

5 June 2015

Filed electronically

John Traversy
Secretary General
Canadian Radio-television
and Telecommunications Commission
1 Promenade du Portage
Ottawa, ON K1A 0N2

Dear Mr. Secretary General,

Re: Part 1 Application by Unifor 723M for an expedited public hearing into the cancellation of original local ethnic television newscasts cancelled by Rogers Broadcasting Limited, and a mandatory order requiring their reinstatement

I Purpose of this Application

1. This is an application by Local Unifor 723M made pursuant to Part I of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* as well as sections 12,16, 18 and 22 of the *Broadcasting Act*.
2. The application asks the Canadian Radio-television and Telecommunications Commission (CRTC) to:
 - (a) call Rogers Media Inc. to an expedited public hearing to inquire into and hear its reasons for cancelling all third-language newscasts on its OMNI television stations,
 - (b) permit parties to cross-examine Rogers Broadcasting Limited at this expedited hearing, and to
 - (c) order the reinstatement of third-language newscasts following the hearing until applications to renew these licences, or to acquire the assets of these broadcasting undertakings, are heard by the Commission.

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3. This application sets out the law, grounds and evidence in the following sequence:
- Parties to this Application
 - The OMNI ethnic television stations
 - Cancellation of OMNI's ethnic newscasts
 - Applicable law
 - CRTC's historic approach to cancellation of local over-the-air television news
 - Remedy sought: an expedited public hearing under section 12(1) of the *Broadcasting Act*, and a mandatory order under section 12(2), for Rogers to reinstate original television newscasts on the OMNI television stations, and
 - Conclusion.

II The Parties to this Application

4. Unifor 723M is the union that represents employees who work at undertakings operated by subsidiaries of Rogers Communications Inc.
5. Rogers Media Inc. (Rogers) currently holds licences for five free, over-the-air ethnic television stations (the OMNI stations), as well as the licences for over-the-air radio stations, five over-the-air English-language television stations (the CITY TV stations), a national television network for hockey and a number of specialty services that are only available to subscribers to those services.
6. Rogers is a wholly owned Canadian subsidiary of Rogers Communications Inc. (RCI), a Canadian-incorporated, family controlled company.¹ Funds are allowed to flow between RCI and its subsidiaries.²

III The OMNI ethnic television stations

7. The five OMNI ethnic television stations that are the subject of this Application are part of Canada's regulated television broadcasting system.
8. Canada's regulated television broadcasting system includes free over-the-air television programming undertakings, subscription-only pay and specialty television programming undertakings, and cable television community channels available to all cable television subscribers. Television broadcasters must be licensed to broadcast in Canada³ unless they are exempted from licensing or regulatory requirements.⁴

¹ Rogers, *2014 Annual Report*, at 73.

² *Ibid.*: "As at December 31, 2014, there were no significant restrictions on the flow of funds between Rogers and its subsidiary companies."

³ Pursuant to s. 32(1) of the *Broadcasting Act*.

Parliament has delegated responsibility for licensing and regulating television broadcasters to the CRTC.⁵

9. The CRTC has licensed six over-the-air ethnic television programming undertakings, five of which are owned and controlled by Rogers. These are the OMNI ethnic TV stations: CFMT-DT Toronto,⁶ CJMT-DT Toronto,⁷ CJEO-DT Edmonton⁸ and CJCO-DT Calgary⁹ and CHNM-DT Vancouver.¹⁰
10. CFMT-TV Toronto was Canada's only ethnic television station until 1997. The CRTC allowed Rogers to buy CFMT-TV in 1986.¹¹ When it asked the CRTC's permission to buy the station, Rogers said it would bring "financial stability to CFMT's parent company ... and management and staff will be able to focus exclusively on strengthening the mandate of the station and upon its programming".¹² The CRTC described this commitment as being "of fundamental importance".¹³
11. Rogers applied for a second ethnic television licence to serve Toronto in 2001.¹⁴ It told the CRTC that "[e]thnic television programming is the most needed local programming," that "intense demand for a greater choice and diversity of ethnic television programming in the Toronto/Hamilton area already far exceeds our capacity to respond", and that this demand "will continue to increase rapidly over the

⁴ Pursuant to s. 9(4) of the *Broadcasting Act*.

⁵ S. 5(1): "Subject to this *Act* and the *Radiocommunication Act* and to any directions to the Commission issued by the Governor in Council under this *Act*, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, shall have regard to the regulatory policy set out in subsection (2).

⁶ Decision CRTC 78-780 (Ottawa, 27 December 1978).

⁷ *New multilingual ethnic television station to serve Toronto*, Broadcasting Decision CRTC 2002-82 (Ottawa, 8 April 2002), as corrected by Broadcasting Decision CRTC 2002-82-1 (Ottawa, 120 April 2002).

⁸ *Ethnic television stations in Calgary and Edmonton*, Broadcasting Decision CRTC 2007-166 (Ottawa, 8 June 2007)

⁹ *Ibid.*

¹⁰ *New multilingual ethnic television station to serve Vancouver*, Broadcasting Decision CRTC 2002-39 (Ottawa, 14 February 2002).

¹¹ *Multilingual Television (Toronto) Limited*, Decision CRTC 86-586 (Ottawa, 19 June 1986).

¹² *Ibid.*, "The Test of Clear and Unequivocal Benefits".

¹³ *Ibid.*

¹⁴ *New multilingual ethnic television station to serve Toronto*, Broadcasting Decision CRTC 2002-82 (Ottawa, 8 April 2002), as corrected by Broadcasting Decision CRTC 2002-82-1 (Ottawa, 120 April 2002).

