



Broadcasting Public Notice CRTC 2007-41

Ottawa, 13 April 2007

Call for comments on the Canadian Broadcast Standards Council's proposed Journalistic Independence Code

In this public notice, the Commission calls for comments on a proposed Journalistic Independence Code filed by the Canadian Broadcast Standards Council. The code addresses, among other things, procedures to ensure that broadcasters maintain news management and presentation structures that are separate and distinct from those of their affiliated newspapers.

Background

1. In 2001, the Commission renewed the licences for television stations controlled by TVA Group Inc. (TVA), CTV Television Inc. (CTV) and Global Communications Limited (Global).¹ The Commission set out the terms and conditions for these licence renewals in *Licence renewals for the French-language national television network TVA and for the French-language television programming undertaking CFTM-TV Montréal*, Decision CRTC 2001-385, 5 July 2001; *Licence renewals for the television stations controlled by CTV*, Decision CRTC 2001-457, 2 August 2001; and *Licence renewals for the television stations controlled by Global*, Decision CRTC 2001-458, 2 August 2001. Each of these corporate groups owns television stations and newspapers in the same market.
2. The Commission imposed conditions of licence on both CTV and Global with respect to independence between the news operations of their television stations and affiliated newspapers. These conditions respond to concerns that interveners raised relating to media cross-ownership and followed a thorough discussion of issues related to diversity of news voices in markets that these licensees serve. The Commission's intention in imposing the conditions of licence was to ensure that these licensees maintained separate and independent news management and presentation structures for television operations that are distinct from those of any affiliated newspaper. Among other things, the conditions of licence require the structural separation of news management and the separation of decision making on content and presentation between the newspaper and television news operations.
3. The Commission first imposed conditions of licence with respect to independence between the news operations of TVA stations and affiliated newspapers owned by Quebecor Media Inc. (QMI) in *Transfer of effective control of TVA to Quebecor Média inc.*, Decision CRTC 2001-384, 5 July 2001 (Decision 2001-384). In that proceeding, QMI proposed its own solution to concerns relating to cross-media ownership by submitting a code of professional conduct. This code of professional conduct contains clauses that require the structural separation of newsgathering activities, as well as

¹ On 1 September 2005, Global Communications Limited amalgamated with Global Television Network Inc. and 120 other Canwest subsidiaries to form CanWest MediaWorks Inc.

requirements for the structural separation of news management and the separation of decision making on content and presentation. In Decision 2001-384, the Commission imposed conditions of licence on QMI addressing independence of TVA and QMI's newspapers including one that required adherence to its code of professional conduct. In Decision 2001-385, the Commission also required TVA to adhere to these conditions of licence for all of the services of its French-language national television network as well as for the French-language television programming undertaking CFTM-TV Montréal. Subsequently, in *Transfer of effective control of Toronto One to TVA Groupe Inc. and Sun Media Corporation*, Broadcasting Decision CRTC 2004-503, 19 November 2004, the Commission imposed the same condition of licence on SUN TV (the station formerly known as Toronto One) that it imposed on CTV and Global.

4. In all of the above instances, the Commission stated, in response to proposals by the licensees, that if the Canadian Broadcast Standards Council (CBSC) adopted a self-regulatory code of conduct concerning cross-media ownership applicable to the industry as a whole and that code was approved by the Commission, the Commission would be prepared to consider suspending the application of the conditions of licence discussed above for CTV, Global and TVA.
5. The CBSC has proposed a code of conduct concerning cross-media ownership for the Commission's approval, entitled the Journalistic Independence Code (the proposed code). This proposed code is the subject of this call for comments.

The CBSC's proposed Journalistic Independence Code

6. The CBSC first submitted its proposed Journalistic Independence Code to the Commission in November 2002. At that time, the Standing Committee on Canadian Heritage was engaged in an 18-month review of Canadian broadcasting, which included issues related to cross-media ownership. Shortly thereafter, in March 2003, the Standing Senate Committee on Transport and Communications launched its study of Canadian media industries, which also included matters relating to cross-media ownership. The Commission considered that it was appropriate to wait until those processes were complete before seeking public comment on the proposed code. The Heritage Committee issued its report in June 2003, while the Senate Committee issued its report in June 2006. The Government issued its response to the Senate Committee's report on 23 November 2006.
7. In the interim, the CBSC submitted a second version of the proposed code in November 2005. Following a request for minor editorial revisions from the Commission via letter dated 21 December 2006, the CBSC submitted its third and final version of the proposed code on 31 January 2007. This latest version is appended to this public notice.
8. The Commission considers that the proposed code is an accurate reflection of CTV and Global's conditions of licence.

