimental years of the 1970s, the CRTC recommended to cable operators that they spend 10% of their gross revenues on their community stations. At the time, support for the community channel was the cable industry's only contribution to Canadian content production.
- This amount was reduced to 5% in 1991, in line with the FCC's 1984 Cable Act guideline. Support for the community channel was still the cable industry's only contribution to Canadian content production.
- By the time of the CRTC's 1997 review of its community TV policy, audience fragmentation was well advanced, due to the growing number of channels available on cable. With more channels on the way with the introduction of satellite TV, the advertising-funded model for Canadian production also eroded. The CRTC maintained the cable industry's contribution to Canadian production at 5% of gross revenues, but split the amount between community stations and the newly created Cable Production Fund (the precursor of the Canada Media Fund). Cable companies were permitted to continue to spend 2% of their gross revenues on their community stations in markets having more than 20,000 subscribers, and required to contribute the remaining 3% of their gross revenues to the Canada Media Fund, which supported independent producers in the private and public sectors.

In markets having fewer than 20,000 subscribers, cable operators were permitted to retain the whole 5% contribution to Canadian production to support their community stations, in recognition of the fact that smaller systems generated much less income, and a minimum amount is needed to maintain and staff a community production facility.

The 1997 policy also made it optional for cable operators to have a community station. The rationale given was that the community channel had demonstrated its effectiveness and popularity, and no longer needed regulatory protection. Most cable operators retained their community stations in response to the policy change because they preferred to leverage some value from the 2% that they were required to contribute to Canadian production rather than lose control of the entire 5%. The policy change nonetheless sent a (perhaps) inadvertent message to cable operators that they could do what they wanted with their community stations, which led to their decline as platforms for citizen expression, as described in the next section.

- This erosion of financial support for community TV has continued, despite CACTUS' efforts over the last decade to draw attention to the importance of community TV, as documented in the next section.

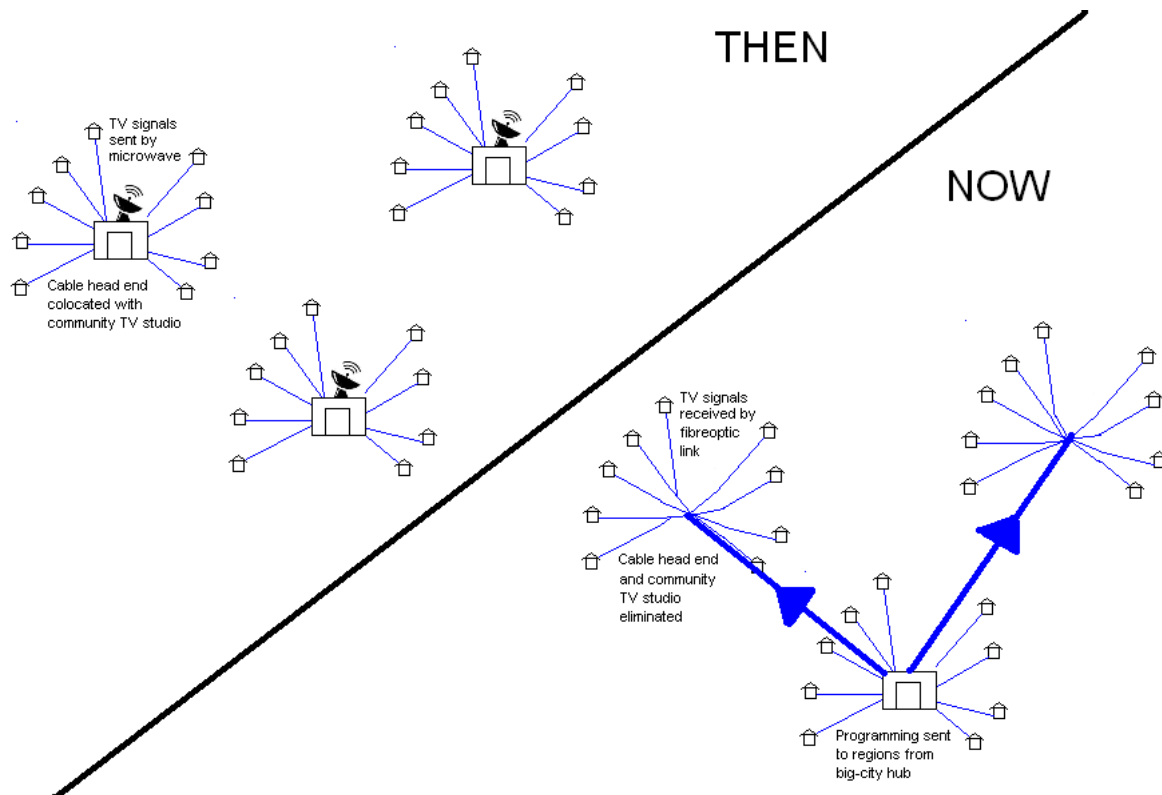
COMMUNITY TV DECLINE

In the late 1990s, structural changes swept the cable industry that impaired its ability to continue to act as a steward for 'community TV':

- 1) **Fibre-optic Interconnection**—Formerly discrete cable systems began to be fibre optically interconnected. Signals no longer needed to be distributed by microwave to head ends in small communities. The signals could be directly shared from large centres such as Toronto, Vancouver and Montreal by fibre. The head ends were no longer needed, and the cost efficiencies that had previously enabled community production studios to be co-located with these head ends disappeared.

The cable industry began lobbying the CRTC to merge formerly separate cable systems, and to serve them with fewer and fewer production facilities serving larger and larger areas. For example: New Brunswick once had over 30 production studios and distinct community TV schedules. Now there are only nine production studios that feed a single provincial Rogers “community TV” channel. Individual communities see occasional local insertions pertinent to their own communities on this single channel. Communities that had produced their own content for decades –many with no support from the cable industry (such as the high school in Harvey) were told they could no longer originate content. They were told (erroneously) that the fibre optics that replaced the cable co-ax in their community could no longer insert their signal locally; it could carry content only one way.

The figure below shows how interconnection forever changed the infrastructure of cable and its ability to support community media.



review of its community TV policy, there were only 30 distinct program schedules countrywide, whereas there had formerly been at least 300⁸.

The CRTC appeared to approve these applications to “zone” formerly distinct community channels based on arguments of technical efficiency and reduced costs to cable consumers⁹.

- 2) **Ownership Consolidation**—Simultaneously, cable systems were being consolidated in a few large ownership groups. There were previously more than 50 distinct cable owners in Canada. Now, most cable systems are owned by one of 5 companies: Videotron, Shaw, Rogers, Eastlink and Cogeco.

The CRTC had previously encouraged competition within markets. This supported the existence of community channels and production centres. For example, while big cities such as Toronto, Montreal and Vancouver had as many as 12 neighbourhood production facilities and distinct cable systems operated by different entities, there is now a single cable BDU. Even mid-sized cities such as Ottawa, Calgary and Edmonton were split in two, with different cable companies serving each half. Prior to 1998, Calgary was served by Rogers in the south and Shaw in the north. Ottawa was served by Skyline Cable in the east and Maclean Hunter in the west.

The sequential ownership transactions that consolidated the industry in the late 1990s saw the elimination of the majority of neighbourhood offices. The 12 former offices of Rogers in Vancouver were shrunk to a single production facility by Shaw in its corporate tower which was inaccessible to the residents of White Rock, Richmond, Alberni and North Vancouver. These residents formerly enjoyed a public-library style system of accessibility to production equipment. Similarly, Videotron shut the CF Cable production studio on the West Island of Montreal when the company purchased it in the late 1990s. Anglophones lost a platform for community expression until 2013, when ICTV Montreal (with CACTUS' help) launched a complaint about the lack of both access programming as well as anglophone and Aboriginal content (CRTC 2013-1746). The cable production studios in Scarborough that had launched the career of Mike Meyers were shuttered over the same time period. The single remaining active studio for the citizens of the Greater Toronto Area was closed in 2017

8 See pages 44 through 48 of CACTUS' “Comment” to CRTC 2015-421 at https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=127914&en=2009-661&dt=c&Lang=e&_ga=2.33450238.192824801.1547224543-2129307666.1536772093.

9 See CRTC 2013-1334-5, in which the CRTC granted Rogers' request to zone 43 of 44 former New Brunswick licence areas, eliminating the communities' right to petition for individual community channels.

following the announcement of the CRTC's most recent Local and Community TV Policy (2016-224).

- 3) **Competitive Environment**—Also in the late 90s, the cable industry was facing competition from satellite TV for the first time. This might have been a good thing for community television: wishing to maintain a competitive advantage, cable owners looked to their community channels as something satellite could not offer. Unfortunately, cable management decided that such an important opportunity could not be left in the hands of citizen producers, and that greater standardization and technical quality would be demanded to leverage the community channel. Several CACTUS members worked for cable community TV stations in the late 1990s and witnessed this process.

In 1996, the Canadian Cable Television Association paid for a market research survey to explore viewer attitudes towards community stations. Results showed that in large media markets, awareness of the community channel was relatively low, except among the niche groups that it regularly served. Awareness was higher in rural areas where it was the only TV station in town, but the CCTA was less interested in those markets. In an effort to 'brand' the community channel, the CCTA developed a network news magazine format called *Plugged In* that was the template used for by cable community channels from coast to coast for several years. Standardized graphics were developed to introduce each of six news magazine topics, including a local hero, a sports segment, a health segment, and so on. The CCTA's idea was that no matter where in Canada you lived, you could tune in to your community channel and see the same thing. In the eyes of the cable industry that managed the channels, the diversity that made them unique to their communities was a liability. Cable company staff began to take more and more direct control of content, with citizens filling only technical roles such as camera operator, or no roles at all. This shift coincided with the new 1997 policy (CRTC 1997-25) that made the channels optional and appeared to give carte blanche to the industry to do what they wanted with the channels without community input. The cable companies regarded the community channels as their property rather than the public resource it was intended to be.

The mismatch between a for-profit corporate management structure and a community resource was perhaps most obvious in the way cable companies treated their videotape archives. Most of the videotape archives produced by the community were disposed of in the late 90s. Three decades of local content dating back to the 1960s were destroyed. Many communities—that had no other radio or TV station—lost their only audio-visual public record – their ceremonies and events, interviews with their citizens, their sports games, the entire visual and sound record of

their civic life. The disposal represented the single biggest loss in Canadian audio-visual heritage since the beginnings of television.

The archives had no business value to private corporations functioning in a fast-change business environment, facing serious competition for the first time. It is disappointing that it doesn't seem to have occurred to any of them to donate their archives to local public libraries as they shut the production studios and withdrew their local presence from community after community. A few forward-thinking cable employees salvaged videotapes. Dorthi Dunsmore, one of the first managers at Winnipeg Videon, donated some VHS tapes to the Manitoba Provincial Archive. A few more of Winnipeg Videon's collections were given to the Winnipeg's Video Pool Media Arts Centre. Cathy Edwards and Nadine Sampson, the Volunteer and Traffic Co-ordinators at Shaw Cable in Calgary, managed to salvage a few boxes of master tapes which they offered to their volunteer producers.

- 4) **Specialty Channel Ownership**—During the same period, cable companies were for the first time allowed to own specialty channels. There was no longer any reason for them to control the financing and administration for community channels because there were many other channels on which they could distinguish themselves in order to compete with satellite. The more consolidated the content market became, (in parallel with the ownership consolidation of the technical infrastructure), the more worrying it should have been to the CRTC that the democratic role of the 'community channel' might be compromised, when the same private companies which owned the majority of the content also controlled what was supposed to be the third sector and a democratic safety valve: the community element.
- 5) **Loss of Market Share**—Inevitably, with competition, the cable industry began to lose market share, falling from a high of 80% of Canadian households in the 1980s and early 1990s, to about 60% today. A bare majority of Canadians can access a 'community channel' on cable... where one even still exists.

EFFORTS BY CACTUS AND PARTNERS TO MODERNIZE COMMUNITY TV POLICY FOR THE DIGITAL AGE

We provide considerable detail in this section about the efforts CACTUS and our partners have made to intervene in CRTC policy-making to reverse the decline in community TV. We provide this level of detail both to enable the Panel to know us as organizations, and to provide a context for the Panel to understand our recommendations for the Broadcasting and Telecommunications Acts.

