



BNOC 2014-26 - April 8, 2014, Gatineau

Appearances on Behalf of Unifor:

Seated Left to Right:

Joseph Nieforth
Master Control Switcher, Rogers Lakeshore Toronto. Hired 1987.
Steward, Unifor Local 723M

Steve Hawkins
Senior ENG Camera Operator, CKVU Vancouver. Hired 1992.
President, Unifor Local 830M

Howard Law
Director, Media Sector

Randy Kitt
Chair, Media Sector
President, Unifor Local 79M

Angelo Contarin
Senior Editor OMNI Television, Toronto. Hired 1991.
Vice-President, Unifor Local 723M

Comments by Howard Law

OMNI

Thank you for the opportunity to address the Commission on the topic of Rogers' application to renew its licenses for the OMNI stations.

As you know, Unifor represents employees at the Vancouver and Toronto stations. Our members are indeed the canaries in the ethnic broadcasting coal mine. That's why we sounded the alarm regarding the deep cuts to staffing and programming in our complaint 2013-996 as CEP in the summer of 2013.

Let me get right to the point. Canadians cannot and should not accept Rogers' pitch: "we are losing money, we don't know how to fix it, and you the Commissioners should give us free reign and five broadcasting licenses for five years to see what happens."

Now, Rogers is saying two years, which is better than five.

We know the community loves ethnic programming and OMNI is the only game in town for free OTA content. That was expressed in the hundreds of interventions in the CEP complaint, as it was by hundreds more in this proceeding. Everyone is grateful to Rogers for their commitment. But that does not bootstrap Rogers' fairly breathtaking request for COL relief in this proceeding.

Rogers is proposing very significant license relief, with a very direct impact on OMNI programming.

Unifor's response starts with the point that Rogers could be massively more transparent, both about the current state of their OMNI financial ledgers and their future programming plans.

On the finances, we have asked you to engage in an extraordinary financial show-cause process. The extraordinary nature of this show cause process is directly proportional to the extraordinary nature of Rogers' request for COL relief.

- **It's only after we have established the real financial picture that the Commission can decide if any measured relief of COL should be entertained.**

On the programming side, Rogers wants you to accept at face value that Rogers does not know what they will do to refresh their business model, and give no details of any programming plan, except this morning we heard something new about Bollywood and Italian movies without any supporting marketing research filed with the Commission.

They say if they don't get the revenue which might flow after COL relief, they will "be forced to re-evaluate its future in ethnic OTA broadcasting."

It's quite a card to play.

That's why Unifor suggests that the Commission,

- **Grant no more than an 18 month license term, coordinated with an accelerated Commission review of the Ethnic Broadcasting Policy.**

I want to comment on Rogers' main policy argument. It boils down to this: "even with dramatic relief of COL, OMNI will still be complying with the spirit of the Ethnic Broadcasting Policy."

We reject that argument.

Rogers suggests that the "core" of the Ethnic Broadcasting Policy is limited to

- (i) 60% ethnic broadcasting in a month,
- (ii) 50% third language broadcasting,
- (iii) minimum levels of Canadian content; and
- (iv) a "broad service mandate," i.e. the number of community groups serviced.

So they propose to *reduce* the core conditions of the policy relating to Canadian content and the number of ethnic groups serviced.

Next, the applicant asks you to swallow the argument that prime time viewing hours, on-the-ground news reporting in Alberta, limits on programming overlaps with their conventional TV stations, restrictions on single ethnic group programming time, and advisory boards are all "not core" and should not be COLs.

And to use their words, we should just "trust them" to be the guardians of ethnic broadcasting in this country.

Let's look a little closer at a couple of these "trust us."

Rogers' claim in their filings that getting permission to eliminate prime time ethnic programming will not *actually result* in a reduction of ethnic broadcasting is not credible. This morning I wasn't sure if I heard we are going to see NHL hockey with third language play-by-play. But Mr. Pelley did make it clear they intend to burn off their existing inventory of the American strip programming in this 8 to 10 pm slot.

- **The Commission should only consider relief on the 75% ethnic broadcasting minimums during prime time to meet this very short-term request from Rogers; and the 75% should be restored on the very last day of the license so that two years from now the principle and reality of the 75% has been reestablished.**

Keep in mind, this would be a bail-out. It seems Rogers got the price point wrong on a lot of US strip programming.

A word about reducing the monthly number of ethnic broadcasting groups from 20 to 10.

First, even if regulatory flexibility was the issue, it's not necessary given the existing flexibility to rotate specific ethnic groups in and out of the 20 slots every month.

