

Employment in Conventional TV: The Crisis in Local Programming

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Two weeks ago yesterday, the vertically-integrated media company Rogers Communications Inc. decided to deal with its bottom line issues at its national chain of OMNI ethnic community broadcasting stations by eliminating what was left of its daily news shows.¹

That means there is no longer any television newsgathering in the Italian, Punjabi and Chinese language communities. In the year of a federal election, no less.

The 110 layoffs included pink slips for 66 unionized editorial and production staff at the Vancouver and Toronto OMNI stations, but also at the Vancouver City-TV station. The Alberta OMNI station's roster was gutted in 2012 - 2013.²

¹ As reported by Canadian Press 8 May 2015:

Rogers Media Inc. said Thursday it's cutting 110 jobs from its television operations, mainly at its Omni multicultural stations, as it replaces traditional newscasts with interactive current affairs shows. The subsidiary of Rogers Communications (TSX:RCL.B) said it will no longer produce Omni newscasts starting on Monday, laying off production staff and reporters.

The changes come as the broadcaster shakes up its programming across Omni stations in an effort to merge the multicultural brand's operations with its City stations. Omni currently airs local news in Cantonese, Italian, Mandarin and Punjabi. Under the new programming, Omni will launch interactive current affairs shows that will broadcast in Cantonese, Mandarin and Punjabi. The Italian newscast is being scrapped entirely and replaced with popular novella "Raccontami," an import from Italy.

Omni newscasts had production costs of about \$9 million last year and brought in \$3.9 million of advertising revenue, said Colette Watson, vice-president of television and operations at Rogers. "The math didn't work," she said. "It's the magic of every television executive. You need to find the show that will resonate with audiences, so this is what we're doing."

The new shows will have a stronger focus on community stories, rather than news from overseas, Watson said. As part of the changes, Rogers will scrap its Edmonton edition of "Breakfast Television" on City, and launch a new show called "Dinner Television" in the evening, hosted by NHL veteran Jason Strudwick.

² The cumulative effect on jobs and programming was the subject of a CRTC complaint 2013-996 filed by the Communications, Energy and Paperworkers Union of Canada (now part of Unifor). At paragraph 23, the CEP complaint itemized the OMNI job losses: "Since January 2013 Rogers laid off thirteen of the forty-two full-time staff at CHNM-DT Vancouver and three of the station's four part-time staff; it terminated the positions of at least five reporters. During the same period Rogers also laid off at least nineteen people from CFMT-DT Toronto, including six reporters. Three reporters and four producers were laid off in CJCO-DT Calgary. These staff reductions follow Rogers' September 2011 closure of its studio in CJEO-DT Edmonton, which resulted in the loss of twenty out of thirty-

In January of this year, not long before the May 8th cuts, Rogers eliminated CITY Winnipeg's Breakfast Television show, laying off 15 of our 30 members and replacing that local programming with a simultaneous televised broadcasting of its existing morning radio show. In effect, radio announcers speaking into microphones, on TV. ³

four positions. Rogers laid off four OMNI staff in Vancouver in June 2010. In brief, Rogers has reduced its staff at the OMNI stations by 63 positions, including 14 reporters.”

CEP argued [paras 56-63] that the job cuts violated the Broadcasting Act. The Act provides as follows:

3. (1) It is hereby declared as the broadcasting policy for Canada that...

(d) the Canadian broadcasting system should...

(iii) through its programming *and the employment opportunities arising out of its operations*, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and *multicultural* and multiracial nature of Canadian society and the special place of aboriginal peoples within that society, and...

The CRTC [2013-657] dismissed the complaint but called Rogers to an early license hearing in the spring of 2014:

30. In light of the fact that Rogers continues to comply with regulatory requirements and its conditions of licence, the Commission *dismisses* the complaint made by the CEP against Rogers.

31. Nevertheless, the Commission remains concerned by the extent of the programming changes and the impact of the changes on the communities served by the stations. In particular, the Commission is concerned by the apparent lack of local programming on some of the OMNI television stations and by the lack of information received regarding Rogers' consultations with the advisory councils.

The CRTC decision ignored CEP's employment argument under section 3(1)(d)(iii).

³ As reported by the Winnipeg Free Press, 6 January 2015:

Citytv is ending its long-running morning show, *Breakfast Television*, and replacing it with a televised version of radio station 92 CITI FM's morning program. According to a spokesperson for parent company Rogers Communications, the elimination of *Breakfast Television* will result in 14 layoffs. Eleven other Citytv employees will be relocated to other positions within the company....

Wheeler in the Morning will air weekdays from 6 a.m. to 9 a.m. on Citytv beginning Monday, hosted by Dave Wheeler and featuring Citytv personalities Drew Kozub and Jenna Khan, as well as the morning radio team of Phil Aubrey and Rena Jae. The new TV show will also be streamed live online. The radio show *Wheeler in the Morning* with Philly and Rena will continue to be broadcast in its familiar 6 a.m. to 10 a.m. slot on 92 CITI FM.