Three organizations have worked to modernize Canada's community TV policies: The Fédération des télévisions communautaires autonomes du Québec (the Fédération), the Community Media Education Society (the CMES) and CACTUS.

When Videotron bought the Montreal-area cable systems in 1997 and closed the CF Cable production studio in the West Island of Montreal which served the anglophone community, the company also disconnected from the cable system over 20 community production studios that were managed by not-for-profit corporations, but which supplied their content to the local cable operator for distribution.

These not-for-profits (called TVCs or “télévisions communautaires”) founded the Fédération in order to file a common complaint about their treatment. The CRTC heard their complaints and organized a review of its 1997 community TV policy in early 2001. Simultaneously, former volunteers of Rogers neighbourhood offices in Vancouver who had lost access to the cable system when Rogers shut its neighbourhood offices founded the Community Media Education Society to represent the views of West coast community TV producers.

CRTC 2002-61

This review resulted in a new policy, CRTC 2002-61, which recognized several deficits in the previous policy:

- In recognition of complaints regarding denials of access to citizens, the new policy required that at least 30% of content airing on the community channel every week should be created by ordinary citizens.
- In recognition of the complaints regarding the regionalization of content on the channels, the new policy required that at least 60% of the content on the community channel should be produced within the local cable system.

- Videotron was asked to make available up to four hours of air time weekly for each of Quebec's independent TVCs. Videotron was also asked to continue to financially support these not-for-profits, although the arrangement was “behind doors”, and not part of published policy.
- A new over-the-air community TV license class was created to address the fact that roughly 40% of Canadians either did not subscribe to cable TV or lived in rural areas beyond the reach of cable infrastructure.
- The following clause was added to policy to enable a not-for-profit community group to be funded to manage the community channel in cases where the cable operator either did not want to manage it or was not following the policy:

“In situations where the terrestrial BDU does not provide a community channel or does not operate a community channel in accordance with the provisions of this policy, community groups may apply for a community programming undertaking licence.”¹⁰

The addition of this clause appeared to recognize that cable companies were no longer structurally well positioned to manage community production facilities, and that an orderly transition from cable company to community management was possible and perhaps necessary, and could be accomplished community by community.

While the new policy appeared to renew the CRTC's commitment on paper to the TV side of the “community element”, in practice, the new policy was weak and could not turn back the clock because:

- The 30% minimum commitment to citizen content on the channel in fact acknowledged that the channels had already been largely taken over by cable company staff and were corporate platforms. By contrast, public-access TV in the US is virtually 100% citizen-created. US public-access staff serve a supporting role only and still (as in the early days of Canadian community TV) have titles such as “animator”, “volunteer co-ordinator”, or “trainer”. In Canada, the majority of cable community channel staff are titled “producer”, a term which implies that they produce content on behalf of the corporation.

Further, while there was a stipulation that billing inserts must advertise the accessibility of training programs and airing slots on the channel for citizen content, the promotion of the community channel was inadequate. When

¹⁰ See CRTC 2010-622 at <https://crtc.gc.ca/eng/archive/2010/2010-622.htm>

you drive down Richmond Rd. in Ottawa, for example, the erstwhile 'community channel' is branded as "RogersTV". There is no hint that the facility is open-access. Similarly, Shaw TV in Calgary prior to 1997 used to have a single open news room with shared equipment for use by staff and volunteers. When Rogers and Shaw's facilities were consolidated in 1997, a cypher lock system was installed to keep volunteers out of the area reserved for "staff producers". It became clear to volunteers that they were welcome only to assist the staff who controlled the content.

- Although Videotron continues to provide some financial support to the 40 TVCs in the Couronne de Montreal and elsewhere in Quebec, the fact that the support was not included in official policy meant:
 - I) The amount Videotron pays to TVCs in Quebec is approximately 10 per cent of the amount the corporation spends on its own productions that air on the "MAtv" community channel in Montreal, hour by hour¹¹. The amount is not equitable or scaled to the amount of content each party contributes to the channel.
 - ii) The fact that no income was guaranteed to TVCs nor any formula offered to determine the level of support to which they should be entitled has effectively silenced both them and the Fédération from intervening in CRTC policy hearings to complain about their treatment, because they fear that Videotron will cut their support still further.
 - iii) not-for-profit community production groups in other parts of the country could not request similar support. When Rogers shut the production office in Vancouver's Lower East Side, it offered ICTV (Independent Community TV of Vancouver) a single year in operating costs. The office subsequently closed.
- The stipulation that 60% of community channel content should originate within the license area might be effective if the Commission had not simultaneously been awarding cable operators permission to "zone" formerly separate cable systems, with the effect that content produced anywhere within the "zone" could be considered "local".
- Only nine communities in Canada ever requested an independent over-the-air community TV license. There are several reasons:

11 See the financial analysis on Videotron's Matv spending provided in its Part 1 application at <https://services.crtc.gc.ca/pub/instances-proceedings/Default-Default.aspx?lang=eng&YA=2013&S=C&PA=b&PT=pt1&PST=a>. (Search for 2013-1746-2.)

- i) The possibility for communities to apply for their own licenses was not advertised. The community channel system proliferated and flourished in its early years because it was promoted by both the CRTC and the NFB. No position or support staff at the CRTC have been assigned since the 1970s and 80s to promote and disseminate information to the public about the community element in the broadcasting system, despite the 1986 *Report on the Task Force on Broadcasting* recommendation #8 that there should be such support. Nor does the Department of Canadian Heritage have any programs to promote awareness or to provide direct financial support for community media.
 - ii) They were expected to survive on advertising, a model that had already ceased being viable for private-sector TV stations that had access to lucrative US TV series. Community stations were expected to create 60% local content and 80% Canadian content. No portion of the considerable financing available to cable companies for the support of their cable community channels was made available to communities to run their own stations.
 - iii) Community stations are considered “secondary assignments” by Industry Canada. If a commercial station (even a repeater) wants the frequency, the community station can be bumped from its channel assignment with no compensation. This is risky for communities. To fund and maintain a broadcasting tower may represent a huge investment for a small community, one which it is likely to maintain permanently, while commercial stations come and go in response to business opportunities.
- There was a lack of enforcement. The CRTC hired summer students to conduct audits of community TV stations belonging to Shaw, Rogers, Eastlink, Cogeco and Videotron in the summers of 2002 through 2006. The CRTC asked for programming logs and videotape recordings as the CRTC is entitled to do under Section 33 of the Broadcasting Distribution Undertaking Regulations. The CRTC discovered that many systems had inadequate logs, and were producing networked, staff-driven programming predominantly. While the new policy was obviously ineffective, the CRTC did not conduct another policy review for three more long years, until 2009, no cable companies were subject to penalties, and no communities were offered the chance to manage the community channel in non-compliant systems.

Rather than simply acknowledging that what had once been a good match was no longer so, the Commission had tried to put a patch on a pair of jeans whose seams had long gone.

During the same period that other levels of government have been exhorted to 'streamline regulations', the CRTC has refused to do the obvious thing, which was to enable communities to manage the community element, as happens in community radio. Each individual station would be answerable to its own community through a community-elected board of directors. A national association such as CACTUS could maintain common standards just as the Canadian Association of Broadcasters (the CAB) represents private-sector stations.

2003: Our Cultural Sovereignty: The Second Century of Canadian Broadcasting

In 2003, the Standing Committee on Canadian Heritage, conscious of the fast-changing digital landscape, asked Clifford Lincoln to chair and conduct a review of the broadcasting system, which resulted in the comprehensive report *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*.

The committee heard complaints from across the country about the decline in community TV services and access, including testimony from both the CMES and the Fédération.

In section 9, the committee recommended that community TV be distributed on multiple media, not just cable, and that it be accorded more funding. The committee also recognized that fundamental problems with the definitions of community, local, and regional programming were creating confusion, and leading to inadequate access by citizens to the broadcasting system. It asked the federal government to take action.

2006: The CMES Applies for a Not-for-Profit Community License

In 2006, the CMES decided to test the new clause in 2002-61 that provided for a not-for-profit community group to manage the community channel in the case in which a BDU elected not to. Telus was launching IPTV services in Alberta and BC, and had indicated to the CMES that it was not interested in operating community stations throughout its service areas. CMES prepared a license application, which was considered as part of Telus' licensing hearing¹². At the hearing, Telus did an about face and said that it in fact did plan to offer a community channel, and thereby blocked the application by the CMES.

12 See <https://crtc.gc.ca/eng/archive/2007/n2007-12.htm>, item 12.

The CMES' plan had been to open production facilities throughout Alberta and BC, expanding access and staff support for citizens as Telus' new service expanded its subscription base. Telus, 12 years later, still does not operate a single bricks-and-mortar production facility where the public can mingle, access equipment, and gain training. In its most recent license renewal in 2018, the company's TV subscription license was renewed, even though the CRTC found its "StoryHive" model of community TV non-compliant with community TV policy¹³.

This highlights how inappropriate and inefficient it is that the cable operator effectively has the "right of first refusal" to spend the money earmarked within the system for community TV, rather than communities.

2008: CACTUS Intervenes at Diversity of Voices

CACTUS' web site launched in 2008, as an attempt to share and consolidate information about the decline in community TV services in English Canada, and to advocate for change. Community Media Education Society (CMES) member Richard Ward served on its first board, and CACTUS has continued the work of the CMES on a national scale. CACTUS members currently include 6 of the 9 over-the-air not-for-profit community TV license holders, 14 TVCs (outside Quebec), several public libraries, municipalities, other not-for-profit organizations interested in media education and democracy, and individual Canadians concerned about the democratic deficit that has opened in the wake of the decline of the community channel system.

CACTUS first intervened publicly at the CRTC's Diversity of Voices hearing. We made the case that in an environment of intense and increasing ownership concentration, it made less sense than ever for BDUs in the private sector (which by then owned the majority of the specialty channels) to also control all funding and administration of the community sector. We called for separate licensing and community control. The report that emerged from the Diversity of Voices hearing stated:

In light of the record of this proceeding and the changes taking place in the broadcasting environment, the Commission has decided to undertake a comprehensive review of its policies with respect to community-based radio and television. The objective of this review will be to ensure that the Commission's regulatory policy supports the development of a healthy community broadcasting sector.

13 See <https://crtc.gc.ca/eng/archive/2018/2018-267.htm>.

173. *This review will include, but will not be limited to,:*

- *the most appropriate licensing policy for community undertakings;*
- *the role of new technologies in the creation and distribution of community services;*
- *funding sources for not-for-profit community licensees;*
- *the role, if any, of national community undertakings; and*
- *the results of the Department of Canadian Heritage's review of community radio¹⁴.*

These statements were promising, as they focussed attention on the importance of community media, its need for stable funding, and in particular the need for funding for not-for-profit licensees.

Following these recommendations, the Community Radio Fund of Canada was created and launched in 2007-2008. The latter fund provides project-based (although not operational) funding to over-the-air community radio stations with funding from Canada's private broadcasters. Perhaps influenced by the Standing Committee Report *Our Cultural Sovereignty*, the LPIF or Local Programming Improvement Fund was also launched in 2008 to supplement the funding for local content that was already available through the SMLPF (Small Local Programming Fund). However, none of these funds was open to applications by not-for-profit over-the-air community TV broadcasters, nor to TVCs that provided content to cable community TV channels. Similarly, the Canada Media Fund was and is still restricted to professional producers whose aim is to generate a profit.

2009 Loss of Campbell River TV

In late 2008, when Shaw Communications made a bid to buy the community-owned and -operated cable network and community TV channel in Campbell River, BC (a move whose legality under the Society Act (British Columbia) was questioned by community members), more than 50 community members wrote to the CRTC to protest both the sale of the cable system and to request the separation of ownership of the community TV channel from the cable system so that at least the community TV channel could be retained under community ownership. Despite the number of complaints and the publicity given to the issue by CACTUS and other groups, Campbell River TV's fate was decided in 10

14 See <https://crtc.gc.ca/eng/archive/2008/pb2008-4.htm>.

minutes in what we were told after the fact was a 'non-hearing hearing' in a boardroom at the CRTC in Ottawa.¹⁵

The decision once again highlighted the lack of separate licensing for community stations, and the pitfall of associating management of community channels with cable system ownership. It was a significant loss in that Campbell River represented an example of a successful community-owned TV station, financially supported by a community-owned cable system.