But more importantly, Rogers concedes in that its lowest 10 groups by revenue are in fact profitable. So their request to reduce from 20 to 10 groups every month appears to be based entirely on opportunity cost ---they peg it at \$60,000 per group per year---- of not being able to broadcast *even more* profitable programming.

Unifor also wants to comment on the intriguing question posed by the Commission to Rogers: could and would OMNI agree to a license condition normally required of conventional OTA stations, namely a minimum of 14 weekly hours of local programming.

It's fair to say that Rogers has given a flat "No" to this idea, and says this would put mean a further \$2 million per year of red ink on the OMNI financial ledger.

It's important to decide which books are the issue here, OMNI or Rogers Broadcasting Limited.

As the Forum on Policy and Research in Communications has submitted, \$2M annually is a rounding error on the RBL books. As Bell has submitted, and Rogers has conceded, the OMNI stations are operating as a hybrid conventional/ethnic station.

- **If Rogers wants to tip the OMNI stations further to the conventional side of the fulcrum, perhaps it should be expected to play by the same rules as other conventional stations.**

Which brings us to the issue of Mr. Pelley's position that he is not willing to lose money on producing local news in Alberta.

- **Unifor's position is that the someone else is entitled to try. The Alberta licenses should be opened up for new entrants.**

- **Alternatively, there should be a COL requiring local news be produced and broadcast in Alberta in the manner and scope that it was broadcast prior to the closures. And just to be safe, the same COL should apply to all five stations.**

On the final note of Advisory Boards, we are pleased to hear Rogers' receptiveness to re-establishing the Boards.

The Boards can add value to OMNI's strategic planning, as I believe Mr. Pelley has acknowledged.

We also see an enhanced role for the Boards. Especially in the event of any COL relief, we need experienced and independent members of Advisory Boards to keep track of whether any COL relief that the Commission might grant to Rogers is translating directly into OMNI's ability to broadcast quality ethnic and third language programming.

That is why Unifor advocates that the Commission re-establish the advisory boards as a COL.

- **The Boards should be specifically mandated to meet quarterly; request and receive relevant business and programming information from Rogers subject to a non-disclose on confidential business information; and report to the CRTC and the public on a quarterly basis.**
- **Boards should have a reasonable administrative budget from Rogers for travel and meeting expenses.**
- **The boards should include OMNI staff members, not from management, appointed by their unions in B.C. and Ontario.**

City Stations/ Group License

When it comes to the Group License, it is impossible not to talk about the elephant in the room, which is the \$5.2 billion NHL hockey deal that Rogers just signed.

We are going to see a lot of hockey on Rogers and as Mr. Pelley said loud and proud, its Canadian content. He might have also added, it qualifies as local programming.

We are going to see City TV hockey on Saturday and Sunday nights. That fills the bucket with about six hours weekly of CPE/local programming right there.

Based on Rogers' application, they would be free to allocate hockey programming expenditures as CPE (23% in the City stations) and local programming hours

(currently 7 to 14 hours per week) to the City stations, and completely crowd out existing local programming.

This calamity would occur in addition to their proposal to trade off an increase PNI spending against incremental local programming dollars, which would drain out a further \$5 million annually out of local programming. To put that in perspective, in 2013 we calculate the City stations spent \$33 million in news, \$54 million overall for in-house production.

As Mr. Pelley said just before the break, he cannot say definitively what local programming will be, and he did not endorse Ms. Wheeler's comments that the loss of the incremental local programming dollars would necessarily match up to the special or extra programming that its been spent upon so far.

Diverting dollars to hockey and/ or cutting \$5M from local programming to move it over to the PNI side of the ledger, would be a disaster for local programming, especially outside of Toronto, where most of the programming is not local news but local programs with lower audience ratings than local news.

Unifor is asking you not to accept any gentle reassurances from Rogers on these vitally important issues. A COL is binding; a reassurance is not.

In fact we know from very recent history with Lunch TV and CityNews The List, that Rogers is not averse to touting commitments to broadcasting local programming during a license renewal hearing and then dropping the same programs after a short pause following the successful renewal.

There are a number of different options for dealing with this:

1 - A COL that existing local programming will continue to be budgeted and broadcast at its current level, and in particular it can't be spent on sports programming and sports-related shows (e.g. "Canucks Now," "Jets Hour," "Leaf Nation.")

2 - Exclude sports programming from the Group.

3 - Include sports broadcasting in the group, but increase CPE sufficiently that the CPE for current local programming cannot, for all practical purposes, get diverted to Sports.

4 - Redefine sports and sports related programming as non-local.

Local programming is becoming an endangered species. Unifor, and CEP before it, has been banging on this drum for a long time, as you know from our submissions on many CRTC Notices of Consultation.

Local programming is vital to our civic and democratic life in Canada.

We implore you to protect it.