

July 30<sup>th</sup>, 2010

Ms. Pamela Miller  
Director General  
Telecommunications Policy Branch  
Industry Canada  
16<sup>th</sup> Floor, 300 Slater Street  
Ottawa, Ontario  
K1A 0C8

Dear Ms. Miller:

**Re: Opening Canada's Doors to Foreign Investment in  
Telecommunications: Options for Reform – CTVglobemedia Inc.'s  
Comments in Response to the Government Consultation Paper**

CTVglobemedia Inc. ("CTVgm") is pleased to submit the following comments relating to the above-referenced consultation paper on increasing foreign investment in the Canadian telecommunications industry (the "Consultation Paper").

### **Executive Summary**

The broadcasting and telecommunications industries are converging. Broadcast content is available over telecommunications networks. Similarly, cable networks constructed to distribute television programming now serve as the backbone for the delivery of Internet services and telephony. Given this reality, changes to the ownership rules for telecommunications companies could have a significant impact on the Canadian broadcasting industry.

In the Consultation Paper, the Government has presented three approaches to opening Canada's telecommunications sector to increased foreign investment. One of these options would increase the level of direct ownership foreign entities could have in Canadian telecommunications *and* broadcasting companies. The

other two options would remove all restrictions on foreign ownership only for telecommunications providers, but not broadcasters, in one case for a segment of the market and, in the other, for all players.

Given the vital importance of both the broadcasting and telecommunications industries to the Canadian economy, CTVgm believes the Government should proceed cautiously in this area. An approach that completely removes barriers to entry into the Canadian telecommunications sector could have a detrimental impact on Canada's broadcasting industry in the new digital economy as it could lead to decisions relating to the distribution of Canadian content being made outside of our borders.

In our view, a more prudent approach would be to increase the permitted level of foreign ownership in both telecommunications providers and broadcasters, but short of control. This approach would offer Canadian telecommunications and broadcasting companies increased (or cheaper) access to foreign capital, while still ensuring control (and the decision-making process) remains in the hands of Canadians.

## **Introduction**

CTVgm is Canada's premier multimedia company. Through its various subsidiaries, CTVgm owns and operates 27 conventional television stations across the country, including CTV, Canada's #1 television network, and has interests in 30 specialty channels, including Canada's #1 specialty channel, TSN. In addition, CTVgm owns CHUM Radio, which operates 34 radio stations throughout Canada, including CHUM FM, Canada's # 1 FM station.

It is well documented that broadcasting and telecommunications, which were once two distinct industries, are converging. As the Chairman of the Canadian Radio-television and Telecommunications Commission (the "Commission") noted in his appearance before the House of Commons Standing Committee on Industry, Science and Technology:

"Broadcasting distributors now deliver telephone service. Phone companies deliver television service. The Internet delivers everything and mobile devices bring it all into your hand wherever you are. Technological convergence has led to corporate convergence: Mergers and acquisitions bring all of these services together under large ownership groups."

A number of CTVgm's chief competitors – including Rogers Communications Inc. and Shaw Communications Inc. – offer a wide range of broadcasting and telecommunications services to Canadians, including cable and satellite broadcast distribution, Internet service, local telephony, wireless communications services, over-the-air television, radio, specialty and pay television and video-on-

demand services. Given this reality, the results of this review are of particular importance to our company.

### **The Options Outlined in the Consultation Paper**

In the Speech from the Throne on March 3<sup>rd</sup>, 2010, the Government announced its intention to “. . . open Canada’s doors further to . . . foreign investment in key sectors, including the satellite and telecommunications industries, giving Canadian firms access to the funds and expertise they need.” In the Consultation Paper, the Government has outlined three potential approaches to achieving this objective:

- *Option 1 – Increase Direct Limit for Broadcasting and Telecommunications to 49 Percent.* Through amendments to the *Telecommunications Act* and the *Direction to the CRTC (Ineligibility of Non-Canadians)* the amount of direct Canadian ownership in a telecommunications common carrier or broadcasting undertaking would be reduced to 51 percent from 80 percent;
- *Option 2 – Telecommunications Policy Review Panel/Competition Policy Review Panel Approach.* Under this option, investments by foreign entities in start-up telecommunications companies, as well as in existing small industry players (less than 10% market share), would be exempted from the existing restrictions on foreign investment in telecommunications, not just initially, but even if those players are successful in growing their market shares in excess of 10% of total telecommunications market revenues;
- *Option 3 – Remove Telecommunications Restrictions Completely.* This option would remove all foreign investment restrictions that apply to telecommunications common carriers.