The loss of jobs and programming goes hand in hand of course. At Unifor we often make the point that our members' jobs are the canary in the local programming coal mine. If I may embellish the metaphor a little further, it's the canary that reports on the news in our democracy.

It is true that for many years, a large part of the job loss was driven by technological change in video production, studio camera operation, and master control to name a few. The corporate consolidation that created vertically-integrated media companies did its work too. The latest hot trend is centralization.⁴ This has happened in all major TV networks.

In 2015, non-news local programming has mostly disappeared from Canadian television. The CRTC's recent 'Lets Talk TV' decision to eliminate daytime Canadian Content regulation will certainly make matters much worse. Today, the nation's "third" English-language national network, Rogers, is cutting deeply into news programming at both CITY and OMNI. It is an alarming direction.⁵

There have been job cuts in the other private networks and, not to miss the elephant in the room, successive Liberal and Conservative federal governments have cut the CBC's budget by 40%. The consequence for local programming and the related employment has been massive.

Should Parliament do something about it?

At Unifor, we say "yes of course, but how."

Don't let me linger too long on the "yes of course."

There are those in the Canadian public and government who say they don't get the importance of Canada's cultural sovereignty, despite living next door the world's cultural colossus. The internationalist instincts of those that don't value the importance of Canadian content may be high-minded; the continentalist instincts of those who devalue Canadian content are more nefarious. Nevertheless, public opinion in support of Canadian content and local programming remains high.⁶

On the other hand, the economic argument in favour of Canadian content finds traction with a broader group than just cultural sovereigntists. Enough so, that when Prime Minister Harper directed the CRTC in 2013 to implement "pick and

⁴ In the recent round of approximately 55 nationwide layoffs at Global News in April 2015, graphics and news anchor functions were centralized in Toronto.

⁵ A dangling policy issue is whether there is a minimum threshold for a "local" television station regarding local news content before its privileged status on the "skinny" basic dial is to be reconsidered.

⁶ One of many findings in a Nanos poll released in September 2014 on the eve of the CRTC's Let's Talk TV hearings. <http://www.friends.ca/files/PDF/nanos-what-canadians-think-about-tv.pdf>

pay,” the Throne Speech carried the caveat that employment in this important sector must not suffer.⁷

Let me move on to the “but how.”

I am not expecting a government of any stripe to legislate jobs in the broadcasting sector. Yet the government can ---directly or through the CRTC--- do something important about programming.

On the film side, the legislative and regulatory framework for the production of Canadian content through the Canadian Media Fund does support programming and employment. That is thanks to significant federal and provincial tax credits and rules governing what qualifies as a Canadian production.⁸

⁷ http://speech.gc.ca/sites/sft/files/sft-en_2013_c.pdf: “Our Government believes Canadian families should be able to choose the combination of television channels they want. It will require channels to be unbundled, *while protecting Canadian jobs*.” [p.16]. The formal cabinet directive came in P.C. Order in Council 2013-1167.

An Environmental Scan (“the Miller Report”) commissioned by Unifor, ACTRA, CMPA and Friends of Canadian Broadcasting and submitted to the CRTC in the Let’s Talk TV proceedings concluded that the economic impact of pick and pay tallied to 10,674 jobs and a \$1B loss in GDP. The Commission itself did no research on the issue. During oral hearings, Commissioner J.P.Blais minimized the evidence, written by industry consultant Peter Miller, as not being written by a professional economist. In decision 2015-96, Blais stated:

40. The reluctance of some BDUs to provide more flexible packaging options may be explained in part by certain studies that were submitted in this proceeding to forecast the potential economic impacts of introducing greater choice and flexibility for Canadians. These studies cast a negative light on the impacts of unbundling. For example, Environmental Scan author Peter Miller submitted that unbundling can be expected to have a worst-case impact of 10,674 losses in full-time employees and an annual \$1 billion loss in gross domestic product for the Canadian economy in 2020.⁸ However, the Commission considers that these projections are ultimately the results of highly subjective assumptions and estimates. For example, this worst-case scenario is based notably on a significant 40% failure rate for existing specialty services, combined with considerable losses in subscription and advertising revenues for the remaining services.

41. Such assumptions overstate the potential impacts of introducing more choice and flexibility and fail to fully recognize the ability of the Canadian broadcasting industry to continue to adapt and innovate to meet the demands of Canadians. In addition, while models that attempt to forecast potential economic impacts provide useful insights regarding potential risks when exploring policy choices, the Commission is of the view that it must also consider the potential upsides of greater choice, including the retention of subscribers in the system, as well as the risks associated with maintaining the status quo in a context of increased demand for more choice.

⁸ CRTC decision 2015-86, paras 127-129. See also <http://www.pch.gc.ca/eng/1289829210951> for the details of federal government tax credit rules.

