



Canadian  
Association of  
Broadcasters

L'Association  
canadienne des  
radiodiffuseurs

September 15, 2005

Mr. Allan MacGillivray  
Executive Director  
Telecommunications Policy Review Secretariat  
280 Albert Street, Room 1031  
Ottawa, ON K1A 0C8

**Via electronic filing:** [telecomreview@ic.gc.ca](mailto:telecomreview@ic.gc.ca)

Dear Mr. MacGillivray:

**Re: Canadian Association of Broadcasters Phase 2 submission in reply to comments filed in Phase 1 of the Telecommunications Policy Review**

1. The Canadian Association of Broadcasters (CAB) – the national voice of Canada’s private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view services – is pleased to submit these comments in response to various Phase 1 comments filed in reply to the Telecommunications Policy Review Consultation paper.
2. The CAB notes that a number of intervenors have cited the convergence of computing, telecommunications, “new media” and broadcasting as the communications marketplace evolves. Notwithstanding this trend, the CAB submits that there remain clearly defined functional, business model, and legislative distinctions between broadcasting and telecommunications.
3. Although the broadcasting and telecommunications sectors make shared use of some facilities, and on occasion sell services to the same consumers, this is not a reason to assume that the two should share the same legislative, regulatory or policy framework. They are governed by separate objectives under separate Acts of Parliament, which contain clear definitions of the distinctions between the two activities, and different public policy objectives for the two sectors.

4. To this end, the CAB notes that many Phase 1 intervenors, including Global Television, Astral, Bell, Telus, Aliant, SaskTel, MTS/Allstream and Rogers have acknowledged, directly or indirectly, that a different set of considerations and/or objectives apply to telecommunications and broadcasting services, requiring a different type of regulatory framework and legislation.
5. It is for this reason that the CAB strongly submits (as it also has in the context of its September 12, 2005 submission re: Broadcasting Public Notice CRTC 2005-82 *Call for comments on a regulatory framework for mobile broadcasting services*) that the introduction of new technologies should not be taken as an excuse to abandon the fundamental principles of the *Broadcasting Act*, even where those technologies cut across traditional boundaries between broadcasting and telecommunications.
6. On the other hand, the Canadian Cable Telecommunications Association (CCTA) and Shaw Communication Inc. (Shaw) have urged the Panel to make specific recommendations with respect to activities that fall under the *Broadcasting Act*. Notwithstanding the recommendations from the CCTA and Shaw, the CAB respectfully submits that the mandate set out for the Telecommunications Policy Review Panel does not include proposing recommendations on broadcasting regulation or policy.
7. The CCTA and Shaw's position – i.e. that the Panel recommend the wholesale de-regulation of the broadcasting system, except for those regulations that work to the benefit of select interests – in addition to falling outside the scope of the current proceeding, would have far-reaching effects on all aspects of the broadcasting system, including a drastic reduction in the amount of Canadian content available to consumers.
8. The CCTA and Shaw identify various policies and regulations (including distribution and linkage rules, the requirement that Canadian distributors contribute to Canadian talent development, and rules preventing Canadian distributors from given undue preference to channels they own) as representing specific costs for cable distributors.
9. Left unsaid in the CCTA and Shaw's Phase 1 submissions, however, are that such rules are only one half of the overall regulatory equation that delivers considerable benefits to Canadians, including a private broadcasting sector that employs over 21,000 people, and invests over \$2 billion in some 90,000 hours of Canadian Content annually.
10. Canada's private broadcasters carry extensive commitments and obligations which only begin with requirements for the exhibition and financial support for Canadian content. They have additionally assumed numerous voluntary codes with respect to the portrayal of specific groups and the presentation of specific types of programming. They are limited in the amount and style of advertisements they can carry.

11. These obligations are the *quid pro quo* for the very regulatory protections the CCTA and Shaw would have the Panel recommend be eliminated. This balance is at the heart of the public policy equation governing broadcasting.
12. Clearly, the recommendations put forward by Shaw and the CCTA are controversial. They cannot be considered without extensive and detailed public discussion, well beyond what is possible within this panel's process. Consequently, the recommendations themselves must be considered to fall well outside the mandate of this Panel.
13. For this reason, the CAB submits that the Panel should explicitly exclude the consideration of broadcasting regulation from the scope of its conclusions and recommendations and should, where necessary state its recommendations in such a way as to have no impact on the fulfillment by broadcasting stakeholders of the objectives of the *Broadcasting Act*.
14. The CAB appreciates the opportunity to participate in this proceeding.

Sincerely,



David Keeble  
Senior Vice-president,  
Policy and Regulatory Affairs

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