- next decade.”¹⁵ It told the CRTC that “[a]t CFMT, ... news programming lies at the very heart of our multilingual mandate and is one of the most person [sic] ways in which we reflect and serve local ethnic communities.” The CRTC granted Rogers’ application and CJMT-TV Toronto went on air in 2002.
12. CHNM-TV Vancouver began broadcasting in 2003.¹⁶ The CRTC allowed Rogers to buy it in 2008.¹⁷ In applying for permission to buy the station Rogers told the CRTC that it “loved ethnic television”,¹⁸ that it had “the experience, knowledge and resources to continue to build on the initial success of the station”¹⁹ and that it would “foster the ability of local ethnocultural communities to tell their stories nationally through the provision of local, regional and national content from other diverse markets.”²⁰ Rogers also told the CRTC that it was “particularly proud of the trust and confidence that Canada’s ethnic communities have shown in working with us to produce high quality, informative and entertaining programming.”²¹ When it approved Rogers’ purchase of CHNM-TV the CRTC noted that the company had agreed to maintain the previous licensee’s “commitment to local programming and local service”²²
13. Rogers applied for two more ethnic television licences in 2007, to serve Edmonton and Calgary. The company committed to offer 29 hours per week of original local ethnic television programming in Calgary and Edmonton,²³ that continuing and strengthening local programming was important to its application²⁴ and that OMNI had the “local first programming philosophy” demanded of over-the-air television stations.²⁵ The CRTC granted Rogers’ applications within a competitive licensing process, and CJEO-TV Edmonton and CJCO-TV Calgary went on air in September 2008.²⁶

¹⁵ CRTC, *Public Hearing Transcript*, Vol. 3 (Hamilton, 5 December 2001) at ¶¶2386-2388 [Hamilton hearing].

¹⁶ *Acquisition of assets - CHNM-TV and CHNM-DT Vancouver and their transmitters in Victoria*, Broadcasting Decision CRTC 2008-72 (Ottawa, 31 March 2008) at ¶8.

¹⁷ *Ibid.*

¹⁸ CRTC, *Public Hearing Transcript*, Vol 8. (Vancouver, 5 March 2008) at ¶11672 [Vancouver hearing].

¹⁹ *Ibid.*, at ¶11687.

²⁰ *Ibid.*

²¹ CRTC, *Public Hearing Transcript*, Vol 8. (Vancouver, 5 March 2008) at ¶11674.

²² Broadcasting Decision CRTC 2008-72 at ¶10.

²³ Broadcasting Decision CRTC 2007-166 at ¶11.

²⁴ Vancouver hearing, at ¶11946.

²⁵ *Ibid.*, ¶11953.

²⁶ Rogers Media, “Rogers OMNI Alberta to Launch September 15th” (2 September 2008).

IV Cancellation of OMNI's ethnic newscasts

14. The CRTC defines news as programs that report on local, regional, national and international events.²⁷
15. On May 7, 2015, Rogers cancelled all local news broadcast by the OMNI stations.²⁸ The program cancellations included original daily and weekly local OMNI television newscasts produced and broadcast in Italian, Punjabi, Cantonese and Mandarin.²⁹ These programs are described in Appendix 1. Rogers also cancelled music and variety programs broadcast by the OMNI stations: *VMix* and *Bollywood Blvd* were 30-minute programs that were broadcast weekly.
16. Rogers said that it would replace these third-language local newscasts with foreign programs, current affairs programs and programs from its CITY TV television stations.³⁰
17. The OMNI TV stations no longer broadcast any original local news. We understand that Rogers continues to solicit local advertising in markets where it no longer airs a local newscast.

V Applicable law

18. News is a special type of content because it is the prerequisite to the exercise of democratic rights. In the 17th century political philosopher John Milton defended the

²⁷ *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, "Appendix to Broadcasting Regulatory Policy CRTC 2010-808", <http://www.crtc.gc.ca/eng/archive/2010/2010-808.htm>:

Category 1 News

Newscasts, newsbreaks, and headlines. Programs reporting on local, regional, national, and international events. Such programs may include weather reports, sportscasts, community news, and other related features or segments contained within "News Programs."

²⁸ David Friend, "Rogers Media Inc cutting 110 jobs, many at OMNI's multicultural TV stations", *Financial Post* (8 May 2015): "Rogers Media Inc. said it will no longer produce OMNI newscasts starting on Monday, laying off production staff and reporters."

²⁹ Greg O'Brien, "Rogers' OMNI Television trades news for current affairs, cuts 110 jobs" *cartt.ca* (Beta) (7 May 2015), <https://cartt.ca/article/rogers%E2%80%99-omni-television-trades-news-current-affairs-cuts-110-jobs>.

³⁰ CBC News, "Rogers axes OMNI news programs, cancels Breakfast Television in Edmonton" online (7 May 2015), <http://www.cbc.ca/news/business/rogers-axes-omni-news-programs-cancels-breakfast-television-in-edmonton-1.3065351>

Rogers Media has cancelled multicultural news programs in Ontario and B.C. and will replace them with new current affairs programming targeting the same audience.

On Thursday, Rogers Media said in a release that it will air three new half-hour current affairs programs that will air in multiple languages in the 8:30 to 10 p.m. timeslot. The new shows will be hosted by "veteran OMNI Television on-air personalities," Rogers said.