***2009-2010 Review of Community TV Policy:
Proposal for Multimedia and Platform-Neutral Community Media Centres***

The CRTC announced its intentions to review its community TV and radio policies in 2009. CACTUS prepared for the hearing by examining the programming schedules of all the major cable companies to determine how many distinct program schedules were left coast to coast, given widespread technical and ownership consolidation. We could identify only 19 distinct program schedules in all of English Canada. The rest were sharing more than 50% of their weekly content, operating enormous regional and provincial community channel networks¹⁶.

We therefore proposed that the Commission should create a “Community-Access Media Fund” from the 2-5% of BDU revenues still being spent of cable community TV (at that point amounting to \$113 million coast to coast). We proposed that the fund be open to applications from not-for-profit corporations for operational funding producing any mix of community media in the digital environment: audio-radio, video-TV and online media. We called these entities “community media centres” and reasoned that:

- in a converged environment, the public would get 'more bang for its buck' accessing training, equipment, and distribution of content at a single location, rather than having to frequent two or more different organizations to get their messages out to all members of the community.
- The content should be distributed on all platforms by which the public accesses broadcast content: over the air, satellite, cable and the Internet, in alignment with the Broadcasting Act's stipulation that policy should be implemented in a technology-neutral fashion.

¹⁵ See Broadcasting Decision CRTC 2009-22, Acquisition of Assets, 20 January 2009.

¹⁶ See pages 40-43 of CACTUS' intervention to CRTC 2009-661 at https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=127914&en=2009-661&dt=c&Lang=e&_ga=2.200157422.192824801.1547224543-2129307666.1536772093.

Key points that arose during the hearing process (CRTC 2009-661) were:

- A commissioner questioned our suggestion that BDU revenues earmarked for community TV should be put into a Fund similar to the Canada Media Fund for professional producers, in these terms:

“You are asking us to authorize you to spend 2 per cent of profits not generated by you... it is generated by the BDUs. And you are asking us to give you the authority to spend that money”¹⁷.

The commissioner didn't see that asking BDUs to contribute to a fund for community production was no different than asking them to contribute to funds for public- and private-sector production. The money for community TV seemed to be viewed by her as “the BDUs' money”, not as subscriber money, or as a public resource for communities.

- As a satellite provider, Bell felt at a disadvantage in having to contribute the whole 5% to Canadian Production to the Canada Media Fund and other funds. It felt cable companies had an unfair advantage, in being able to cross-promote services and (in many instances) turn a profit selling sponsorship messages on their community channels. Therefore, Bell proposed that all BDUs should contribute financial support to non-branded community stations. While Bell was envisioning corporately controlled stations and we were envisioning not-for-profit corporations, at least there was a move away from the idea that community stations should be the branded promotional tool of individual cable companies.
- The audience to BDU community channels was minimal according to BBMS: only 1% in English Canada and 2% in Quebec. These low numbers demonstrated (in our minds) that the regionalization of the channels and a cable staff-driven model of “community production”, while arguably more technically slick, had not made the channels more popular or relevant to their audiences.
- Both the Keeble report, the Fédération and CACTUS reported that the average budget for an hour of production by not-for-profit community TV organizations was between \$500 and \$600 per hour, including all administrative overheads, staff salaries, volunteer training, and equipment. This is less than one tenth the average cost of an hour of local production in the public and private sectors.

¹⁷ See lines 422-423 in the transcript for 26 April 2010 at <https://crtc.gc.ca/eng/transcripts/2010/tb0426.htm>.

- Commissioners raised the question whether bricks-and-mortar community production facilities were still necessary, given every Canadian's easy access to camcorders and YouTube in the Internet age. The answer according to CACTUS and other interveners from across the county was a resounding 'yes' because:
 - I) Community media is a process involving the local actors involved in an issue. The community comes to know itself and to find solutions to its own problems in the process of making media for itself.
 - II) YouTubers may be technically-savvy teenagers, but who teaches those with technological, social, or financial barriers to participation? The point of the community channel and community media generally is to lower the barriers to entry, to ensure access to new technologies for communications to all.
 - III) The Internet does not aggregate content for a local audience, and it does not curate content. YouTube content tends to be self-promoting, and is not made guided by community needs. Municipal council meetings and other programs promoting public discourse will not magically arise on YouTube alone.
 - IV) Studio production facilities are still valuable meeting places in the community where new ideas can be tested. Communities are built by people working together, debating and deliberating on issues of common concern. This kind of idea sharing does not happen when people work alone in isolation in their own homes.

The new policy (CRTC 2010-662) raised the minimum amount of access content required to be exhibited on the community channel was raised from 30% to 50%. While an improvement, the adjustment did not address the essential problem that cable companies have treated the community channel and its resources as their own private preserve, rather than a channel for citizen use. No funding was made available for not-for-profit community broadcasters or TVCs, other than the continued moderate funding for Quebec TVCs by a few Quebec BDUs.

2010—Shaw Communications' License Renewals

At Shaw's cable license renewal in late 2010 (CRTC 2010-497), CACTUS intervened to underline how the majority of Shaw's Western cable systems had no community production facilities, and therefore were simply bicycling content from other systems, in contravention of policy. We found evidence of only 5

production facilities among Shaw's 34 systems in 2010 and provided data to show that the systems without production facilities were not meeting the new 60% local and 50% access production targets.

The matter was discussed at the hearing, but the Commission accepted Shaw's explanation that it could serve its smaller license areas with occasional mobile productions. We note that at its most recent license renewal in 2018—eight years later—Shaw remained in non-compliance with both its access and local production requirements, but still retains control and the entire budget for community TV within its license areas. There are still no production facilities in the majority of them.

Without a consistent local presence at street level, citizens can't access the training and achieve a platform for regular dialogue. It's an organic local feedback loop, you just can't get with an occasional mobile production, conceived and carried out by the staff of a private company operating in another city.

2011—Audit of Cable Community Channels

Following the 2009-2010 Policy Review, CACTUS met with CRTC staff with two messages:

- We pointed out that while increasing the minimum access requirement from 30 to 50% sounds like an advance on paper, how are cable companies to meet even the old minimum if there are no production facilities present in a license area or if the license area has already been zoned with others to permit an effective reduction in local content in the zoned areas?
- We asked the Commission whether—if we found a group of citizens willing to submit an application for a not-for-profit community TV license in a license area in which the cable operator was found to be non-compliant, whether the Commission would honour that application?

The Commission responded that it would, and that it would like initially to do its own audit to collect data about the compliance of BDU community channels.

Some months later, CACTUS received a letter from the Commission stating that “CACTUS had launched a complaint” regarding BDU compliance, and asking each of Cogeco, Rogers, Shaw and Eastlink to submit their programming logs for a one-week period in 2011. CACTUS was given an opportunity to comment on the logs, which it did in a 179-page report that took volunteers 4 months to research. We found the majority of audited license areas to be in non-

compliance with community TV policy. In response, we received back a 4-page letter on June 12, 2012, stating that in most instances, the Commission had found BDUs to be “in compliance”, although it would be communicating with BDUs where isolated problems had been discovered. The Commission ignored subsequent requests by CACTUS for access to the data upon which its findings were based.

2011—CRTC Endorses Importance of Community Media

On the 24th of March 2011, the CRTC circulated a report entitled *Shaping Regulatory Approaches for the Future* as an input to a think tank it hosted to debate new directions that might be necessary in an OTT-dominated content delivery environment. The report recognized that efforts to regulate the private sector to offer Cancon might soon reduce their ability to compete with OTT services from beyond our borders, and that more emphasis might soon be placed on the community and public sectors to supply the public-service minded content envisaged under the Broadcasting Act:

“Long-term approaches to ensuring the prominence and quality of Canadian production may increase the importance of public and community broadcasters as instruments of public policy. Local and regional programming will also be important, and community broadcasters may play a key role.”¹⁸

Satellite BDUs Launch VOD “Community TV”

During this same time period, satellite and IPTV providers such as Bell were allowed to launch their own “VOD” community channels. While the premise that some server space on BDU services should be set aside for community-generated content is sound, and that that content should be promoted alongside commercial content (this goes to discoverability), no provisions were made for bricks and mortar production facilities at which members of the public could obtain training, equipment access, and mingle with one another to exchange ideas and to stimulate public discourse. The Commission's encouragement of IPTV and satellite “community channels” simply meant that the money that was supposed to support community TV was split among different providers, none of which had the resources to support bricks-and-mortar production facilities on the ground. “Community channels” such as “Community One” were offered by Bell to serve the entire area of Atlantic Canada.

18 See <http://www.crtc.gc.ca/eng/publications/reports/rp110324.htm> for the full report.

In order to expend the community production budget as was required by the CRTC's community TV policy, we became aware that satellite and IPTV providers were writing cheques to independent producers, and calling it “access content”.

Aside from contravening the policy's intent to make media available to ordinary citizens, the process was inefficient. It subsidized professional producers to purchase and maintain their own equipment, rather than pooling equipment at a central location in the community. Much of the money also went into the producers' pockets, when the heart of community media is that it is an act of voluntary citizen expression.

We intervened several times to make the case that the money should have been invested in existing not-for-profit community TV organizations with facilities on the ground to support public access¹⁹, but the Commission ignored our interventions. We also encouraged such not-for-profit community TV organizations to apply directly to the VOD and IPTV providers for support, but they also were ignored or refused. The companies would deal only with individual producers, whom they could cherry-pick and from whom they could commission content. There was no community production process. This situation continues to the present day. We intervened in the license renewal hearing for Telus to make this case in the fall of 2017, and the CRTC agreed with our assessment of the situation. However, Telus is still in charge of all the funding for community TV within their license areas.

2011—Provision for Rural Communities to Operate Community Channels Removed from BDU Exemption Order

Until August of 2011, the BDU exemption order, like the community TV policy for licensed cable systems, contained a clause (29-6-a-i) to enable a not-for-profit community organization to operate a community channel, in instances in which the BDU did not:

If the licensee does not distribute its own community programming on the community channel, 5% of its gross revenues derived from broadcasting activities in the broadcast year to

(i) the community programming undertaking, if a community programming undertaking is licensed in the licensed area”²⁰

19 For example, in CRTC 2012-0114-4 regarding Bell's VOD community channels.

20 See <https://laws-lois.justice.gc.ca/eng/regulations/SOR-97-555/20090901/P1TT3xt3.html>.

Without our awareness of a hearing or public consultation concerning this issue, the clause was removed in the subsequent version of the BDU Exemption Order.

2011-2012—The Digital Transition

During the transition to digital over-the-air television, CACTUS intervened in the CBC's request to shutdown transmission infrastructure, asking that the CRTC ask the CBC to offer towers to communities before shutting them down. We recognized the importance of these towers so that communities might:

- continue offering the services of the national broadcaster free to air
- retransmit other remote radio and TV services
- offer wireless broadband in rural areas still on dial-up

The CRTC ignored our request, and the CBC has since sold or put in dumpsters hundreds of former towers that could have been used by communities to strengthen the local communications infrastructure. TVO, which was decommissioning its towers at the same time, voluntarily co-operated with CACTUS in offering more than 200 towers throughout Ontario that it was decommissioning to communities. More than 80 communities accepted towers. We published information on our web site (which was linked to Heritage Canada's web site about the digital transition) to assist communities to repurpose these towers, but we lack resources as a small organization to provide the level of support necessary for so many communities to launch and re-launch services, even though we have the know-how among our membership.²¹

2012—Satellite Carriage of Community Over-the-air Stations

In 2012, we succeeded in having six of our over-the-air community stations included in the 43 additional local stations that Bell was asked to carry on satellite as a public benefit when it bought CTV. Satellite carriage is important for community media just as it is for public and private media, so that it can be accessed on all platforms by which members of a community access content: free to air, on cable, on satellite, or over the Internet.

This is the only concrete gain we have made during ten years of lobbying the CRTC to strengthen the role of not-for-profit community television.

²¹ See <http://www.cactusmedia.ca/node/437>.

2013—ICTV of Montreal Applies for a Community License

CACTUS decided to test the second part of the clause that the CMES had tested in 2006:

“In situations where the terrestrial BDU does not provide a community channel or does not operate a community channel in accordance with the provisions of this policy, community groups may apply for a community programming undertaking licence.”²²

We advertised this clause among our members and among communities where we knew the Commission's community TV policy was not being followed.

