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Sent by e-mail

Mr. Len St-Aubin
Director General
Telecommunications Policy Branch
Industry Canada
1612A, 300 Slater Street
Ottawa (Ontario)
K1A 0C8

Dear Mr. St-Aubin,

Re: Consultation on a Framework to Auction Spectrum in the 2GHz Range including Advanced Wireless Services- Notice No. DGTP-002-07

Astral Media Inc. ("Astral Media") is pleased to provide these comments as part of the reply phase of the consultation process concerning the upcoming advanced wireless services spectrum auction.

Our comments are in reaction to comments expressed by some of the interveners on the issue of foreign investment restrictions. As mentioned by the Minister of Industry in his speech at the 2007 Canadian Telecom Summit in Toronto, in reference to the current consultation process: "...there are also those who believe another way to stimulate more competition is by removing foreign investment restrictions."

Astral Media submits that close attention must be paid to the relationship between foreign ownership rules and cultural goals in the broadcasting sector. The issue of the appropriate scope of foreign ownership rules governing telecom companies are of interest to broadcasters, given the potential impact that possible liberalization of such rules could have on the activities of broadcasting

distribution undertakings and programming services in Canada. We note in that regard the comments filed by the Canadian Association of Broadcasters in this process.

The Canadian ownership and control rules governing broadcasting undertakings have had an important role in shaping a distinct and diverse Canadian broadcasting system. Canadian-ownership and control rules for the broadcasting sector have provided the necessary conditions to enable the creation of Canadian content that reflects and promotes Canadian values, stories and perspectives to our viewers.

You will find attached copy of a joint presentation to the Minister of Industry and to the Minister of Heritage on this specific issue; the June 2006 presentation was made in reaction to the publication of the report from the Telecom Policy Review panel. In the case of Astral Media, we remain of the view that the issues and recommendations found in that document remain valid.

Astral Media appreciates the opportunity to offer these comments.

Regards,



Sophie Émond

Attach.

Telecom Policy Review:

Foreign Ownership and Broadcast Policy Review

June 2006



Agenda

1. Broadcasting Landscape in Canada: an economic driver
2. The Telecom Policy Review:
 - Foreign ownership issues are complex, particularly for BDUs (cable, satellite, IPTV etc.)
 - Impact of TPR recommendations on content companies
3. Recommendations



Canadian Broadcasting Industry

- \$4.4B in revenues for conventional, specialty and pay television sectors in 2005; \$790M in profits
- \$1B in new Canadian program spending
- 350,000 employed in information and cultural industries
 - 40,000 employed directly in broadcasting;
 - 120,000 full-time equivalent jobs in film and tv production
- \$4.5B in total volume of film and television production in 2004/2005, \$3B of which was Canadian

sources: Statscan 2005, CRTC 2005 statistics, CFTPA Profile 2006; does not include radio



Quebec Broadcasting Industry

- \$888.5M* in 2005 Quebec conventional, specialty, and pay television revenues; \$137.7M in profits
- \$338.2M in Canadian program spending in Quebec
- 34,800 employed in full-time equivalent jobs in film and TV production in the province
- Quebec-based producers accounted for the largest share of Canadian TV production. Total volume of Quebec TV production equal to \$562M, almost 40% of the national total

** Note: The revenue total excludes MétéoMédia, Teletoon, and Bell ExpressVu DTH PPV*



Major Players

- Top 6 BDUs (Rogers, Shaw, Cogeco, Videotron, BEV, Star Choice) control 90% of households
- In Quebec, Videotron accounts for 81% of the cable market and 58% of the total BDU market
- Astral, Bell Globemedia, Corus, Alliance Atlantis and CHUM are the top revenue-generating specialty and pay companies;
- CTV, CanWest and CHUM are the largest private conventional networks in English Canada
- TVA and TQS are the largest private conventional broadcasters in Quebec



The economic success of the broadcasting sector is a combination of inter-related factors:

- Distinct and separate broadcasting rights market
- Canadian ownership and control
- Access to Canadian services on ‘BDUs ’
- Canadian content exhibition and expenditures rules
- ‘Canada first’ policy
- Vibrant public and private partnerships (e.g. CTF) and tax incentives