Those shows will replace 30-minute newscasts that used to air weeknights on OMNI's local channels.

freedom of printers to pursue their profession without prior state censorship of their publications, by arguing that civil liberty depends on individuals' freedom to express themselves. He told England's Parliament that "... when complaints are freely heard, deeply consider'd and speedily reform'd, then is the utmost bound of civill liberty attain'd, that wise men looke for."³¹

19. Two hundred years later John Stuart Mill also opposed state censorship, arguing that

[n]o argument ... can now be needed, against permitting a legislature or an executive, not identified in interest with the people, to prescribe opinions to them, and determine what doctrines or what arguments they shall be allowed to hear. ...³²

Mill went on to discuss censorship, writing that "All silencing of discussion is an assumption of infallibility."³³

20. The degree to which speech and expression may be limited was addressed by the 1966 *International Covenant on Civil and Political Rights*, which Canada ratified or acceded to in 1976. Article 19:2 of the *Covenant* sets out the right to freedom of expression and specifies that "this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

21. In 1982 the *Canadian Charter of Rights and Freedoms*³⁴ included a guarantee of freedom of expression in section 2(b):

[e]veryone has the following fundamental freedoms: ... freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

22. The *Charter* also included protection for Canada's multicultural communities, requiring at section that

³¹ John Milton, *AREOPAGITICA: A speech for the liberty of unlicenc'd printing to the Parliament of England* (England, November 1644), https://www.dartmouth.edu/~milton/reading_room/areopagitica/text.shtml .

³² John Stuart Mill, *On Liberty*, (1869), Ch. II ("Of the Liberty of Thought and Discussion"), <http://www.bartleby.com/130/2.html>.

³³ *Ibid.*

³⁴ Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.

[t]his Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

23. The Supreme Court of Canada has addressed the scope of freedom of expression on numerous occasions. While its cases for the most part deal with limits placed on those seeking to express themselves, the Court has over time developed the position that section 2(b) protects the core values of “freedom of the press and the public’s right to receive information.”³⁵
24. In 1988 the Court pointed out that limits on freedom of expression affect not just those who ‘speak’, but those who listen. It held in *Ford v. Quebec (Attorney General)* that commercial expression merits constitutional protection under section 2(b) of the *Charter* because of its value to speakers and to listeners, and that the language of expression is intimately related to its content:

39. ... the words "freedom of expression" in s. 2(b) of the *Canadian Charter* and s. 3 of the *Quebec Charter* should be given the same meaning. As indicated above, both the Superior Court and the Court of Appeal held that **freedom of expression includes the freedom to express oneself in the language of one's choice**. After indicating the essential relationship between expression and language by reference to dictionary definitions of both, Boudreault J. in the Superior Court said that in the ordinary or general form of expression there cannot be expression without language. Bisson J.A. in the Court of Appeal said that he agreed with the reasons of Boudreault J. on this issue and expressed his own view in the form of the following question: "Is there a purer form of freedom of expression than the spoken language and written language?" He supported his conclusion by quotation of the following statement of this *Court in Reference re Manitoba Language Rights*, 1985 CanLII 33 (SCC), [1985] 1 S.C.R. 721, at p. 744:

"The importance of language rights is grounded in the essential role that language plays in human existence, development and dignity. It is through language that we are able to form concepts; to structure and order the world around us. Language bridges the gap between isolation and community, allowing humans to delineate the rights and duties they hold in respect of one another, and thus to live in society."

40. The conclusion of the Superior Court and the Court of Appeal on this issue is correct. **Language is so intimately related to the form and content of expression that there cannot be true freedom of expression by means of language if one is prohibited from using the language of one's choice. Language is not merely a means or medium of expression; it colours the content and meaning of expression.** It is, as the preamble of the *Charter of the French*

³⁵ *Khadr v. Canada (Attorney General)*, 2008 FC 549, at para. 44.

Language itself indicates, **a means by which a people may express its cultural identity. It is also the means by which the individual expresses his or her personal identity and sense of individuality.**

That the concept of "expression" in s. 2(b) of the *Canadian Charter* and s. 3 of the *Quebec Charter* goes beyond mere content is indicated by the specific protection accorded to "freedom of thought, belief [and] opinion" in s. 2 and to "freedom of conscience" and "freedom of opinion" in s. 3. That suggests that "freedom of expression" is intended to extend to more than the content of expression in its narrow sense.

....

59. ... **Over and above its intrinsic value as expression, commercial expression which, as has been pointed out, protects listeners as well as speakers plays a significant role in enabling individuals to make informed economic choices, an important aspect of individual self fulfillment and personal autonomy.** The Court accordingly rejects the view that commercial expression serves no individual or societal value in a free and democratic society and for this reason is undeserving of any constitutional protection.³⁶

[bold font added]

25. The Court expanded on the importance of expression to listeners a year later, in *Edmonton Journal v. Alberta (Attorney General)*.³⁷ Citing *Ford*, the Court held in 1989 that

... **as listeners and readers, members of the public have a right to information pertaining to public institutions** and particularly the courts. Here the press plays a fundamentally important role. It is exceedingly difficult for many, if not most, people to attend a court trial. Neither working couples nor mothers or fathers house-bound with young children, would find it possible to attend court. Those who cannot attend rely in large measure upon the press to inform them about court proceedings -- the nature of the evidence that was called, the arguments presented, the comments made by the trial judge -- in order to know not only what rights they may have, but how their problems might be dealt with in court. **It is only through the press that most individuals can really learn of what is transpiring in the courts. They as "listeners" or readers have a right to receive this information. Only then can they make an assessment of the institution.** Discussion of court cases and constructive criticism of court proceedings is dependent upon the receipt by the public of information as to what transpired in court. Practically speaking, this information can only be obtained from the newspapers or other media.