A group of interested and frustrated citizens in Montreal came forward and said they were willing to apply for a community programming undertaking license under the clause. It took this group, Independent Community TV of Montreal, 4 months to assemble its application, based on the non-compliance of MATv's community channel.

The key findings of this group were as follows:

- With a budget of somewhere between 10 and 20 million per year (BDUs' revenues are not public), Videotron's Matv community channel was producing only 20 hours of original content per week, for an average of over \$15,000 per hour, more than three times the private sector average, and 300 times the average budget of an hour of genuine community-access content.
- Not one program in the schedule was made by a volunteer.
- No anglophone nor Aboriginal content was produced or exhibited during the week reviewed.

The CRTC contacted ICTV in late 2013 to ask it to split its application so that the matter could be dealt with as two proceedings: a complaint proceeding, followed by an application, if MATv was found to be non-compliant. ICTV responded that it preferred to file the complete application as originally filed, so that the public would know that the application for a citizen-managed channel existed and had been submitted.

The Commission's decision (CRTC 2015-31) confirmed ICTV's and CACTUS' findings in almost every regard. However, rather than awarding the license to

²² See CRTC 2010-622 at <https://crtc.gc.ca/eng/archive/2010/2010-622.htm>

ICTV as was implied in the application form and in the policy, the Commission gave Videotron until August of 2015 to make its MATv channel comply with community TV policy.

ICTV monitored the performance of the MATv channel over the summer, and re-submitted its application in September of 2013, on the grounds that MATv was still not compliant. ICTV received a letter back from the Commission stating that its application “had been disposed of”, with no commitment or suggestion how the situation of MATv's compliance would be dealt with moving forward.

2015-16 Local and Community TV Policy Review

In the summer of 2015, before the Commission planned its next review of community TV policy, CACTUS, working with communities across the country, conducted the most in-depth compliance review of community TV ever undertaken. We examined more than 60 licensed and exempt cable service areas to see whether they were compliant. We wanted the Commission to understand that the non-compliance of Videotron's Montreal MATv channel was not an anomaly, but the norm. We filed sixty-seven complaints, and attached them as appendices to the 2015-16 Local and Community TV Policy Review (CRTC 2015-421).

In the 2010 review, we had had a vision of what converged community media service and access might look like: multimedia access under one roof, and multiplatform distribution.

We had filed data as part of the 2010 review to demonstrate our conclusion that the current system was no longer working.

We wanted to take our 2010 vision one step further. We wanted to engage a wide cross-section of stakeholders in a pre-CRTC-review conference to develop a digital policy to support community media in Canada moving forward.

So, we invited community media researchers from across Canada, North America and the world, to participate in panels alongside Canadian community media practitioners to debate everything from multiplatform distribution to multilingual content at a conference called The Community Media Convergence.²³ We invited community media practitioners from four sectors:

- television (video)
- radio (audio)

²³ See www.commediaconverge.ca for a full list of participants, panels, research, and outcomes.

- online community media
- community video game creators

In 2010, we knew of the existence of online community media such as The Media Co-op, but in the intervening time, we had become aware of not-for-profit volunteer-driven groups such as Dames Making Games and the Hand-Eye Society in Toronto, which were making video games as tools of community dialogue and expression, and offering training and guidance to neophytes in the use of the technology. In every way, they were 'community media'. Video games, we realized, were not just a repackaging of video, audio, and text online, they included a genuinely new medium "code" --that makes them interactive. The code creates the constraints within the game, and expresses a view of reality just as surely as the graphics and sound. We also knew that the commercial video game industry had equalled if not surpassed the size of the film and video industries combined in North America, and that communities needed support to ensure that Canadians would have equal access to the training and equipment needed to be media literate and to leverage this new form of express to reflect their own realities.

Video games, as we learned, also offered unique opportunities for community members to engage with themes, by engaging their agency and interaction. Video games were not passive, in the way that watching TV or listening to the radio had in the past been. Players know this, and it explains their incredible popularity. The forms of community media had begun to proliferate much faster than CRTC or Heritage policy could keep pace with.

The research was supported by a grant from the Social Sciences and Humanities Research Council (SHRC), hosted by the School of Journalism and Communications at Carleton University, and overseen by Florian Sauvageau, author of the *1986 Report on the Task Force on Broadcasting*, and Clifford Lincoln, Chair of the report *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*. The core group of community media researchers and practitioners that conducted the research under the grant were called the Community Media Policy Working Group (CMPWG). The CMPWG made its own submission to the CRTC's review of Local and Community TV, in the form of a proposal for a digital Community Media Policy for Canada, which we attach as appendix A. CACTUS participated in the work of the group, and supported its recommendations in our own submission.

The key recommendations were for support multimedia community media centres, whose output would be distributed on all communications platforms available to communities.

CACTUS also filed the following data with the CRTC as part of the 2015-16 Review

- The average cost of an hour of production at a not-for-profit community TV organization was still in the range of \$500/hour. The average cost for an hour of BDU-produced community channel content had risen to almost \$2500 per hour.²⁴
- Viewership to BDU community channels was as low as ever according to Numeris (1.5% of potential audience per week) while viewership to CACTUS not-for-profit member stations averaged over 45% of potential audience per week according to CREO of Queens University.²⁵
- We compiled a list of all community TV stations reported by Matthews over time and discovered that there were over 700. CRTC reports suggest there may ever have been only 300+ in operation at a given time. We also chronicled their closures of community production centres over the years, demonstrating a pattern of technical and ownership consolidation, license exemptions granted by the CRTC, and zoning of formerly separate cable systems by the CRTC at BDUs' requests.²⁶

We had recommended to the CRTC that it review community radio and community TV together to eliminate its platform-siloed approach to policy. Unfortunately, this request was ignored. Instead, the CRTC reviewed local and community TV together. It was apparent from the notice of consultation as well as from the decisions published after the 2014 “Let's Talk TV” consultation that the CRTC intended to take money formerly earmarked for the community element within the broadcasting system (which had grown to \$150 million annually from coast to coast to coast by the time of the 2015 review) and redirect it to support the production of local commercial news. This was why it elected to review local and community TV policy together.²⁷

24 See Appendix D to CACTUS' submission to CRTC 2015-421 at <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=226182&en=2015-421&dt=c&Lang=e&S=C&PA=b&PT=nc&PST=a>.

25 See Appendix B to CACTUS' submission to CRTC 2015-421 at <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=226182&en=2015-421&dt=c&Lang=e&S=C&PA=b&PT=nc&PST=a>.

26 See Appendix E to CACTUS' submission to CRTC 2015-421 at <https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=226182&en=2015-421&dt=c&Lang=e&S=C&PA=b&PT=nc&PST=a>.

27 For example, in the Notice of Consultation for Let's Talk TV (2041-19) the Commission had stated before even beginning the consultation: “77. To ensure the presence of compelling Canadian programs on multiple platforms in the future, the Commission is prepared to consider various incentives and other measures, such as... changing its approach related to

While the CRTC asked CACTUS during the oral part of the hearing process to propose a trial of its multimedia, multiplatform community media centre model, the CRTC's decision following the hearing was not to implement it.

Instead, the CRTC dealt further dealt blows to Canada's once vibrant tradition of community television:

- The CRTC made the provision of a community channel optional in markets having over one million people, on the grounds that these markets had sufficient other media.

In so doing, the CRTC ignored the community process that makes community media different, its role in serving niche groups and in providing media literacy training in a rapidly evolving media landscape. It considered only its role as a provider of local information. Community channels in Toronto, Calgary, Edmonton, and Vancouver were closed as a result, ending fifty years of public-access in those cities.

- The majority of the budget for community TV (a total of \$150 million) was diverted to support private content, through the creation of the Independent Local News Fund (\$37.5 million) and through the increased flexibility given BDUs to move money that had formerly supported community TV stations to support their own private networks (another \$65 million, according to the CRTC's estimate). Not-for-profit community stations were not permitted to apply for this fund, as with the LPIF and the SMLPF.
- BDUs were not required to report publicly on the use of funds, so that communities might now what level of support to expect for their local community station, versus funds that had been diverted to other BDU properties or community stations.
- The clause that we and the CMES had tested regarding the possibility of a not-for-profit group running the community channel in the absence of a BDU community channel or in the case of BDU non-compliance was removed from the policy. The CRTC's explanation for the removal of the clause at paragraph 215 was the most revealing statement made by the CRTC during the decade we have attempted to work within its policies to strengthen community TV in Canada:

the allocation of BDU contributions between community channels, the CMF and independent production funds.”

“215...The Commission considers that allowing an independent company to be allocated funding from a BDU, despite BDUs being regulated and accountable entities, introduces a destabilizing element into the broadcasting system. The intent of this measure was not to put into question the stewardship of BDUs over community channels.”

So, first, BDUs don't need licenses to manage community channels, and once they have them, they can never lose them, no matter how they abuse the principle of citizen access. And why? Because losing control of a community channel might “destabilize the BDU”. With all due respect, we thought the licensing process was intended to keep broadcasting entities accountable to the public, not to protect legacy entities and maintain their “stability”. Surely, as private entities that seek stability of income for shareholders, it is BDUs' responsibilities to operate within CRTC policy, not the CRTC's responsibility to protect them from public scrutiny.

Twenty-two Members of Parliament Support Community Media

Following the publication of the CRTC's Local and Community TV Policy (CRTC 2016-224) in late 2016, over twenty members of parliament presented the following petition in support of community media, endorsing CACTUS' vision of the need for multimedia community centres where Canadians can continue to learn to express themselves and to be heard in the digital economy:

“We, the undersigned Canadian residents, acknowledge:

- That the Broadcasting Act stipulates that the community, private and public elements of the Canadian broadcasting system should complement one another to ensure that a range of local, regional and national programming is available to Canadians.*
- That it is the policy of the CRTC that “the community channel should be primarily of a public service nature, facilitating self-expression through free and open access by members of the community”.*
- That community media can effectively serve small communities, neighbourhoods and alternative voices not served by public and private media.*
- That digital convergence places new challenges on individuals, organizations, and communities to express themselves, to be heard, and to be visible.*

Therefore we ask the government to enable a network of community-operated media centres to ensure:

- the survival of community TV*

- *the availability of local media in towns and neighbourhoods not served by public or private media*
- *all Canadian residents have access to multi-platform media skills training and content distribution in the digital economy.*"²⁸

Compliance Complaints Wait Two Years Until BDU License Renewals

The CRTC announced in 2016 that it would deal with the complaints filed by CACTUS and community groups in late 2015 concerning the compliance of cable community channels as part of the BDU license renewal process, which finally took place in the fall of 2017. A decision was not rendered until August of 2018, in which the CRTC agreed that Shaw and Telus community channels were not compliant with community TV policy, but did not agree with CACTUS that Rogers, Eastlink, and Cogeco were non-compliant except in the case of league sports.

The CRTC nonetheless left management of the entire budget for community TV within Shaw and Telus systems in the hands of Shaw and Telus.

Recent Policy Reports that Examine Canadian Media

Both *The Shattered Mirror* and the *Creative Canada Policy Framework* all but ignored the role of community media, despite the emphasis both reports place on Canadian media challenges that community media is peculiarly well positioned to address. *The Shattered Mirror* focuses on the crisis in local journalism, citing layoffs in professional journalists, local news station and newspaper closures, and the proliferation of false news on the Internet. Community media are:

- ten times as cost efficient as public and private media (and thereby affordable even for small communities)
- licensed and overseen by the CRTC; not the open unregulated Internet
- led by trained journalists and media-makers
- guided by national associations such as CACTUS and the National Community Radio Association that set standards and offer professional training and guidance, just as the private sector is guided by the CAB and various journalistic codes...

²⁸ Links to the MP presentations in Parliament can be found on CACTUS' web site at <http://www.cactusmedia.ca/>

... yet their role was barely mentioned.

Similarly, the Creative Canada Policy framework focused on the digital environment, the blurred line between amateur and professional production, the need for platforms for experimentation, and the challenge of our democracy to continue to cover local town hall meetings and institutions given the high cost of local news production. Yet it too, barely mentioned the community element. All these reports present information of general application to the private sector. The public sector and the role of the CBC/Radio-Canada are generally dealt with as a sidebar, and the community sector is mentioned not at all.