Changes to any of these factors may have significant consequences



Canadian broadcast policy works:

- **A very open system:** Canadians have access to an unparalleled mix of foreign and domestic entertainment and information choices
- **A strong domestic industry:** Canadian broadcasters compete for advertisers, viewers and programming
- **A vibrant television and film production sector:** stories are told from a Canadian and Quebec sensibility
- **The broadcasting system is highly interconnected:** changes made to one component of the system will impact the others



The Telecom Review is timely – a Broadcast Review would involve different public policy objectives

- The TPR was timely, as a necessary step to ensure a regulatory regime that adapts to the evolution of delivering ‘content’, whether data, voice or audiovisual information
- While telecom and broadcasting may be offered by single integrated companies, they are activities under very distinct public policy frameworks and face different challenges
- The Telecom Review covers the ‘how’ of carriage delivery; the Broadcast Review must include the rules around public policy objectives related to ‘what’ is delivered



The TPR recommendations do not propose foreign ownership of 'content' companies

- The TPR calls for the establishment of 'carriage legislation' that regroup BDUs and telcos and for clearly separate but compatible 'content' rules
- The TPR also recommends liberalized foreign ownership rules in the telecom sector and raises the issue of the appropriate ownership framework for BDUs and impact on broadcasting policy
- The TPR cites reasonable concerns expressed about foreign ownership of broadcasting and proposes a liberalization that ultimately applies to BDUs but not to 'content' companies



Liberalizing foreign ownership rules for BDUs would be complex

- To treat BDUs solely under ‘carrier legislation’ does not address the fundamental role and functions of BDUs in broadcasting
- While proposing ownership liberalization only for ‘carriage’, the issue is complex as Canadian media companies are highly integrated and many are involved in both telecom and BDU activities, as well as content



	Integrated Activities of major media players on Canada									
	BCE	Telus	Quebecor	Shaw/ Corus	Rogers	Cogeco	Canwest	Alliance Atlantis	CHUM	Astral
Radio				✓	✓	✓	✓		✓	✓
Television	✓		✓	✓	✓	✓	✓	✓	✓	✓
VOD			✓	✓	✓	✓				
Broadcast Distribution	✓	✓	✓	✓	✓	✓				
Production Companies	✓		✓	✓				✓		
Newspapers/Magazines	✓		✓		✓		✓			
Internet service	✓	✓	✓	✓	✓	✓				
Telephony, networking	✓	✓	✓	✓	✓	✓				
Wireless	✓	✓			✓					



BDUs are not 'common carriers'

- Unlike a common carrier, a BDU plays an active role in influencing the content it offers to subscribers: they are not neutral utilities
- BDUs have a major impact on the profitability of programming services and producers:
 - They decide which services to market, promote and offer to consumers
 - They set program packages and retail prices
 - They negotiate vital wholesale prices that programming services are paid
- Because of their distinct role, BDUs have specific broadcasting obligations: mandatory carriage of conventional tv; negotiated access for specialty/pay services



Changes to the ownership rules for BDUs would impact the economics of broadcasting

- Liberalization of the ownership rules would result in ‘Branch Plant BDUs’:
 - loss of a separate Canadian rights market
 - loss of executive functions in Canada
 - priorities and promotion of foreign content
 - Negative impact on the industry, Canadian employment and the contribution of the industry to the economy
 - effective control over content by foreign companies
- A complete change of the economic relationship between broadcasters and BDUs could result:
 - Payment to BDUs for carriage and exclusive content, as in the US model



If BDU ownership rules were to change, both structural and conduct rules would be required

- Additional rules of conduct would be necessary to offset the potential impact on cultural content
- Structural separation would also be necessary to address the complex industry integration: a non-Canadian who controls a Canadian BDU should be limited thereafter from owning any interest in a Canadian programming company



Recommendations

- A thorough study should be undertaken to address the complexity of the issues and which reinforces the public policy objectives that have led to the broadcasting framework and successful industry that exists today
- In an ideal world, because of BDU integration and control over content, the ownership rules relating to BDUs should be maintained
- If BDU companies convince the Government that they need access to foreign capital markets, then it is essential that there be structural separation and strengthened conduct rules
- These rules would ensure BDUs and telcos are treated equally