[bold font added]

³⁶ [1988] 2 SCR 712, at para. 59.

³⁷ [1989] 2 SCR 1326 (per Cory J. on behalf of Dickson C.J. and Lamer J.).

26. In brief, while almost all expressive content merits constitutional protection, news content is of special value because of its role in enabling audiences to make informed choices:
- [t]he media have a vitally important role to play in a democratic society. It is the media that, by gathering and disseminating news, enable members of our society to make an informed assessment of the issues which may significantly affect their lives and well being.³⁸
27. The constitutionally protected status of expression and its role in cultural identity are why broadcasters like Rogers are not just business undertakings like any other company or enterprise. Broadcasters enjoy special rights and privileges because of their importance to society. They are temporarily granted licences to enjoy these special rights and privileges, in exchange for their service to the communities they are licensed to serve.
28. Parliament has enumerated some of its expectations of broadcasters in the 1991 *Broadcasting Act*.³⁹ Subsection 3(1)(d)(iii) states that Canada's broadcasting system should reflect the circumstances and aspirations of Canadians, including the multicultural nature of Canadian society.⁴⁰ Subsection 3(1)(d)(ii) states that the programming provided by the broadcasting system should offer information, while subsection 3(i)(iv) says that this programming should "provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern," and subsection 3(i)(ii) states that Canada's broadcast programming should come from local as well as regional, national and international sources.
29. The cancellation of third-language local newscasts on Rogers' OMNI TV stations contravenes Canadian law by depriving Canada's ethnic audiences of access to news from and about their local communities. It also contravenes the CRTC's policy for ethnic broadcasting, by depriving Canada's ethnic communities of access to news from and about their local communities.
30. When the CRTC issued its current *Ethnic broadcasting policy* in 1999, it said that over-the-air ethnic television stations have a primary responsibility "to serve and reflect their local community".⁴¹ In 2007 the CRTC said that "a key component of

³⁸ *C.B.C. v. New Brunswick* (1991), 85 D.L.R. (4th) 57 at 69 (per Cory, J.).

³⁹ S.C. 1991, c. 11.

⁴⁰ S. 3(1)(d)(iii).

⁴¹ *Ethnic broadcasting policy*, Broadcasting Regulatory Policy CRTC 1999-117 (Ottawa, 16 July 1999), <http://www.crtc.gc.ca/eng/archive/1999/PB99-117.HTM>:

Local content

the *Ethnic Policy* is the integrative role that ethnic programming plays in connecting newcomers to their new surroundings, socially, culturally, politically and economically.”⁴² The CRTC’s 1999 ethnic policy remains in force.⁴³

31. Rogers’ elimination of third-language local news from its OMNI ethnic TV stations means that the stations do not and cannot reflect the daily circumstances of people living in multicultural communities across Canada. Rogers’ decision has deprived people who live in multicultural communities in those areas – Toronto, Vancouver, Edmonton and Calgary – of the local and regional news from and about their communities which ethnic television stations are supposed to provide.
32. We note in this context that the CRTC has addressed local programming on the OMNI stations, most recently in 2014. In 2011 Rogers closed its OMNI Edmonton TV studio.⁴⁴ It then cancelled program production at OMNI Calgary in May 2013⁴⁵ and cancelled another 21 ethnic programs in 2014, including four newscasts (Appendix 2).⁴⁶
33. The CRTC responded to these program cuts by calling Rogers to a licensing hearing in 2014, a year ahead of schedule. The CRTC told Rogers that it had “particular concerns about the apparent lack of local programming on some OMNI

39. The Commission will expect ethnic broadcasters, at the time of licensing and renewal, to provide plans on how they will reflect local issues and concerns during the terms of their licences.

40. The Commission is of the view that a primary responsibility of over-the-air ethnic radio and television stations should be to serve and reflect their local community.

41. The Commission will also expect licensees to report on the progress of their initiatives at their subsequent licence renewals. In that regard, it would be helpful for licensees to indicate in their plans how they will subsequently evaluate their progress.

⁴² Broadcasting Decision CRTC 2007-166, at ¶19.

⁴³ In 2010 the CRTC changed its approach to television licence renewals. Until then it considered renewal applications for individual television stations one by one; in 2010 it formally began to consider the applications of all the television services owned by one company at the same time: *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167 (Ottawa, 22 March 2010), <http://www.crtc.gc.ca/eng/archive/2010/2010-167.htm>.

The CRTC explained in Broadcasting Regulatory Policy CRTC 2010-167, however, that its ethnic broadcasting policy (policy for cultural diversity) remained in force:

103. With respect to the Commission's various social policies – those governing accessibility, cultural diversity, and adherence to programming standards via regulations, industry codes and membership in the Canadian Broadcast Standards Council –, the Commission reiterates that the obligations related to these policies will continue under the group-based approach.

⁴⁴ Brent Wittmeier, “OMNI television closes local studio as part of national reorganization” *Edmonton Journal* (24 September 2011) at A3.

⁴⁵ Amanda Stephenson, “OMNI stations lose local content; 7 jobs cut as Rogers shifts to national focus” *Calgary Herald* (31 May 2013) at D1.