All the national associations that represent community media (CACTUS, the NCRA, the Fédération, the ARC du Québec, and the ARC du Canada) as well as many of their members intervened in the public consultations that led to the publication of these reports. Our interpretation of what happens is that the report writers and analysts that compile the results in these processes are unfamiliar with community media, and don't know how to interpret our submissions... so they simply leave community media out. For example, the twelve-member panel that oversaw the Creative Canada Policy Framework had no representatives from the community sector.

Members of Parliament, however, are familiar with the access that community media gives them to their constituents and to the important role community media play in their ridings. The report published by the Standing Committee on Canadian Heritage in 2017 entitled *Disruption, Change and Churning in Canada's Media Landscape*, deals with community TV in section 2.6.1. This section endorses the call by the Public Interest Advocacy Centre for:

"greater recognition of all independent, not-for-profit community media from both a policy and a funding perspective. The PIAC also believes that a study should be conducted to develop a national community media strategy. This strategy would include resources for training and financial support for community media."

Recommendation 9 states:

"The Committee recommends that the Canadian Radio-television and Telecommunications Commission review its policy framework for local and community television to determine its impact on funding for the community television sector."

CACTUS' VISION

The vision that CACTUS has refined over the last decade for a revitalized community TV and media sector is that there should once again be at least 300 community media centres in Canada—one for each community having 10,000 people or more, regional centres to serve smaller communities, and additional centres to serve large cities, just as the cable community channel system used to serve Canadians, similar to the public library model. These centres should offer training in all new audio-visual media, and disseminate content on all platforms accessible to members of the community, to ensure its relevance as platform for community dialogue, accessible to all as both viewers/listeners and creators.

New Audio-Visual Forms of Media Proliferate

In the three years since the Community Media Convergence was held in 2015, CACTUS has realized that video games are not the only new audio-visual medium that Canadians need to both:

- learn to leverage as tools of cultural expression
- have potential as tools of community dialogue and discourse

The first is virtual reality (VR). VR is an immersive medium that has the capacity to create empathy and cross-cultural understanding in a way that surpasses traditional film and video. Viewers can be full immersed in the world of another, and explore it at their own pace, creating agency.

The second is augmented reality (AR), a technology that enables viewers to see the world around them, but to simultaneously view superimposed data and images. The potential of AR in community settings is enormous; for example in providing interpretation for historical monuments, soliciting input about public infrastructure, and creating interactivity between citizens and their environment.

Public-access TV stations in the United States are already seeing the potential of these technologies as democratic tools, and are making the technology available to the general public. For example, the Brookline Interactive Group (formerly Brookline Access TV) dubs itself as the “First Public VR Lab” in North America, regularly holding training in video game production, VR and AR, and disseminating experimental content on its web site. Its expertise in the use of VR and AR as a tool of mutual understanding has been sought by the United Nations.²⁹

²⁹ See <https://brooklineinteractive.org/> for the web site of the Brookline Interactive Group for more information about its training and programs.

CACTUS' Executive Director spent 2017-2018 on site in Boston working with the Emerson College Engagement Lab, MIT's Civic Media lab, and BIG, doing research on these new technologies and their civic applications. CACTUS is now developing tutorials to enable community media centres from coast to coast to teach citizens these new technologies.

It has become clear to CACTUS that while “TV” may no longer be a new medium, the pace of change in new media technology is such that there must be places in communities where individuals and social service organizations can congregate to learn to apply these new technologies together, to solve the common problems we face, whether it is truth and reconciliation with our First Nations, climate change, how to run your own business, or how to better use local municipal resources. Audio-visual technologies and social media that is the economic lifeblood and connective tissue of our economies will continue to evolve. Community media remains the low-risk platform where our artists and social entrepreneurs can take risks and lead the way.

The Creative Canada Policy framework published last year by the department of Canadian Heritage discusses “creative hubs”. What are “creative hubs” if not community media rebranded for the digital age? Canada was once ahead of this curve, but we will permanently fall behind if we don't make this leap and consolidate our strengths before expertise in the processes of community engagement are lost. It's a unique field requiring the leadership of professionals with both community facilitation skills and audio-visual technical expertise.

The Potential Role of Public Libraries

Because so many communities in Canada have lost their cable production studios, and due to the fundamental changes in the cable technical and ownership infrastructure, we have been in touch with public libraries over the last decade with the thought that they might be the best place to host community media centres moving forward. There are examples in the United States of public libraries that host community radio, TV and video game production centres, such as the Allen County Public Library in Fort Wayne, Indiana.³⁰

Public libraries have the potential to be good hosts for community media because they share a media literacy mandate, and understand that media literacy is much more than just about print literacy. Many participated in the 1990s in Industry Canada's Community Access Portal (CAP) program, which provided Internet access and computer training within communities. Many Canadian public libraries today host 'maker spaces' that include audio-visual

³⁰ For more information, see <http://www.acpl.lib.in.us/home/using-the-library/start-here/access-fort-wayne>

equipment, cameras, and green screens, but most don't see themselves as actively producing content for the community. They may offer intermittent training in the use of the equipment and passively lend it, but there is no community co-ordination function or mandate to distribute content that has been created by the community.

Public libraries are therefore another piece of the puzzle that can be mobilized to address the lack of local media, but this mandate is currently beyond their budgets. They could be efficient hosts, and most communities have one, but they still need additional funding to take on a full community production mandate. CACTUS has presented at public library conferences with this vision, we have offered free training in community media production to them, and we count public libraries among our membership for this reason, but we (ourselves receiving no federal funding of any kind) lack the resources to fully 'mobilize' this sector.

How Much Will It Cost to Revitalize Community Media?

The 2-5% of BDU gross revenues that supported community TV prior to the 2015-2016 Local and Community TV policy review amounted to \$150 million from coast to coast. We calculated that \$150 million is an appropriate amount to support a robust community media sector (including all media: audio, video, online, new media including AR, VR, video games) provided it is managed by not-for-profit community organizations, which leverage the contributions of citizen-volunteers and local organizations. We submitted sample budgets to operate community media centres to the last two CRTC community TV policy reviews. The budgets started at \$300,000 in small communities, employing 2-4 professional facilitators/media makers, and up to \$1 million at larger centres in bigger communities, employing 7-15 facilitators/media-makers. If you multiply 300 communities by these budgets, depending on how many small, medium and large communities are served, it comes to between \$100 and \$150 million.

We compared this level of funding to the public funding available to the public and private sectors. The public sector (the CBC and Radio-Canada) receive just over \$1 billion from Parliament, and take in an additional half billion or so in ad revenues. Similarly, the private sector benefits from approximately a half billion in supports via the Canada Media and other funds, and spends overall about 2 billion on Canadian production. Given that the community sector can produce content for 1/10th the cost of either the public and private sectors, you might expect its budget from public sources to be about 1/10th that of the other sectors.

Possible Funding Sources:

- We had proposed in the 2010 and 2015-16 policy reviews that the money collected by BDUs for community TV be put into a "Community-Access

Media Fund” to which not-for-profit organizations could apply to run community media centres. Aside from the challenges associated with cable management of these resources over the last decade, a centralized fund would have had the advantage of making media available in communities that had never had cable; notably most indigenous communities. As Bell suggested in 2010, the content could be made available to all BDUs and other entities offering audio-visual services in the area.

We believe that the original premise that BDUs should contribute support for local content to the communities from which they extract profits by bringing in foreign content is equally valid today as it was in 1970.

We also believe that ISPs that bring in content (often over the very same cable co-ax and fibre optic cables) via audio-visual streaming services should be treated in the same way. If they operate in Canada, and extract profits from the distribution of foreign audio-visual content into Canada, they should contribute to Canadian production at the same level as Canadian BDUs contribute.

- There is an alternative mechanism by which BDUs (and ISPs) might contribute. In the United States, the PEG system as previously described is funded through “franchise fees” that municipalities are entitled to levy on cable companies, in exchange for their access to public rights of way to lay cable. The concept of the “franchise fee” is useful because it conveys some control and investment in the local communications infrastructure for municipalities. Due to the erosion in funding for community TV that has occurred under exclusive CRTC policy management, we raise the question whether a hybrid funding system in which 49% of the budget came through franchise fees that municipalities charge to BDUs (with one seat for the municipality on the board of the community media centre) and 51% coming as a direct Parliamentary allocation.

We suggest the split for the following reasons: In countries in which community media is fully funded by municipalities, local political interference can occur, impairing the channels' value as a platform for local public discourse (and this is why in Canada municipalities themselves can't hold broadcasting licenses). However, some municipal investment and control in the process would be beneficial. The suggestion that the other half of funding come directly from Parliament would be to treat community broadcasting on an equal footing with public broadcasting, and remove it from the control and influence of BDUs on the CRTC.

- Other possibilities include re-examining the eligibility criteria for both the Canada Council for the Arts Media Arts funding and the Cultural Spaces funds, which could eliminate duplication and create positive synergies.
- Hosting by public libraries would take advantage of shared facilities and create synergies. We note that the budget for a cable-access production facility prior to 2015-2016 was about half the municipal library budget, calculated municipality by municipality. If you imagine the extra equipment, studio space, and staff required to staff a community media centre, it makes sense that extra budgeting of approximately 50% might be required.

RECOMMENDATIONS FOR THE BROADCASTING ACT

The following are our recommended changes to the Broadcasting Act to strengthen community audio-visual media and to enable the sector to fulfill its role in a digital Canada.

We realize that some of these outcomes may have to be achieved through CRTC policy changes, but given our inability to achieve these outcomes so far—20 years after the initial technical and ownership consolidation that have undermined Canada's community TV system—we believe the Broadcasting Act must be more explicit with respect to its importance and needs.

Further, we are not lawyers and do not know the exact line where legislation stops and policy starts, so while we have shared our vision for how a healthy community “element” can achieve its significant potential as part of Canada's telecommunications infrastructure in the preceding section, and we suggest language that might be used in the new act, we trust that the Panel can help us translate our vision and suggestions into legislative language.

Develop Expertise Among Policy-Makers Concerning Community Media, and Ensure Statutory Oversight so that Objectives of the Act Are Met

We have outlined at length our efforts to bring data before the CRTC to document the structural mismatch between the cable industry and management of community television. We hoped that our efforts would meet with reasoned decisions from the federal regulator. Our failure has led us to conclude that the regulator is captured by the industry it regulates to an unhealthy degree. Not only should ownership consolidation be feared as a threat to diversity of voices, it should be feared and discouraged because of the leverage such a consolidated industry has on the regulator. It is commonplace to hear the CRTC refer to BDUs as its “clients” in casual conversation, not the general public that the Broadcasting Act is meant to serve and protect.

Leaving the administration of all of the resources in the nation under the stewardship of private corporations answerable to shareholders, with policy reviews only every 6-10 years has been irresponsible. It is only intermittent management, of a “drop-in” nature, with scant follow-up or monitoring. As problems have surfaced, band aids have been offered that do not address the underlying structural changes that have occurred in the cable industry.

The CRTC has also not worked effectively with concerned institutions that represent the public voice in this matter: CACTUS, the Fédération, and the CMES. There is no single person at the CRTC whose exclusive mandate is to follow and promote development in the “community element” in the Canadian

broadcasting system. There is an individual responsible for small broadcasters, but the needs of small private broadcasters are different than the needs of community broadcasters.

Similarly, there is no single person or position at the Department of Canadian Heritage whose exclusive portfolio is community media, whose job it could be to liaise with the CRTC and make sure the policies of Canadian Heritage are consistent with those of the CRTC and of Government. During the ten years we have been dealing with these institutions seeking productive action to modernize the community element, we are dealing with a revolving door at both. Typically, the CRTC assigns an individual to manage a particular hearing (who builds some expertise in community media), but when the hearing is over, these individuals move on.

When we have raised this issue with the CRTC (the National Community Radio Association has also raised it), we have been told that the CRTC wants all departments (programming, distribution, consumer affairs) to build expertise in community media, and for expertise not to be siloed, but the result is that no one within the CRTC understands community media and its potential. The needs of community media are last in every hearing. - always a sidebar to the big commercial transactions of the day. As everyone including the Government of Canada now acknowledges, there is a crisis in local news and information, and community media is uniquely positioned to address it, positioned between the wild west of the open Internet and all-professional media as it produced in the public and private sectors.

