



New media: A bright future for creativity in Canada

EXECUTIVE SUMMARY

Quebecor Media Inc. on New Media

Notice of Public Hearing

Montréal, Dec. 5, 2008

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Quebecor Media Inc. (QMI) appears before the CRTC to urge it to maintain exemptions for new media and mobile services so as to promote Canadian content, as evidenced by the company's investment in domestic content and robust infrastructure.

During the first phase of consultation conducted by the CRTC, seeking comment on the scope of an initiative dedicated to Canadian broadcasting on new media¹, QMI joined with the Canadian ISP Alliance² to show that the proposed measure was neither necessary nor justified. The Alliance stated that there was no evidence or justification for regulatory intervention and that consequently there was no reason to remove regulatory exemptions. Finally, QMI and the Alliance concluded that imposition by the CRTC of a future tax on revenues of ISPs to meet cultural goals of the Canadian Broadcasting Act would be unproductive and, in fact, illegal.

QMI is now intervening independently from any coalition but, both as a content producer and as an Internet Service Provider, to respectfully suggest to the CRTC that the Broadcasting Act approved by Canada's Parliament in 1991 – well in advance of the arrival of new media – cannot provide a credible basis for such regulatory action. QMI suggested that it is purview of government and ultimately the Parliament of Canada to develop policies and establish appropriate mechanisms to respond to challenges stemming from the current digital revolution and the growth of the Internet and new media.

The brief presented on Dec. 5, 2008, shows that regulation of the Internet is not an appropriate or available solution to ensure more Canadian content in this universe of several million sites, accessible to every Canadian citizen with high-speed access.

Contrary to those who discount the possibility that Canadian creativity can establish a presence in this new universe, QMI sees an exceptional opportunity to renew and reanimate Canadian creativity, a new life for Canadian content, with multiple development opportunities on the Canadian and international markets. From this perspective, the CRTC has a major role to play. It could, by accelerating its initiative for flexibility in regulation of traditional media, encourage development of Canadian content suitable for the Internet and all multimedia platforms. The CRTC should rely on the strengths of the traditional media – general interest television in particular – and their capacity to create quality content in order to achieve the objective of improving Canadian content representation on new-media platforms.

¹ Reference: PN-CRTC 2008-44

² The Canadian ISP Alliance: Bell Canada, Bell Aliant, Cogeco, EastLink, MTL Allstream, Rogers, Sasktel, Show, Telus and Quebecor Media: Brief, July 11, 2008.

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New opportunities on the Internet for audio and video content provide the most interesting perspectives for the future of Canadian content. From the beginning of the Internet in Canada, the government and the CRTC relied almost exclusively on market forces and the private sector as the engines to develop the new-media industry in Canada. This non-interventionist approach, along with massive capital investments by the Canadian private sector, created a competitive and innovative broadband infrastructure that has seen Canadian new media far exceed both forecasts and the most optimistic assessments made in the 1990s.

The Internet is a free and open environment without impediment, where consumers have virtually unlimited opportunities to access Canadian content.

QMI believes there are no capacity constraints or other barriers to entry that prevent Canadian new-media producers from making their works available on the Web. No regulation is necessary to ensure that people can have access to Canadian new-media content.

Any attempt to impose upon the new-media universe regulation like that governing traditional media would hurt Canadian competition in the new-media universe and would isolate Canada from most democratic nations that have refrained from imposing a regulatory system in this area.

Rather, the real issue is this: Should the Canadian state embark on a path to protectionism or to openness so that Canadians can be present, develop and grow in the world of new media.

Where does new-media broadcasting fit in and what is its impact on the broadcasting system in Canada?

Rather than engaging in a general debate, QMI offers the example of its own productions (such as the recording of Céline Dion on the Plains of Abraham in August 2008 and the recent launch of project Elephant to digitize and make available Quebec movies) and its commitment to Canadian content and the development of better technologies for the dissemination of new media. QMI believes that its success and that of the broader Canadian industry depends on maintaining regulatory exemptions and accelerating the deregulation process begun by the CRTC for traditional media. An environment of free access, unimpeded by regulatory measure, is an advantage for Canadian companies.

In fact, the Copyright Act and the tools to enforce it do oversee the distribution of works over the Internet. Since the CRTC exempted new media in 1999, regulation has clearly not slowed the growth of new-media content in Canada; instead the difficulty has been negotiating rights to make content available for use online. Regulatory mechanisms cannot resolve what is foremost a problem of managing rights and copyrights, which is the true cause of what some have characterized as a lower Canadian presence on new-media.

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The CRTC should re-examine its recommendations regarding the Canadian Television Fund, question the obligations upon broadcasters to make use of independent production, and agree to consider licensing fees paid by broadcasters as actual investments that allow use, on the full range of broadcast platforms, of rights to successful programs. The CRTC should revisit its entire approach aimed at intervening through quotas, choice of so-called priority programming and directing the investments made by broadcasters. In survival mode, Canadian broadcasters have every interest to invest in the success of their programs but have no interest in continuing a practice that make investments in programming a pure loss whose the overriding objective is fulfilling regulatory requirements.

QMI strongly believes that the CRTC should maintain its exemption orders for new media. QMI does not believe that the CRTC should institute incentives or regulatory measures to favour creation and promotion of Canadian broadcasting content by new media operations. QMI has not found on the CRTC public record any evidence that would justify such an intervention. On the contrary, QMI has found many indications that lead it to foresee a promising future for the advancement of Canadian content.

In conclusion, QMI reiterates that the current legislation is outmoded and is not a basis for action by the CRTC. The government and eventually the Parliament of Canada have the responsibility to amend, if appropriate, policy on Internet broadcasting.

QMI requests that the CRTC accelerate action undertaken to review regulation of traditional media and in particular, regulation that slows down the development of general interest broadcasters and their ability to exploit on the Internet programs that they fund.

END OF EXECUTIVE SUMMARY