⁴⁶ Anwar Ali, “Rogers cancels Toronto channels, builds LTE network in Quebec” *proactiverinvestors USA & Canada* (30 May 2013) <proactiveinvestors.>.

stations”,⁴⁷ and required Rogers to schedule a minimum level of local programming on its Calgary and Edmonton stations.⁴⁸

34. Rogers did not tell the CRTC in the April 2014 licence renewal hearing that it intended to cancel all local news on the OMNI stations. Rogers instead told the CRTC that it worked hard to provide local news to the communities that its stations are licensed to serve.⁴⁹

VI CRTC’s historic approach to cancellation of local OTA TV news

35. Decades of CRTC decisions show that it has upheld the critical role of news in Canada’s television system.

⁴⁷ In 2009 the CRTC renewed the OMNI licences to August 2015, *OMNI – Licence renewals*, Broadcasting Decision CRTC 2009-504 (Ottawa, 19 August 2009), <http://www.crtc.gc.ca/eng/archive/2011/2011-447.htm>.

In 2013 a series of local programming cuts led the Communications, Energy and Paperworkers Union to file a Part 1 application to the CRTC asking it to inquire into the matter. The CRTC expressed its concern about local program reductions in Broadcasting Decision CRTC 2013-657, and subsequently called on Rogers to file its licence renewal applications for the OMNI stations a year “early in order to allow a review of the stations’ programming issues”: *Rogers Media Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2014-399 (Ottawa, 31 July 2014), <http://www.crtc.gc.ca/eng/archive/2014/2014-399.htm>, at ¶111.

In the 2014 proceeding, the CRTC required Rogers to apply for the revocation and re-issuance of its OMNI licences, rather than their renewal. The *Broadcasting Act* only permits the CRTC to amend conditions of licence on application of the licensee, or where 5 years have passed since a licence was last renewed - at the time of the 2014 hearing the OMNI licences had been renewed 4 years and 8 months earlier.

⁴⁸ *Rogers Media Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2014-399 (Ottawa, 31 July 2014), <http://www.crtc.gc.ca/eng/archive/2014/2014-399.htm>, at para.151.

⁴⁹ CRTC, *Transcript*, 8 April 2014, :

...
113 [Madeline Ziniak, National Vice-President, OMNI Television] During its proud history of broadcasting, OMNI has played a critical role in developing ethnic programming in Canada and serving ethnocultural audiences. OMNI has established new standards in journalistic integrity and excellence for Canadian ethnic media. We are an important partner to many different ethnocultural communities through the provision of local news programming and participation in events, festivals and also participating on diverse boards and committees across this country.

...
581 MR. PELLETTY [President, Rogers Media Inc.]: Before Madeline speaks, because what I am taking with OMNI, and you have seen, without mentioning any names, some of the other ethnic broadcasters both that produce premium services that have Canadian content requirements.

582 What strikes me with OMNI is the quality of our production. And Renato I don't think gets enough credit for the actual news and information programming that we produce on a daily basis.

583 It is not easy to produce that many newscasts. It is tough. I know how tough it is to produce City News daily. To produce as many newscasts on a daily basis that Renato and his team are doing at the quality that they are doing, although I don't understand it, it is astounding to me, from a broadcaster who has been in the business for so many years.

....

36. It has denied applications for over-the-air (OTA) television services because of insufficient local programming. For example, it held in 2008 that

... local and/or regional reflection have traditionally been the key elements in distinguishing conventional OTA television services from specialty services, and considers that OTA television services are the cornerstone for the provision of local programming. ... the applicant [proposed] to provide two hours per week of local programming in each of the eight markets it proposed to serve. However, the Commission notes that the average amount of local programming provided by existing television stations in these markets is more than 22 hours per week. Therefore, the Commission is of the view that HDTV Networks' revised local programming proposal would not be sufficient to serve the needs and interests of the markets it proposes to serve.⁵⁰

37. The CRTC has also given broadcasters short-term renewals when they provided inadequate levels of local news and local programming. It imposed shorter-than-normal licence renewal terms when

- Télé-Capitale Inc. proposed to reduce local TV program production in Rimouski from 8 to 5 hours per week⁵¹
- Newfoundland Broadcasting Company Limited provided inadequate local TV news to its viewers in St. John's, and offered no plans to improve local programming⁵²

⁵⁰ *National high definition over-the-air digital television service*, Broadcasting Decision CRTC 2008-75 (Ottawa, 3 April 2008), <http://www.crtc.gc.ca/eng/archive/2008/db2008-75.htm>, at para. 9

⁵¹ *Télé-Capitale Inc.*, Decision CRTC 86-978 (Ottawa, 30 September 1986), <http://www.crtc.gc.ca/eng/archive/1986/DB86-978.htm>:

In its new Promise of Performance [for CFER-TV Rimouski], the licensee proposes to reduce its local production from 8 hours to 5 hours per week, including 1 hour 15 minutes of programs to be co-produced with CFCM-TV Quebec City. Included in this programming will be 3 hours 45 minutes of news, 30 minutes of informal education and 45 minutes of entertainment.

The Commission considers that the proposed reduction in local production would have a serious impact because of the particular circumstances of the Rimouski market and the fact that the regional programs originating with the Réseau Pathonic (authorized in Decision CRTC 86-976 of today's date) will not on their own satisfy local needs. Accordingly, the Commission requires the licensee to meet its commitment to produce a minimum of 5 hours, not including repeats, of weekly local programs, of which 3 hours 45 minutes

⁵² *Newfoundland Broadcasting Company Limited*, Broadcasting Decision CRTC 89-269 (Ottawa, 17 May 1989), <http://www.crtc.gc.ca/eng/archive/1989/DB89-269.HTM>:

...
In general the Commission considers that the past performance of this licensee in the area of news and other local programming leaves much to be desired, and that its viewers do not receive the quality of service they might reasonably expect, given NTV's financial and other resources. Moreover, there was little evidence presented by the licensee, either in its application or at the hearing, of any meaningful plans on NTV's part to improve upon this performance.