Therefore, we recommend that:

Recommendation 1:

1. The CRTC designate a permanent staff position in its department of Consumer Affairs and Strategic Planning to promote community media and to liaise with entities outside the CRTC to align its policies, including the Department of Canadian Heritage, the Canada Council for the Arts, the Cultural Spaces Fund, and the Canadian Federation of Library Associations.

We recommend as wording to be inserted into the new Act in section II (concerning the operation and powers of the CRTC vis-a-vis government):

“In recognition of the important role community media continue to play in a digital Canada and its different operational structure and needs compared to the public and private sectors, the CRTC will maintain at least one permanent staff position to promote the development of community media and to liaise with the Department of Canadian Heritage and other

institutions and departments whose mandates are enhanced by community media.”

Recommendation 2:

2. The Department of Canadian Heritage designate a staff position to promote community media, to liaise with the CRTC, with the Canada Council for the Arts and with other government departments whose mandates are impacted and enhanced by a robust community media sector:

We recommend as wording to be inserted into the new Act in section II (concerning the operation and powers of the CRTC vis-a-vis government):

“In recognition of the important role community media continue to play in a digital Canada and its different operational structure and needs compared to the public and private sectors, the department of Canadian Heritage will maintain at least one permanent staff position to promote the development of community media and to liaise with the CRTC and with other institutions and departments whose mandates are impacted and enhanced by community media.”

Recommendation 3:

3. The creation of an Ombudsperson's Office to receive and settle complaints regarding broadcasting matters, with at least three staff positions: one for the community element, one for the public element, and one for the private element.

The Department of Canadian Heritage is subject to political influence. The CRTC was created to be at arms-length from government, but its Commissioners are political appointments and it is heavily lobbied by and widely understood to be captured by the industry it regulates. There needs to be a third body that defends the public interest as it is defined in the Broadcasting Act: a watchdog with a research budget to initiate its own analyses of how well the expectations of the Act are being met.

As with Ombudspersons in other industries, while the findings of the Ombudsperson's office might not be legally binding, the office should have the power to liaise with the CRTC and the Department of Canadian Heritage as a third weight representing the public interest.

We recommend as wording to be inserted into the new Act in section II:

“An Ombudsperson's Office shall be created that can receive and investigate complaints on behalf of the public with regard to the public-, private- and community sectors in broadcasting, and which is resourced to conduct research into the effectiveness of the Broadcasting Act and resulting policies. It shall have the power to liaise with the CRTC and with the department of Canadian Heritage to see that complaints not addressed by the CRTC can be settled to the citizens' satisfaction.”

Recommendation 4:

4. That a Community Media Secretariat be created to rebuild awareness of community media in Canada, to develop digital policies to support community media, and to disseminate information to communities to help them establish community media centres.

It took effort by the NFB, working with the backing of 10 federal government departments and working with the CRTC over many years to promulgate the original community TV methodology. We need this level of co-ordination to revive the sector so that it can answer the vital need for local news and information, and function as a platform for digital media skills training.

We propose, that this Secretariat might include:

- each of the CRTC and Heritage employees committed full-time to the community media portfolio
- a representative of CACTUS, the Fédération, the NCRA, the ARC du Québec, the Arc du Québec, and possibly representative of community new media organizations such as the Hand Eye Society
- a representative of the public library sector, such as the Canadian Federation of Library Associations
- a representative from each of the other federal government departments whose mandates are enhanced by community media, including ISED, Employment, Workforce Development and Labour (skills training), Infrastructure and Communities, Democratic Institutions, Public Safety and Emergency Preparedness, Indigenous and Northern Affairs, Ministry of Families, Children and Social Development.

We recommend as wording to be inserted into the new Act in section II:

“A Community Media Secretariat shall be created to promote the role of community media, develop digital policies to support it, and educate

communities about the funding and technical opportunities available to them to operate community media centres.”

Recommendation 5:

5. That there be a costs award process to compensate not-for-profit public interest groups that intervene in broadcasting proceedings, equivalent to the process that compensates public-interest groups for intervening in telecommunications proceedings.

The Broadcasting Participation Fund was established to mimic the telecom process and compensate groups for costs incurred to participate in broadcasting proceedings, but the BPF's financial future is uncertain. It receives new funding only at the discretion of the CRTC when it is able to direct public benefits money to the fund as part of an ownership transaction. CACTUS has had difficulty being compensated from the BPF when its resources were near depletion, and still has several claims outstanding.

We presume that an equivalent wording to section 56 of the Telecommunications Act needs to be added to the Broadcasting Act (if the Acts remain separate):

“Award of costs

The Commission may award interim or final costs of and incidental to proceedings before it and may fix the amount of the costs or direct that the amount be taxed.

Payment of costs

The Commission may order by whom and to whom any costs are to be paid and by whom they are to be taxed and may establish a scale for the taxation of costs.”

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Suggested Rewording Based on the Current Broadcasting Act

It is unclear whether a single Act will result from the current consultation, whether any wording in the current Acts will be retained, or entirely new Act(s) written.

In this section, we present our remaining recommendations in terms of improved language in the existing Act, in order to more fully recognize the reality of the community element in the broadcasting system, and to prepare the ground for its modernization in the digital environment. We comment on the language in order by section.

Section 2 “Definitions”

The single most important modification needed to the Broadcasting Act from the point of view of supporting a robust community media “element” is to define “community element”. This term and “community programming” are used in section 3 of the act, but no definition is provided for either term in section 2 “Definitions”.

We propose that the following definitions be added:

“Community Element”: The community element in the broadcasting system is defined i) by not-for-profit community ownership and ii) by the participation of any or all members of the community in the production of programming, day-to-day operations of the channel, and administration, via participation in a community-elected board.

“Community Program”: An audio-visual production created at a not-for-profit community media organization belonging to the community element.

Section 3-1 b) and c)

Because one of the strengths of community media is its reflection of minority points of views, cultures and languages, we noted an inconsistency between section 3-1 d) iii), which acknowledges the multicultural make-up of Canada, and section 3-1b) and c), which does not.

We therefore suggest striking “*operating primarily in the English and French languages*” from section 3-1b) and moving 3-1c) after 3-d) and adding to it as follows:

English, French, indigenous and multicultural broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;

3-1 d) ii)

“encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity “

The language in much of the Act reflects the public- and private-element professional model of production, in which a privileged class (journalists and producers) tell stories for everyone else. This view is embodied in this passage in the italicized word “reflects”, as if as long as the majority of Canadians see their “opinions, ideas, values and artistic creativity” reflected on the screen, due diligence has been done. From the point of view of the community sector, this is not enough. For a healthy democracy, the “attitudes, opinions, ideas, values and artistic creativity” of all Canadians should have a place on the screen, to the extent that all Canadians wish to participate democratically within our media system.

This passage also implies that “Canadian attitudes and opinions” are simply sitting out there to be captured (as in our public-and private-sector image of a journalist collecting opinions on the street). The community media process is fundamentally different, in that it generates analysis and points of view that are different, more comprehensive, nuanced, and in depth as a result of its unique process.

Therefore, we would suggest instead:

“encourage the expression of Canadian attitudes, opinions, ideas, values and artistic creativity by supporting Canadian talent and by generating information and analysis concerning Canada and other countries from a Canadian point of view,”

3-1 d) iv)

We note that current Canadian community TV policy does not reflect “*current scientific and technological change*”. It has stagnated to protect a legacy industry (cable) that serves less than 60% of the population.

3 1e)

In order for each element to “contribute appropriately” to the overall system, they must be resourced to do so. The community element under CRTC policy has lost most of its funding (diverted to the private sector) since the 1991 Act was written. It is our view that in a global deregulated environment, Government, via its various programs and mechanisms including the CRTC, should follow the

recommendations in the CRTC's own 2011 report, *Shaping Regulatory Approaches for the Future*, and let the private sector compete on the open market with reduced regulation, while concentrating tax dollars and government support in the public and community elements, which have a public-service mandate and do not need to be incented with a byzantine network of regulations to meet the expectations of the Act.

As discussed, the community element needs about 10% of the budget of the public sector, or between \$100 and \$150 million to fulfill its important democratic role.

We would therefore recommend as a wording:

(e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming. Those fulfilling a public-service function (i.e. the public and community sectors) will be adequately resourced to do so;

3 1 g)

“(g) the programming originated by broadcasting undertakings should be of high standard;”

The term “high standard” is not defined and has the potential inadvertently to discriminate against community-generated content. Quality can be defined in many ways. We presume that all players within the system want to make their content as appealing as possible to their audiences, and that they best know those audiences and their expectations. Particular concerns about technical or journalistic quality are matters that the CRTC can raise at license renewal time, or which can be raised by viewers in the form of complaints during a license term as appropriate.

There was once a perception that community-generated content was of a technically low standard, pre-2000, when consumer camcorders were relatively difficult to get clear audio and picture out of, without careful lighting and supplementary microphones. This perception is outdated, as the latest cameras (and any cell phone) are extremely easy to use to produce high-definition pictures and audio.

With technical quality considerations behind us, we are left to question what is “high standard”? All broadcasting undertakings in Canada must adhere to slander and libel laws, and community broadcasters like other broadcasters adhere to the journalistic and other codes of ethics.

What is important about the community sector—whether or not it can afford crane shots or the latest news graphics—is the quality and depth of point of view it can convey on matters of public concern. While commercial stations might have 3 minutes to devote to an issue, reducing a complex social problem to a sound bite (often slanted or ill-selected), community media has the time to devote a half an hour or more, presenting in-depth interviews with all the participants. Respondents or viewers that want to follow up on a topic can do so.

Therefore, we would suggest striking letter (g) unless “high standard” can be better defined.

3-1

*l) the programming provided by the Canadian broadcasting system should
I) (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,*

We note that in most communities that have local public- or private-sector TV programming, that local programming consists of the news. In larger markets, there might be a breakfast show with book reviews and light entertainment. Gone are the days when local private or public broadcasters could serve the needs of “men, women and children of all ages, interests and tastes”. A community TV station in a mid-sized market, on the other hand, due to its production multiplier effect (relying on contributions by citizens and local organizations) often produces for all these tastes, producing sports programming, talk shows, seniors' shows, political programs, multicultural programs, children's shows, exercise shows. This model of “variety” and “comprehensiveness” is possible on a local scale only under a community model of production. These “men”, “women” and “children of all ages, interests and tastes” come forward themselves to provide for those of like mind and interests.

Because the role of the community sector has been under leveraged and misunderstood for two decades, we recommend that the new Act underscore its unique role and capacity with the following rewording:

*3-1 l) the programming provided by the Canadian broadcasting system should
II) (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes. At the local level, community broadcasters are in the unique position—through their lower cost structure--of being able to provide this variety and to serve the needs of niche groups.*

lii) **(iii)** include educational and community programs,

As noted initially, “community programs” is not defined, and we would point out that most communities in Canada cannot see “community programs” about the place where they live. Cable community channels—where they still exist at all, have been highly regionalized.

iv) **(iv)** provide a reasonable opportunity for the public *to be exposed to* the expression of differing views on matters of public concern,

Consistent with our comment regarding the use of the phrase “reflect” in point 3 d) ii) above, the phrase “to be exposed to” assumes a private- or public-sector model of production, in which most Canadians are a passive audience to content created by a privileged class of journalists and producers. To anticipate and include the role of the community element, we suggest instead:

“provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and to directly participate in public dialogue on such matters via the community element”

3-1k)

(k) a range of broadcasting services in English and in French shall be extended to all Canadians *as resources become available;*”

We make the note that there are resources within the system so that 90% of Canadians can have access to what we used to call “a community TV station” but which we now dub a community media centre. The funding formula needs to be reallocated to accomplish this objective.

It costs 1/10th the cost of public- and private-sector audio-visual services. The \$150 million that were tied up in BDU community channels until the 2015-29016 policy decision diverted the majority of that money to private production was enough to fund 300 community media centres, serving all communities having 10,000 people or more, and 90% of Canadians overall through additional regional media centres to serve more sparsely populated areas. This term “as resources become available” should not be an excuse not to serve some Canadians. We therefore suggest as a more committed yet achievable wording:

“a range of broadcasting services in English, French, and indigenous languages shall be extended to all Canadians; where resources do not permit local content production in the public and private sectors, the community sector—with its lower cost structure—will be resourced adequately to ensure local languages, public discourse, and culture is supported in our audio-visual system.”