9. With respect to the proposed code's applicability to TVA, the Commission recognizes that there are no clauses that reflect those portions of TVA's conditions of licence concerning structural separation of newsgathering activities.
10. The Commission further notes that the CBSC has included a number of relevant clauses in the proposed code to address the requirement that an appropriate monitoring mechanism be established for the purposes of ensuring compliance. Clauses 4 through 10 reflect the CBSC's standard practices for the adjudication of complaints, including the necessary transparency required for broadcasters, the Commission and the general public. Of note is the requirement in Clause 10 for the provision of an annual report to the Commission that will serve to keep the Commission apprised of all complaints and their resolution.
11. Finally, the Commission notes that once the Code is approved, any application for suspension of conditions of licence relating to cross-media ownership must include confirmation that the licensee supports the CBSC code of conduct, including the monitoring mechanism, and that the licensee is a member in good standing of the CBSC.

Call for comments

12. The Commission calls for comments on the CBSC's proposed Journalistic Independence Code, which is appended to this public notice. Comments on the proposed code must be received by the Commission no later than **18 July 2007**. This will allow the comments to be considered in the context of the proceeding announced in *Diversity of voices proceeding*, Broadcasting Notice of Public Hearing CRTC 2007-5, 13 April 2007 (the Notice of Public Hearing). Comments on the Code should, however, be provided separately from comments filed in response to the Notice of Public Hearing.
13. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.
14. **Procedures for filing comments**

Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
[Broadcasting Intervention/Comments Form](#)

OR

- **by mail to**
CRTC, Ottawa, Ontario K1A 0N2

OR

- **by fax at**
819-994-0218

15. Submissions longer than five pages should include a summary.
16. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

17. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's web site at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's web site. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
18. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
19. Documents received electronically or otherwise will be put on the Commission's web site in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
20. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.
21. The Commission encourages interested parties to monitor the public examination file and the Commission's web site for additional information that they may find useful when preparing their comments.

**Examination of public comments and related documents at the following
Commission offices during normal business hours**

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building

Les Terrasses de la Chaudière

1 Promenade du Portage, Room 206

Gatineau, Quebec K1A 0N2

Tel: 819-997-2429

Fax: 819-994-0218

Metropolitan Place

99 Wyse Road

Suite 1410

Dartmouth, Nova Scotia B3A 4S5

Tel: 902-426-7997

Fax: 902-426-2721

205 Viger Avenue West

Suite 504

Montréal, Quebec H2Z 1G2

Tel: 514-283-6607

55 St. Clair Avenue East

Suite 624

Toronto, Ontario M4T 1M2

Tel: 416-952-9096

Kensington Building

275 Portage Avenue

Suite 1810

Winnipeg, Manitoba R3B 2B3

Tel: 204-983-6306

TDD: 204-983-8274

Fax: 204-983-6317

Cornwall Professional Building

2125 - 11th Avenue

Room 103

Regina, Saskatchewan S4P 3X3

Tel: 306-780-3422

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel: 780-495-3224

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
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Fax: 604-666-8322

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Public Notice CRTC 2007-41

Journalistic Independence Code

Introduction

Broadcast news reports are vitally important to Canadians. They contribute information that helps Canadian audiences to form opinions and make decisions regarding matters, events and issues of public interest and importance.

The innovative use of new technologies and the improved co-ordination and deployment of news-gathering resources can improve news coverage available to Canadian audiences. News reporting by broadcasters and newspapers can often be complementary, with distinct strengths determined or influenced by their respective technologies. That diversity and the differing scope of their respective delivery platforms ensure for their respective viewers and readers the ability to access appropriate information in a timely and relevant fashion.

As the number of sources of information in society increases, the nation's broadcast news organizations have the collective goal of assuring the diversity and quality of information, and the distinctiveness of editorial voices presented to Canadians. This is not inhibited by the common ownership of news-gathering resources and the use of complementary technologies, which can together create greater opportunities to provide information to Canadians; consequently, nothing herein shall be understood as requiring the separation of such resources. The broadcast news organizations of corporate groups that include broadcast and print media can achieve the goals of diversity and distinctiveness while harnessing the benefits of cross-media ownership arising from appropriate economies of scale to expand and diversify the coverage of events.

Accordingly, through the application of this Code, and in accordance with the Principles and Practices established herein, the broadcasters subscribing to it support

- the effective use of news-gathering resources in a manner which ensures that Canadians have access to diversity and quality of information assembled and reported by broadcast journalists;
- the existence of diverse and distinct editorial and news reporting voices in their broadcast and print media; and
- the independence and separation of the management of news departments in their broadcast and newspaper divisions with common ownership.

It is, of course, the case that each owner of a broadcasting organization that subscribes to this Code is separate and distinct in its corporate structure as well as its management goals and practices. It follows that each such organization will manage its activities

differently and in accordance with its own corporate philosophy. Nonetheless, the owners of broadcasting organizations that subscribe to this Code will conform to the Principles and Practices established herein, will collaborate fully with requests made by the Canadian Broadcast Standards Council to obtain the information necessary for it to fulfill its mandate hereunder, will accede to the authority of the Council to declare a broadcasting organization in compliance with or in breach of this Code, and will comply with any rulings made by the Council.

Overriding Principle

This Code is intended to support the provision to Canadians of the broadest possible scope of news coverage by distinct broadcast news organizations which comply with the standards that are: a) established herein and b) consistent with the journalistic provisions in the *Code of Ethics* and the *Voluntary Code regarding Violence in Television Programming* of the Canadian Association of Broadcasters and the *Code of Ethics* of the Radio Television News Directors Association of Canada.