Among the Commission's particular concerns at the hearing was the inadequacy of NTV's quantitative commitments for the production of original local programs on CJON-TV. A further concern was that the licensee's Canadian content commitment appeared to be lower than the minimum regulatory

- Power Broadcasting failed to meet its commitment to local TV news in Kingston⁵³
- Canwest failed to meet its commitment to local TV news in Vancouver,⁵⁴ and when
- Radio Nord failed to meet its commitment to local TV news in Rouyn-Noranda.⁵⁵

requirement and was apparently based on a broadcast day longer than that defined in the Television Broadcasting Regulations, 1987 (the regulations). The Commission was also concerned by the absence of firm commitments by NTV for the production of local programs in any of the underrepresented categories, and by the licensee's plans to continue to schedule much of its locally-produced programming at times when, in the Commission's view, such programming could not be expected to attract large audiences.

...

At the hearing, NTV suggested that the amount would be greater if the Commission were to accept as an original local program a half-hour production then being broadcast at 5:30 a.m. on weekdays entitled "Jigs Breakfast". The licensee also requested that the Commission, for the purpose of calculating Canadian content, consider the period between 5:30 a.m. and 1:00 a.m. the following day as being CJON-TV's broadcast day.

...

The Commission's analysis of the programming broadcast during the week of 4 to 10 December revealed that the audio portion of "Jigs Breakfast" was a simulcast of a morning radio program broadcast each weekday on CHOZ-FM; thus, in the Commission's view, this program could not be considered to be an original local television program produced by CJON-TV. Moreover, the video portion was a continuation of "Newfoundland Scenes", broadcast on CJON-TV at 5:00 a.m., and consisting primarily of footage of rural Newfoundland filmed by the licensee and repeated as often as four times per month, according to NTV.

The meager resources allocated by the licensee to "Jigs Breakfast", and its place within the NTV schedule, give further substance to the Commission's concern regarding the strength of NTV's commitment to produce quality programming of relevance and interest to its viewers or to broadcast such programs at times convenient for more than only a handful of viewers.

....

⁵³ *Licence Renewal for CKWS-TV Kingston, CKWS-TV-1 Brighton and CKWS-TV-2 Prescott*, Decision CRTC 95-104 (Ottawa, 24 March 1995), <http://www.crtc.gc.ca/eng/archive/1995/DB95-104.HTM>:

[CKWS-TV-1 Brighton and CKWS-TV-2 Prescott] The Commission notes with concern that this commitment represents only half the amount of separate programming that the licensee undertook to broadcast when it applied for authority to operate the Brighton and Prescott undertakings. Moreover, the Commission notes that, at the hearing, the licensee acknowledged that the proposed half-hour news journal would consist largely of news items already aired by CKWS-TV over the preceding seven days. Such programs would not serve the Belleville-Trenton and Brockville-Prescott areas with timely news reporting to the extent that the licensee's originally proposed "split-feed" newscasts would, especially given the fact that these areas have no other source of local television news.

⁵⁴ *Licence Renewal for CKVU-TV Vancouver and CKVU-TV-1 Courtenay*, Decision CRTC 95-106 (Ottawa, 24 March 1995), <http://www.crtc.gc.ca/eng/archive/1995/DB95-106.htm>:

The Commission attaches great importance to the commitments made by licensees of private television stations to local news. The licensee's failure to meet its commitments to local news during the current licence term is the reason that the Commission has, by majority vote, granted CKVU-TV a short-term licence renewal.

⁵⁵ *Licence renewal for CKRN-TV and its transmitters*, Decision CRTC 98-112 (Ottawa, 7 April 1998), <http://www.crtc.gc.ca/eng/archive/1998/DB98-112.HTM>, at paras. 2 to 6,

38. The CRTC has required new owners of TV stations to provide quality newscasts. In 2008 it clarified that general-interest programs interspersed with news do not meet the CRTC's criteria for quality newscasts, and that as the new owner of the City TV stations Rogers must ensure that the "stations, including CKVU-TV Vancouver ... broadcast news in a significant manner."⁵⁶

39. Not even bankruptcy – although Rogers is not bankrupt – has changed the CRTC's position on the importance of local news. In 2008, the CRTC allowed the transfer of ownership of TQS only on the condition that the buyer, who had announced plans to eliminate all newscasts, offer local news.⁵⁷ The CRTC said that:

... A broadcaster is not a conventional broadcaster unless it offers a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity. **Local programming containing newscasts both on weekdays and the weekend constitutes an essential part of required programming.**⁵⁸

[bold font added]

40. For the Commission to act now to address Rogers decision to drop all news from the OMNI over-the-air ethnic TV stations would be entirely consistent with the CRTC's historic approach to regulating the availability of local news to over-the-air television audiences. As the Commission is naturally aware, the *Canadian Multiculturalism Act* specifically mandates federal institutions such as the CRTC to be responsive to Canada's multicultural reality.⁵⁹ The loss of local TV news matters as much to multicultural communities and audiences, as it does to English-language and French-language communities and audiences.

⁵⁶ *Change in the effective control of TQS inc. and licence renewals of the television programming undertakings CFJP-TV Montréal, CFJP-DT Montréal, CFAP-TV Québec, CFKM-TV Trois-Rivières, CFKS-TV Sherbrooke, CFRS-TV Saguenay and of the TQS network*, Broadcasting Decision CRTC 2008-129 (Ottawa, 26 June 2008), at ¶33, citing Broadcasting Decision CRTC 2007-360.