### **CTVgm’s Recommendation**

As outlined above, the three options outlined in the Consultation Paper really fall into two categories. Option 1 would increase foreign investment limits for all telecommunications companies and broadcasters, but would still ensure Canadian ownership and control. Options 2 and 3 would remove restrictions on telecommunications providers, either for small operators only or for all operators, but not for broadcasters.

Given increasing convergence between the telecommunications and broadcasting sectors, CTVgm is concerned that the introduction of one-sided foreign investment rules that only benefit telecommunications providers and not those companies regulated under the *Broadcasting Act* could create an uneven playing field down the road.

In the Consultation Paper, the Government notes the following relating to the interaction between telecommunications and broadcasting and this review:

“The objectives of the *Broadcasting Act*, however, are more cultural and social in nature, for example encouraging the production and availability of Canadian content and reflecting Canadian values. While it is recognized that telecommunications and broadcasting are increasingly converging, the policy objectives and legislative authorities under the *Telecommunications Act* and the *Broadcasting Act* are distinct, and the government is not considering changes to the *Broadcasting Act*. With respect to broadcasting content and culture, the government will not consider any action that could impair its ability to pursue Canadian culture and content policy objectives.”

[Emphasis added.]

Forty years ago, broadcast choices were few and most Canadians received radio and television for free, over-the-air via microwave. Today, hundreds of broadcasting options from both Canada and abroad are available and very few Canadians rely on over-the-air distribution, especially for television service. Instead, they access Canadian broadcast services and programming from broadcasting distribution undertakings (“BDUs”) licensed by the Commission, while others source this content through unregulated sources such as the Internet and mobile communications devices.

These distributors are the interface between broadcasters and Canadian consumers. To an increasing degree, they dictate which content is available to Canadians. If the Government adopts either Option 2 or 3 outlined in the Consultation Paper, decisions relating to the distribution of Canadian programming or services could ultimately rest with executives who reside outside of Canada and who do not understand the sensitivities of the Canadian market. In CTVgm’s view, this would be detrimental to the advancement of the Government’s Canadian culture and content policy objectives and the Canadian broadcasting system.

In contrast, Option 1 would seem to strike a reasonable balance between the need to provide telecommunication providers with greater access to foreign capital and the desire to ensure that control of Canadian telecommunications and broadcasting companies remains within our borders.

By adopting Option 1, telecommunications providers, BDUs and broadcasters would be able to offer foreign entities much greater direct involvement in their businesses, while still ensuring key decisions are made by Canadians in Canada. This approach would also guarantee that Canadian broadcasters, such as CTVgm, continue to look to Canadian-owned telecommunications providers and BDUs for their key distribution relationships.

In addition, adopting Option 1 could also lead to additional opportunities for Canadian broadcasters to launch new Canadian services modeled on successful U.S. channels. For many years, Canadian public policy has favoured the creation of Canadian versions of U.S. services, which contribute to the Canadian broadcasting system by investing in Canadian programming, instead of importing the original U.S. channel, which makes no contribution to the system. CTVgm has achieved much success with this approach and has longstanding partnerships with such U.S. broadcasters as ESPN, Discovery and MTV Networks. In our view, the ability to offer a foreign partner a larger stake in the operation of a Canadian channel could result in increased interest from foreign broadcasters in developing branded Canadian services.

### **Conclusion**

Increasing the level of foreign investment in telecommunications and broadcasting could represent a net benefit to Canadians as it would allow companies operating in these sectors to access greater or cheaper foreign capital, which could ultimately lead to increased competition and choice. However, the Government must take into account the converging nature of these two sectors in choosing which course of action to undertake and be mindful that changes to how one sector (telecommunications) is governed could have negative implications for the other (broadcasting).

As a result, CTVgm believes that a measured approach (such as Option 1 in the Consultation Paper), which treats telecommunications providers and broadcasters equitably, while ensuring continued Canadian ownership and control, is the best option.

CTVgm would like to thank the Government for the opportunity to participate in this consultation process. We would be pleased to provide any further information on request.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Sparkes', written in a cursive style.

Paul Sparkes  
Executive Vice-President, Corporate Affairs  
CTVglobemedia Inc.