All broadcast licensees which subscribe to this Code, including their news organizations, owner corporations and employees, will be expected to respect the spirit, as well as the letter, of this policy, as interpreted by the Canadian Broadcast Standards Council. The responsibility for adherence to the Principles and Practices established herein lies with the broadcaster members of the Council.

Principles and Practices

1. Management Structures

Broadcasters will maintain news management and presentation structures that are separate and distinct from those of their affiliated newspapers. Affiliated newspapers are those over which the broadcaster or the owner corporation of a broadcaster has effective control or which the broadcaster or the owner corporation of a broadcaster operates.

2. Separation of News Management Decisions

Every broadcaster will ensure the independence and separation of its news management from that of any affiliated newspaper in order that decisions on journalistic content and presentation on its broadcasting services be made solely by that broadcaster.

3. Advisory Conflicts

News managers will not sit on the editorial boards of affiliated newspapers; nor will broadcasters permit any member of the editorial board of any affiliated newspaper to participate in the news management of their broadcasting operations. News managers may, however, sit on committees or bodies intended to co-ordinate the use of news-gathering resources.

4. Complaints

Complaints concerning issues relating to broadcast journalistic aspects of cross-media ownership shall be submitted to the Canadian Broadcast Standards Council, which will deal with them in accordance with the Council's established procedures. Complaints may come from any source, including both the broadcast industry and the general public. They will be initially reviewed by the CBSC Secretariat in order to determine whether or not they relate to the Principles and Practices established herein and raise an issue requiring adjudication. Any complaints requiring adjudication shall be submitted to the Council's Journalistic Independence Panel.

5. Panel Membership and Operation

The Journalistic Independence Panel will be an impartial and neutral body, composed of a minimum of six and a maximum of ten Adjudicators, half of whom may be, or have been, officers or employees of licensees of Canadian broadcasting undertakings or companies related or affiliated thereto, and half of whom shall not be, or have been, officers or employees of, or have any remunerative association with, Canadian broadcasting undertakings or companies related or affiliated thereto. The Canadian Broadcast Standards Council will exercise sole authority over the appointment of Panel Adjudicators and will assure their independence and general qualifications. The Canadian Broadcast Standards Council will also be responsible for the good operation of the Panel.

When investigating or adjudicating any matter, the Panel shall sit as a body of three, the CBSC National Chair, one person representing the industry and one the public, none of whom shall have a conflict of interest vis-à-vis the broadcaster under investigation.

6. Panel Investigations and Adjudications

Upon receipt of a complaint that appears to raise an issue relating to the Principles and Practices, the CBSC Secretariat will provide the broadcaster an opportunity within three weeks to provide a response to the substance of the complaint. The Secretariat may, at that time, request that the broadcaster reply to any specific questions it raises and that the broadcaster furnish any documentation related thereto. The Secretariat will then respond to the complainant within 45 days thereafter regarding the CBSC's proposed disposition of the matter, advising the complainant either that the file will be closed and providing the reasons therefor, or that it will be referred to the Journalistic Independence Panel.

If, in order to investigate the merits of a complaint referred to the Journalistic Independence Panel, the Panel considers it necessary to request information from the broadcaster or any affiliated broadcasting company, it shall be entitled to:

- obtain all information which it considers necessary from the broadcaster with respect to it, its subsidiaries and affiliates, as well as any employee involved;

- examine all files relevant to the complaint, subject to any constraints relating to privacy and the protection of sources.

The Panel shall review the submissions and arguments of all the parties and any evidence it has gathered; it shall be entitled to draw an adverse inference in circumstances in which the broadcaster does not collaborate in furnishing any evidence requested by it.

No employee will be financially or professionally penalized for complying with the requests of the Panel, including for any loss of time required to comply with any such requests.

7. Panel Decisions

Once all necessary material has been delivered to the Journalistic Independence Panel and it has deliberated, the Panel will render a written decision, which will set out its reasons and conclusions and the steps, if any, that it recommends be taken by the broadcaster.

8. Compliance with CBSC Decisions

The broadcaster will respond to the decision of the Journalistic Independence Panel within 30 days of receiving the written notification from the Panel and will, if any action is required, within 60 days of that notification, indicate the steps it has taken to comply with the terms of the decision.

9. Code Publicity

A subscribing broadcaster will provide a copy of this Code to each of its employees and freelance journalists and will emphasize the importance of complying with the Principles and Practices set out in this Code.

Broadcasters subscribing to this Code will air Public Service Announcements to make audiences aware of the Principles and Practices as well as the role of the CBSC and the process to file a complaint.

10. Reports

The CBSC will prepare an annual report, consisting of summaries of all complaints and adjudications, along with such other information as may be appropriate, which it will make public and transmit to the Canadian Radio-television and Telecommunications Commission at a regular date every year to be determined by the CBSC in consultation with the Commission.