⁵⁷ *Ibid.* at paras. 8, 18-20 and 27-54.

⁵⁸ *Ibid.*, at para. 41.

⁵⁹ S. 3(2):

.... promote policies, programs and practices that enhance the ability of individuals and communities of all origins to contribute to the continuing evolution of Canada [and] the understanding of and respect for the diversity of the members of Canadian society, ... and generally, carry on their activities in a manner that is sensitive and responsive to the multicultural reality of Canada.

VII Remedy sought: an expedited public hearing under section 12(1) and a mandatory order under section 12(2) to reinstate daily original ethnic television newscasts

41. In the normal course of events the CRTC would consider a licensee's decision to reduce local news on its OMNI stations in a licence renewal hearing, or if Rogers applied to amend the terms and conditions of the OMNI licences.
42. It would then be open to the CRTC to decline to renew the OMNI licences, to renew them on the same terms and conditions as before, or to renew with different terms and conditions.⁶⁰
43. Of course, the CRTC also has the authority to suspend or revoke any licence.⁶¹

Alternative 1: Renewal

44. Rogers' licences for the OMNI television stations will not expire for another fifteen months.⁶² In the normal course of affairs the CRTC would call the licensee to a public hearing in March or April 2016. Unifor 723M strongly opposes the idea that the CRTC and Canadians should have to wait for a year or more to hear Rogers' explanations for eliminating news from its stations, and for this reason oppose the renewal process in this matter. By March or April 2016 the damage caused by the cancellation of local newscasts on OMNI TV stations will have happened, and will not be reparable.
45. Yet even if the CRTC called Rogers to a renewal hearing now, a year early – as it called Rogers to an early hearing in 2014 in response to CEP's 2013 complaint about Rogers' cancellation of programming on the OMNI stations – the CRTC would again have to ask Rogers to apply for the revocation of the OMNI licences so that the CRTC could impose new conditions of licence on these licences.⁶³
46. This informal workaround – Rogers requesting the revocation of its own licences to enable the CRTC to apply new conditions of licence – failed to achieve the Commission's objectives in 2014, and therefore did not address the concerns raised

⁶⁰ Subsections 9(1)(b), (c) and (d) of the *Broadcasting Act*.

⁶¹ Subsection 9(1)(e).

⁶² *Rogers Media Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2014-399 (Ottawa, 31 July 2014), <http://www.crtc.gc.ca/eng/archive/2014/2014-399.htm>, renewed the OMNI licences from 1 September 2014 to 31 August 2016.

⁶³ Subsection 9(1)(c):

Subject to this Part, the Commission may, in furtherance of its objects, ... amend any condition of a licence on application of the licensee or, where five years have expired since the issuance or renewal of the licence, on the Commission's own motion

by interveners in 2013. Using this work-around – for the same non-compliant licensee – would embroil the CRTC in distasteful negotiations with a non-compliant licensee and bring the Commission’s administration of its mandate into some disrepute. It would leave the impression that large companies are too big to regulate. We also note that Rogers has given no indication that it wants to amend its OMNI licences.

47. More is required, to ensure that Rogers’ actions do not have a negative impact on public confidence on the rule of law. More is required now, to ensure that Rogers’ actions do not place Canada’s ethnic communities at an informational disadvantage during a federal election.

Alternative 2: inquiry and mandatory order

48. The unusual circumstances of this case – the abrupt cancellation of all original local news for ethnic communities in Vancouver, Edmonton, Calgary and Toronto, by a subsidiary of one of Canada’s largest and most profitable communications companies, just before a widely-anticipated federal election – require the CRTC to move swiftly to ensure that Canada’s ethnic communities are not adversely affected by the loss of original news to inform them about the election and other matters of public interest.
49. Parliament has provided the CRTC with tools to act quickly when required. Subsection 12(1) of the *Broadcasting Act* empowers the CRTC to “inquire into, hear and determine” matters related to the failure of a licensee to act as required by the CRTC’s policies, regulations or licensing decisions,⁶⁴ at any time. Subsection 12(2) empowers the CRTC to issue a mandatory order to anyone to perform specific acts.⁶⁵ If the CRTC is contemplating the issuance of a mandatory order, subsection

⁶⁴ Subsection 12(1) provides that
Where it appears to the Commission that
(a) any person has failed to do any act or thing that the person is required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part, or has done or is doing any act or thing in contravention of this Part or of any such regulation, licence, decision or order, or
(b) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part,
the Commission may inquire into, hear and determine the matter.

Part II of the *Act* sets out the CRTC’s objects and powers in relation to broadcasting, and encompasses its authority to issue guidelines and statements about any matter within its jurisdiction (s. 6), to license broadcasting undertakings (s. 9), and to make regulations (s. 10).