There are however no comparable supports for programming and employment in news and other short-format programming, with arguably a minor exception of the CRTC's recent conditions for national news services.⁹

This is not because the CRTC does not recognize the problem: the BNOc for the recent Let's Talk TV proceedings implored participants to address the funding struggle of local programming.¹⁰ A number of participants including Unifor and Bell Media did so.¹¹ However the only regulatory outcome was a finger-wagging lecture¹² by the CRTC Chairman J.P. Blais on the voluntary role of profitable media companies in providing local programming, but decidedly no regulatory action.¹³

The solution is not rocket science.

⁹ In the one of its Let's Talk TV rulings the Commission effectively ordered a "feet on the street" requirement for newsgathering staff as part of the new licensing criteria for national news channels:

- The licensee must operate a live broadcast facility and maintain news bureaus in at least three regions other than that of the live broadcast facility (i.e., that it has demonstrable news gathering capabilities in several regions)...
- The licensee must have the ability to report on international events from a Canadian perspective. (2015-86 at para. 278).

¹⁰ BNOc 2014-190, paras. 64-68.

¹¹ Unifor Submission, paras. 73-90 addressed the importance of licensing requirements concerning exhibition, newsgathering staff minimums ("feet on the street"), and continuation of the Local Programming Improvement Fund. The Bell Media submission proposed an end-run around the Federal Court's quashing of "fee for carriage" by recommending "local specialty" fees that would compensate broadcasters for their local programming picked up by cable distributors, albeit this would have required eliminating over-the-air transmitting.

¹² In his speech to the London Chamber of Commerce on 29 January 2015, in the same statement in which his ruling on Super Bowl simultaneous substitution deprived Bell Media of \$80M, he stated:

Although it grabs fewer headlines, the reduction in funding of local television stations by major broadcasters also gives me cause for concern. *Media moguls are indeed allowed to be worried about profits, but both the public and private shareholders of broadcasting assets have a duty to ensure that news reporting and analysis continues to be properly funded.* This is to ensure that Canadians, as citizens, understand events occurring around them every day. An informed citizenry cannot be the sacrificial offering on the altar of corporate profits or deficit reduction.

¹³ CRTC decision number 2015-24 at paragraph 26:

In this respect, *the Commission is of the preliminary view that there is currently sufficient funding within the system to ensure the creation of locally relevant and reflective programming, but that the allocation of such funding needs to be re-examined in order to ensure that such programming is compelling, accessible and well-financed.*

It's regulation.

The Commission has tried and failed to find a funding solution for local programming. Practically speaking, it can only come from two sources:

- From governments, by way of tax credits (for private television) or budget dollars (for the CBC), directed towards local programming; or
- From regulating media companies, i.e. moving BDU profit and revenue from the distribution side of the business to broadcasting.

You might say that the regulatory strategy has been tried and failed. You would be right.

The CRTC order directing BDUs to compensate broadcasters for their over-the-air signal with "fee for carriage" was defeated in a 5-4 ruling by the Supreme Court of Canada¹⁴ and probably requires legislative intervention to revive it.¹⁵

The short-lived \$100M Local Programming Improvement Fund had the singular misfortune to transfer revenue from BDUs to broadcasters in a manner that created winners and losers among competing Vertically Integrated media companies and the CBC. For many media executives, this was a molar-grinding event of major proportions, no doubt. Rather than tweak the fund to make it work, the CRTC eliminated it.

But just because we have tried and failed doesn't mean that a solution is beyond our grasp, in a very pragmatic and politically acceptable way.

A big part of the solution is government funding for the CBC at a level that is commensurate with other western democracies.

The other half of the walnut is a solution that doesn't even have to involve Parliament, because it's regulatory.

Unifor believes that if this government can direct the CRTC to implement pick and pay, it can act now and direct the CRTC to find a regulatory solution to the crisis in local programming and the employment that goes with it.

The CRTC Chairman is about to call a hearing on Local Programming. The problem is that he has already appeared to reject and rule out a regulatory solution that

¹⁴ Reference re Broadcasting Regulatory Policy CRTC 2010-167 and Broadcasting Order CRTC 2010-168, 2012 SCC 68, [2012] 3 S.C.R. 489.

¹⁵ Notwithstanding Bell Media's clever proposal in Let's Talk, above fn.11.

involves finding new sources of funding. The federal cabinet needs to give the Commissioner a meaningful side-stage clearing of its throat.

What does a solution look like? Any solution that works must move money for Canadian (including local) programming from the distribution side of each VI's ledger, to the broadcasting column of their own operations.

Looking forward to the Group Licensing hearings in 2016, the formula for the VI broadcasters' Canadian Programming Expenditures should be recalibrated to recognize the revenue levels of their distribution operations.

As I mentioned, there is a federal election coming. The time is now for the contenders to state clearly whether they are going to let local programming and employment wither away, or whether they are going to act.

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