3-1 o)

(o) programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose;

As in the previous point, the low-cost structure of the community sector means that we have the resources to provide community media in all indigenous communities. “As resources become available for this purpose” is a cop-out, particularly in an environment of truth and reconciliation. The term “reflects” once again also implies the viewer as a passive consumer of content. If there was ever a community of people that need control of their own local communications system and the opportunity to develop media literacy and their own voices, it is our indigenous peoples. While many indigenous communities have community radio, few have community TV because it has not been profitable for cable companies to cable most reserves, and all the resources for community TV have been tied up in the cable model. With not-for-profit local control and distribution on all platforms, indigenous communities can be served. Community media funding should not be limited to communities where there is a cable infrastructure. If all ISPs contribute and are treated as BDUs under the new Acts, this should no longer be a limitation.

We therefore suggest the following wording:

'programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system, and resources made available for community media to support locally indigenous content and languages.'

3-1 p)

(p)programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose;

We make the same comment as above. Disabled persons are natural clientele for community media, because they can adapt the technology (and rely on technical support to do so) to meet their needs. For example, Shaw Cable TV in Calgary in the 1990s rewired its studio to enable a group of deaf adults to create their own news magazine programming. They used an additional camera in the studio for a deaf director to communicate with deaf camera operators in studio. There is enough money within the system for a robust community media system so all Canadians can generate their own media and make the adaptations they need to be heard. This is the mandate of the community sector. We therefore suggest the following wording:

“programming accessible by disabled persons should be provided within the Canadian broadcasting system, as well as the resources and opportunity to develop their own content and voices on community media;”

(r) the programming provided by alternative television programming services should ...

A definition of “alternative television programming services” needs to be provided and it is not clear to CACTUS what category of service this phrase refers to.

Community media practitioners would say that subsections i through v) describe community media and its role, more completely than any other section of the Act. Only subsection iv) doesn't fit in stating *“as far as possible, be acquired rather than produced by those services”* since community media by definition is not acquired, but produced in-house by the community.

Very few programming services in Canada of the type described exist in the private sector; it is the community sector that has traditionally complemented the roles of the mainstream programming, reflected the regions and multicultural, been innovative, and distributed throughout Canada by the most cost-effective means. Therefore, we propose that this section instead define the role of “community media” as follows:

- (r) the programming provided by community media should*
- (i) be innovative and be complementary to the programming provided for mass audiences,*
- (ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences, and include programming devoted to culture and the arts,*
- (iii) reflect Canada's communities, regions and multicultural nature,*
- (iv) be produced by and for local communities through their not-for-profit participate structure*
- (v) be made available throughout Canada on all platforms available in a community;*

3-1 t(i)

(t) distribution undertakings

(i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations

We note that independent not-for-profit community TV stations that have gained over-the-air licenses since the 2001 policy was introduced have often experienced difficulty achieving appropriate carriage by BDUs. For example, CHCO-TV in St. Andrews, New Brunswick has fought a ten-year battle to have its

signal carried beyond the 1400 households that can receive its over-the-air signal in St. Andrews. After Rogers shut down the cable community stations in the other two villages within the county (St. Stephen and St. George), CHCO-TV has tried to pick up the slack reporting on their events. There is actually a single head end in St. Andrews that serves the whole county, but Rogers deliberately inserts a cable trap at the edge of St. Andrews in order that CHCO-TV's signal not be seen in neighbouring communities. The motivation appears to be to favour Rogers' own province-wide "community channel", even though it is much less local and relevant.

Therefore, we support this clause, but it needs enforcement.

iv) (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.

When the 1991 Act was written, BDUs could not own specialty channels, so it's not clear whether this clause in fact refers to the community channel. We suspect it is now obsolete and should be struck. (We have no issue with BDUs originating local content, but we believe, for all the reasons aforementioned, that BDUs should not manage the resources within the system earmarked for "the community element". If they want to originate local content, it should be on a broadcast channel they own or a specialty channel and recognized as part of the private sector.)

Questions from the Panel Regarding the Broadcasting Act

Our global comment regarding questions 9 through 14 concerning the Broadcasting Act is that while a subsection (question 13.1 through 13.6) focuses on the role of the public broadcaster, no questions focus on the community sector: the other public-service sector. As mentioned earlier regarding the *Creative Canada Policy Framework* and *The Shattered Mirror*, we fear that this absence reflects a lack of expertise about the community sector on the part of those organizing this review.

This is of grave concern. In an environment of:

- exploding tools for communications, when all Canadians need digital media skills training to be effective in the digital economy
- intense media ownership concentration, when a safety valve for alternative expression and local democratic expression is more important than ever
- there is an acknowledged lack of resources to produce local content... even core news coverage

... the community sector is crucial. How can it be effectively discussed and its role defined in a complementary manner to the other sectors if we don't know what questions to ask?

With this preamble, we answer certain questions that have relevance to the role of the community sector:

9.1 How can the objectives of the Broadcasting Act be adapted to ensure that they are relevant in today's more open, global, and competitive environment?

As was envisioned in the CRTC's **2011 report**, *Shaping Regulatory Approaches for the Future*, perhaps the exhibition requirements for the private sector should be relaxed so that those entities can compete in the international marketplace on a more even footing, and public resources should be focussed on the two public-service sectors: the national public broadcaster to provide us with a national and international perspective from a Canadian point of view, and the community sector to ensure that hyperlocal content serves every community in a cost-effective fashion, while also serving as a digital skills training platform and launchpad for Canadian talent in this more competitive marketplace.

It has always seemed counter-productive to us that the three sectors “public”, “private” and “community” have always been hybrids. The public sector has been expected to raise half its revenues for television through advertising, which has diluted its mandate, the private sector has been expected to meet Can Con requirements and has benefited from significant public funding via the Canada Media and other funds to meet these requirements, and the community television sector has been managed by the private sector, and slowly degraded over time in service of a corporate mandate. Deregulating the private sector and focussing public funding on the two public-service sectors would enable more distinction between the kinds of programming they produce to emerge.

9.2 Should certain objectives be prioritized? If so, which ones? What should be added?

As discussed already, a more precise definition of the community element and its role is needed, which makes clear its not-for-profit community-owned structure. A robust community sector can respond to the need for local news and information, digital skills training, and multicultural expression, including viable platforms for the cultural and linguistic expression of our indigenous peoples. In a country so large geographically and such a small dispersed population, the community production model is the only cost-effective solution to the need for local news, information, and cultural expression.

10.1 How can we ensure that Canadian and non-Canadian online players play a role in supporting the creation, production, and distribution of Canadian content?

We believe traditional Canadian BDUs that distribute content by satellite or terrestrial networks should be treated in the same way as foreign ISPs that offer pay TV services via streaming. Both should be considered “BDUs” and both should be asked to:

- i) support Canadian content financially as a percentage of their revenues in Canada
- ii) promote Canadian content alongside international content at least as prominently. For example, on a service such as Netflix, its Canadian user interface should include Canadian titles mixed by thematic categories (e.g. Canadian moves among the general movie selection) as well identified in a “Canadian” category so that viewers interested in Canadian content specifically can easily find it.

From a community media perspective:

- The sector needs between \$100 and \$150 million to fulfil its role providing local news, information, and cultural content, digital skills training, and a platform for local dialogue in which the citizenry can directly participate. We believe that this amount should come from Canadian BDUs and foreign BDU-ISPs that extract subscription dollars from the Canadian economy equally... whatever percentage adds up to this amount. The alternative would be a direct parliamentary allocation, similar to the funding for CBC/Radio-Canada.
- Community media content created locally must also be visible and promoted on the services of both BDUs and ISPs operating in Canada. Possibly this could be handled by creating a national server of community TV content that is searchable by postal code. Canadian BDUs and foreign BDU-ISPs could use automated software that would make this content available alongside national and international selections.

10.2 How can the CRTC be empowered to implement and regulate according to a modernized Broadcasting Act in order to protect, support, and promote our culture in both official languages?

We're not sure. As discussed earlier in this document, the CRTC has and had the tools to address the structural problems that developed in the community TV sector, but elected not to use them. It could have separated the licensing of community stations from the operation of cable systems (and latterly satellite and IPTV services), but did not do so. The independent not-for-profit license class of community TV over-the-air service created in 2001 was a step forward, but none of the BDU funding earmarked within the system for "community TV" was made available to these stations, so few launched. Similarly, when an application was made under the community TV policy for not-for-profit groups to manage community TV stations based on non-compliance, the CRTC "disposed of" the application, gave the BDU more time (unlimited) to get into compliance, and then removed this clause from policy at the next policy hearing.

The issues we have experienced with the CRTC is that it does not enforce the public interest sufficiently with the tools it already has. Its priority seems to be to maintaining strong broadcasting companies, not necessarily on defending the public interest, which the Act makes clear is the first priority.

The main problem we see is that ownership consolidation has made too few companies too powerful, and their needs hold sway at the CRTC. It is our belief that BDUs should be common carriers only, and should not be allowed to own broadcasters and specialty channels. Carriage and content should be separately owned, so that there is genuinely an equal playing field for content. In the current environment, innovation is stymied because BDUs favour their own content and small players have to compete on an uneven playing field; this

includes independent community stations. The golden heyday of Canadian content was in the early years when specialty channels were independent services. As soon as BDUs were allowed to buy them, we saw their content homogenized, and content repurposed from channel to channel.

10.3 How should legislative tools ensure the availability of Canadian content on the different types of platforms and devices that Canadians use to access content?

We answer this question from the point of view of public and community TV content alone (the two public-service sectors that are publicly supported):

As described above, all Canadian BDUs and foreign ISPs operating like BDUs in Canada by offering subscription TV services, should **be required to** offer all public-service channels, including the CBC/Radio-Canada, the local not-for-profit community TV channel, APTN, CPAC, and educational broadcasters such as TVO and the Knowledge Network.

The funding system for Canadian content development also needs to be expanded. The current system of asking BDUs to contribute to Canadian media funds should be continued and extended to foreign ISPs that act like BDUs **on the internet**. This content should then be made available and promoted as described above: Canadian titles should be presented thematically (movies among movies, TV shows among TV shows, kids' programming among kids' programming) as well as promoted as part of a “Canadian theme” for viewers specifically interested in Canadian content.

11. Democracy, News, and Citizenship

In the preamble to this section, no mention is made of the community sector, despite the fact that its forte is support of local democracy and citizenship, and it has the capacity to produce news and local information at a tenth of the cost of the public and private sectors. The preamble of this section concludes with the statement:

“Both public and private broadcasters have a role to play to ensure that Canadians receive local news and information in both official languages.”

This oversight demonstrates the lack of understanding of the writers of the framing document of the role of the community sector and underscores the need for better definitions and stronger language in the new Act to define the role of the community sector.

11.1 Are current legislative provisions sufficient to ensure the provision of trusted, accurate, and quality news and information?

No. As discussed above, in order for most smaller communities in Canada to enjoy “trusted, accurate and quality news and information”, changes must be made to the act as indicated to better define and support the role of the community sector. The sector is licensed, led and curated by professionals, and cost-effective. The best way to ensure the availability of accurate and trusted local information is for citizens to participate in its production at the local level. Community members know one another, and the service as a whole is answerable to a local and elected board of directors, and follows the same journalistic standards as public and private broadcasters.

11.2 Are there specific changes that should be made to legislation to ensure the continuing viability of local news?

Yes. As previously described, the role of the community sector must be better defined and supported in new legislation.

It's also important to define what we mean by “local news”. The idea of a half-hour tightly edited block composed of sound bites on multiple topics of 2-3 minutes duration is a big-city format, in which viewers are not expected to know the subjects in the stories necessarily; they are expected to want a quick 'hit' of the day's big events. News for smaller communities and neighbourhoods in large urban areas may be constructed differently. Viewers are more likely to know the protagonists, and want a more in-depth understanding of what is going on. The 2-3 minute segments on health, politics, and sports that might fill a typical big-city newscast might each become a complete program on a community TV or radio station, where there are no time limits, and citizens themselves have been motivated and given their time to create the content. For example, where a big-city newscast might provide a two-minute highlight of a sporting event, the community station would air the whole game. Why not? Where a big city news program might summarize a local political issue in two minutes with a sound bite representing each side, the community station might do a half hour or hour-long studio talk show, with the protagonists on hand with a live audience, to examine in more depth the forces and underlying issues.

Therefore, we advise caution when using the term “local news”, and encourage the Panel to think more broadly about “local news and information”, which community stations are in the best position to provide to most communities because of their low-cost structure. The public and private sectors are better positioned to provide national and international news coverage.

12. Cultural Diversity

We appreciate that the preamble for this section acknowledges that Canadians have the right not just to access information but also to participate in its creation:

Cultural diversity is about ensuring that Canadians of all backgrounds and experiences can create and access content that speaks to them;

Facilitating the participation of all Canadians—especially those from diverse backgrounds that do not feel themselves well-served by mainstream media—is the unique role of the community element in the broadcasting system. If Canadians do not see themselves and their issues in mainstream sources, they can create their own content, with assistance if necessary. Considering that individuals from minority backgrounds may not have a secure command of English or may be recent immigrants in more vulnerable financial situations, development and exercise of “voice” can be intimidating. One of the roles of community media is not only to provide the technical training, equipment, and platform access to create and disseminate one's own content, but to provide the supportive community setting where it is safe to experiment and express a view that may be alternative. Minority groups may often feel fear of reprisal for critiquing mainstream positions.

12.1 How can the principle of cultural diversity be addressed in a modern legislative context?

The best way to develop the voices of minorities and promote cultural diversity is to support a strong community media sector, where these voices have support to develop, and have a public platform for expression.

13. The National Public Broadcaster

We do not comment in this section, except to say that there ought to have been an equivalent devoted section in this review that examines the role of the community broadcasters.

14. Governance and Effective Administration

As discussed above, we are not lawyers, but our experience has been that the CRTC is overly dependent on the industry it regulates, while the department of Canadian Heritage is subject to the political influence of the ruling party. There needs to be a third entity that represents the public interest. We have suggested an ombudsperson's office with at least three employees or portfolios, one each for the public, private, and community sectors, which would have the power to liaise with the CRTC and the department of Canadian Heritage on complaints submitted by the public.

RECOMMENDATIONS FOR THE TELECOMMUNICATIONS ACT

The telecommunications act affects community broadcasting in three ways. We describe how below, but are not sure how to express these impacts within the Telecommunications Act, with which we have less experience than the Broadcasting Act. We trust that the Panel can help us translate them into actionable language.

1) Access to Local Distribution Infrastructure

Measures need to be taken so that communities are in control of or at a minimum can access the local “on-ramp to the information highway”, so that they can i) determine the mix of services that are accessible to the community and ii) originate and distribute local content. This might mean local tower ownership, or the ability to insert content into the local cable system. Many CACTUS members do own their own broadcasting towers, and rebroadcast a “skinny basic” package of radio and television signals of their own choosing, including their own community TV and radio.

As described earlier in this document, CACTUS worked hard to increase tower ownership by communities during the transition to digital over-the-air television.

If towers exist in a community but are owned by others, communities should have free access to them for distribution of local content. When Shaw bought Global in 2010, the company was asked to share towers or multiplex with local and community broadcasters outside major markets, but the requirement appears to have been dropped now that Global is owned by Corus.

Similarly, local content must be available on all devices by which members of a community access audio-visual services. For example, ATSC chips in cellular phones should be unlocked by regulation so that users can listen to free over-the-air public-service signals without paying for data plans.

2) Net Neutrality

Net neutrality has the potential to affect community media in two ways that we can foresee:

- If it became common for ISPs to offer bulk (cheaper) streaming rates to large services such as Netflix compared to community services, it could become very expensive to access community services (or any smaller-volume but nonetheless culturally significant services, including public, educational or Indigenous broadcasters).

- Search algorithms should not favour content delivery services owned by ISPs. It is not in the interests of democracy if community media or any other smaller-volume but culturally significant content such as that of the national broadcaster or educational broadcasters is difficult to find by search engines. This is equivalent to BDUs giving preferential packaging to their own services, and why ISPs and BDUs should be common carriers only, and not allowed to also originate or own content. Their power to distort a free market in content and control what information citizens receive is just too great. Our democracy cannot be compromised by private companies deciding what can and cannot be seen by the public.

3. Spectrum and Bandwidth Reservation for the Community Sector

Bandwidth and frequencies for community use must be preserved, as follows:

- At least one broadcasting frequency (one for radio and one for TV) should be reserved in each market for use by the community. In markets in which there is no free frequency as of today's date, other broadcasters must be willing to multiplex with a community broadcaster. It might make most sense for multiplexing to occur with the public broadcaster.
- Frequencies used by the community sector should be considered primary services, regardless of the size of the transmitter. The community is there for the long haul and serves an exclusively public-service function.
- Space must also be allocated for community use within non-broadcasting spectrum. For example, bandwidth was set aside for emergency services (paramedics, police, fire) but communities should be able to use the bandwidth during non-emergency times. For example, a community could broadcast radio or TV during non-emergency times, and the emergency message could cut into the signal. CACTUS made this suggestion as part of Industry Canada's spectrum auction consultation. We notice that other local entities, such as the City of Calgary, made a case for non-emergency community set asides for spectrum, for bus transportation. The City of Fredericton needs spectrum for municipal-provided Internet service, and so on. Communities provide services that the commercial sector sometimes cannot or will not, and there must be spectrum set-asides for these uses.

Suggested Rewording of the Current Telecommunications Act

As we did with the Broadcasting Act, for clarity in applying our thoughts, we comment on existing wording in the Act. Following, we answer the questions posed by the Panel that pertain to community media.

Part I – General

A definition for the term “broadcasting distribution undertaking” should be provided, which includes ISPs (Internet Service Providers) that also stream audio-visual content on a subscription basis. The Broadcasting Act defines a BDU as follows:

an undertaking for the reception of broadcasting and the retransmission thereof by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking;

According to this definition, ISPs that offer subscription streaming services are also BDUs, to the extent that they retransmit broadcasting to more than one permanent or temporary residence or to another such undertaking.

7f) **(f)** *to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;*

We're uncertain where the need for this clause comes from, at the time the Act was written. Our experience as a small public-service sector is that the needs of the private sector dominate in public hearing processes, and the public interest is second, so we would raise a question mark regarding the need for this clause.

g) **(g)** *to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services;*

It is our experience, as mentioned on the Broadcasting side, are that there are too few large players. These players are vertically and horizontally integrated in a way that is stifling innovation.

(h) *to respond to the economic and social requirements of users of telecommunications services;*

We are pleased to see the mention of social requirements equally balanced with economic need, although in practice, we have not witnessed the CRTC making

decisions in this way. The social needs of communities have come second in every hearing in which we have participated.

Part II

40 (1) The Commission may order a Canadian carrier to connect any of the carrier's telecommunications facilities to any other telecommunications facilities.

The issue of interconnection of facilities has affected the community TV sector over the last decade in cases where a BDU has said that communities that could formerly originate content and distribute it within a cable system could no longer do so once the cable system was interconnected through fibre optics to other cable systems. Communities must retain the right to insert community media content within local terrestrial distribution systems, and to have it distributed to the appropriate audience affected by the content (within a town, county, or other political boundary within which coverage is offered). For example, when Rogers replaced cable co-ax with fibreoptic cable in New Brunswick, the town of Harvey was informed that it could no longer insert its own content and have it seen by other residents of Harvey.

Sections 43 (2), (3), and (4) concerning rights of access by terrestrial common carriers to municipal access.

These sections have the potential to affect community media, and relate to our general comments that communities need control over the terms with which they can both receive services appropriate to the community as well as originate and distribute community media content.

In the United States, community TV (the PEG system, consisting of municipal, educational and public-access channels) and paid for by franchise fees that municipalities are permitted under the FCC's 1984 Cable Act to charge BDUs for access to public rights of way. In the US, municipalities pass on some or all of these franchise fees (up to a maximum of 5% of cable gross revenues) to local not-for-profit organizations to administer the PEG channels. This local control has given US municipalities a much greater investment in community TV than in Canada, and has developed a sensibility that municipalities have a role in the local communications infrastructure that is lacking in Canada.

Because of this local control, PEG channels have been much more resistant to the corrosive effects of cable company consolidation in the US than in Canada. While in Canada, the public's access to community TV has depended on monitoring and enforcement of community TV policy by a remote central federal regulator, in the US, PEG channels were answerable to and defended by municipalities against encroachment by cable companies who have sought state-level franchising contracts.

Therefore, as discussed in the Broadcasting Act side, one way of funding community media would be to channel 49% of the necessary financing through franchise fees, to engage municipalities in the planning and implementation of local community media infrastructure (for example, involving public libraries and other municipal institutions), and the other 51% through a BDU-ISP levy that goes into a national fund to which not-for-profit community media organizations can apply. This split would balance the possibility of local interference (the municipally controlled 49% of financing received through a franchise fee system would never be a controlling amount) with the benefits of municipal interest and support. If federal policy for a national Community-Media Access Fund was subject to industry and political ups and downs (just as the parliamentary allocation for the CBC has led to instability in its funding), locally invested entities would fight for it.

An additional reason one wouldn't want to fund community TV exclusively via a franchise fee is that it would unduly discriminate against communities that happened not to have cable or tower infrastructure (such as many indigenous communities). A national fund is needed to make sure that communities with special needs can be considered on a case-by-case basis.

We don't suggest a specific wording for this section as it is complex and involves not just access to rights of way to lay cable, but potentially also use of roads to access towers on municipal land. We raise these issues for discussion with the Panel.

45 (5) Access by Others

In order to ensure community access to distribution infrastructure, we suggest the following additional wording:

(5) Where a person who provides services to the public cannot, on terms acceptable to that person, gain access to the supporting structure of a transmission line constructed on a highway or other public place, that person may apply to the Commission for a right of access to the supporting structure for the purpose of providing such services and the Commission may grant the permission subject to any conditions that the Commission determines.

In the case of a local not-for-profit community media organization approved by the municipality and licensed by the CRTC to provide community media services, access to distribution infrastructure (towers or cable infrastructure) shall be granted free of charge, for distribution over the geographical area approved by the Commission, but at least within the municipality of origin."

QUESTIONS BY THE PANEL ON THE TELECOMMUNICATIONS ACT

1. Universal Access and Deployment

1.1 Are the right legislative tools in place to further the objective of affordable high quality access for all Canadians, including those in rural, remote and Indigenous communities?

1.2 Given the importance of passive infrastructure for network deployment and the expected growth of 5G wireless, are the right provisions in place for governance of these assets?

As discussed previously, municipalities need control of or at least access to the local connection points to the information highway, to ensure that:

- services that would otherwise be unavailable or too costly (such as highspeed Internet in rural areas) can be provided via municipal or community-owned co-operatives. Many such coops exist in BC, for example.
- To ensure that community media (locally originated content) can be inserted into and made available on all platforms by which the community accesses audio-visual content free of charge; that is, community residents are not having to 'buy back' access to content for which they have already paid; for example, by paying for community media on a data plan through their cell phone, when they might have accessed it for free if the ATSC chip was enabled.

2.Competition, Innovation, and Affordability

2.1 Are legislative changes warranted to better promote competition, innovation, and affordability?

As noted previously, our experience is that excessive vertical and horizontal integration of media companies has led to sluggish policy-making by the CRTC, favouring incumbents. We believe a more competitive and innovative media ecosystem would result if carriers were prevented from owning content companies.

3. Net Neutrality

3.1 Are current legislative provisions well-positioned to protect net neutrality principles in the future?

We are not lawyers nor able to judge whether the current legislation is sufficient, but we note that the two key components of net neutrality that affect community media are i) keeping costs low and equitable for streaming contents, and discoverability of community media alongside other content from local, national and international sources, as described more fully in the preamble to these questions.

6. Effective Spectrum Regulation

6.1 Are the right legislative tools in place to balance the need for flexibility to rapidly introduce new wireless technologies with the need to ensure devices can be used safely, securely, and free of interference?

As outlined previously, our concern as community media practitioners is that both over-the-air frequencies for TV and radio and non-broadcast bandwidth be reserved for community use and innovation. Broadcasting is still a more efficient use of spectrum for local events that unite the community than hundreds or thousands of people tuning in to the same event over wireless networks.

CONCLUSION

We thank the Panel for the opportunity to participate in this consultation, and look forward to meeting the Panel in person to discuss the needs of the community sector within the broadcasting and telecommunications systems.