⁶⁵ Subsection 12(2) provides that:

The Commission may, by order, require any person to do, forthwith or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission

- 18(1)(d) requires the CRTC to hold a public hearing about the matter.⁶⁶ Subsection 20(1) gives the CRTC's Chairperson the authority to appoint members of the Commission to hear a matter on behalf of the CRTC, while subsection 18(4) gives the CRTC's Chairperson discretion as to the location of the hearing.
50. An inquiry will enable the CRTC to demonstrate that the commitments made by licensees when they apply for, or apply to renew, licences, are not mere puffery, by enabling it to examine Rogers' actual commitment to the CRTC's *Ethnic broadcasting* policy. An inquiry permits the CRTC to consider the circumstances of Rogers as a subsidiary of Rogers Communications Inc., so as to consider whether Rogers' circumstances in fact require it to cancel all original local news on the OMNI stations. An inquiry also permits the CRTC to issue a mandatory order to ensure that local ethnic communities at least have access to local original ethnic news during the federal election that will be held this year.
51. As the Federal Court noted in the 1986 case of *Cathay Int. Television Inc. v. CRTC*, "it is a proper exercise of the Board's regulatory authority for it to determine in a timely manner by way of a public hearing whether a licensee is in default of one of its licensing requirements and if so to give the licensee an opportunity to explain the default."⁶⁷
52. Unifor 723M therefore respectfully requests that the CRTC call Rogers to a public hearing to inquire into its cancellation of local ethnic news on the OMNI stations, as provided for in section 12(1). The potentially negative effects on hundreds of thousands of people in the multicultural communities of Toronto, Vancouver, Edmonton and Calgary of the loss of their access to original local third-language news in an election year justify the CRTC's use of its authority to consider whether Rogers is in default of its licences and/or the CRTC's *Ethnic broadcasting policy*
53. Unifor 723M also requests that the CRTC allow Rogers the opportunity to show cause why a mandatory order should not be issued pursuant to subsection 12(2), that would require Rogers to resume the broadcast of original local ethnic newscasts on each of its five OMNI television stations until 31 August 2016, when the OMNI licences otherwise expire. The CRTC should issue a mandatory order

under this Part and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part or to any such regulation, licence, decision or order.

66

S. 18 provides that

Except where otherwise provided, the Commission shall hold a public hearing in connection with

...

(d) the making of an order under subsection 12(2).

67

7 F.T.R. 241, 1986 CarswellNat 171, at para. 10 (FC TD).

because the May 2015 cancellation of local newscasts is simply the latest in a series of serious program reductions undertaken by Rogers on the OMNI stations in wilful disregard of its duties under the *Ethnic broadcasting policy* and the *Broadcasting Act*.

54. The CRTC's procedures for applications and public hearings are set out in the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure (Rules)* and apply to matters brought before the CRTC by an application.⁶⁸ They state that the CRTC must post applications that comply with its *Rules* on its website.⁶⁹ Within 30 days of an application's being posted respondents may file answers,⁷⁰ and interveners may file interventions.⁷¹ Respondents have ten days to answer interveners,⁷² if they wish.
55. Unifor 723M notes, however, that the CRTC may vary or dispense with the *Rules* due to considerations related to the public interest or fairness.⁷³ For example, the CRTC uses 'expedited' procedures in matters related to broadcasting complaints, such as disputes between programming services and distribution companies and can move swiftly to address concerns that licensees were not complying with their regulatory obligations.
56. We respectfully ask the CRTC to use an expedited process in this inquiry by calling Rogers, Unifor 723M and a limited number of interested parties to a hearing at the CRTC's offices in Gatineau, Quebec⁷⁴ on or before 6 July 2015.
57. As for deadlines, the CRTC could rely on section 7 of its *Rules of Practice and procedure* to require interventions on this matter to be submitted to Rogers by 19 June 2015, and give Rogers until 26 June 2015 to reply. Following the hearing the CRTC could strive to issue its determination by 3 August 2015, leaving time for parties to consider appellate review before mid-September 2015.
58. An expedited process is urgently needed in this matter because a federal election is imminent. The *Canada Elections Act*⁷⁵ empowers the Governor General to dissolve

⁶⁸ S. 3: "A matter may be brought before the Commission by an application or complaint or on the Commission's own initiative."

⁶⁹ S. 23.

⁷⁰ S. 25.

⁷¹ S. 26.

⁷² S. 27.

⁷³ S. 7.

⁷⁴ Salon Réal Therrien on the 7th floor of the Central Building, Les Terrasses de la Chaudière, 1 Promenade du Portage, Gatineau, Quebec.

⁷⁵ S.C. 2000, c. 9.

Parliament at any time, and in any event requires that a federal election be held no later than October 19, 2015.⁷⁶ Broadcast news is of special significance and importance during elections, and it may take Rogers several weeks to reinstate newscasts if so ordered: only an expedited hearing process will ensure that the multicultural communities that Rogers is licensed to serve will have access to local news from the OMNI stations during the 2015 federal election.

59. The lack of a timely CRTC hearing before the federal election will deny those who rely on OMNI's news their access to timely information about Canada's federal election – an activity that is at the core of Canadian democracy. If the CRTC were to wait until 2016 to act it would give the impression, however wrong, that the CRTC believes that the federal election is unimportant to Canada's multicultural communities. Waiting until the normal course of the CRTC's renewal process would send other broadcasters the unmistakable message that the CRTC is prepared to tolerate the most serious breaches of over-the-air broadcasters' commitments – namely, the requirement to provide the communities they are licensed to serve with news from and about their communities.
60. Even if the CRTC attempts to hold Rogers to account about this matter next year, in the context of Rogers' licence renewal applications, it will be too late for the multicultural communities harmed by the absence of original local TV ethnic news during a national election. A delay in this matter also makes it far more likely that audiences, program producers, reporters, writers and others will move away from Rogers, permitting it to claim that its changes had no harmful impact.
61. Failing to hold a broadcaster of Rogers' size and reputation to account in a timely manner will bring the CRTC's administration of justice into disrepute. As the maxim provides, justice delayed is justice denied.⁷⁷

Alternative 3: suspension or revocation

62. Subsection 9(1)(e) of the *Broadcasting Act* permits the CRTC to suspend or revoke licences.

⁷⁶ *Canada Elections Act*, s. 56.1:

56.1 (1) Nothing in this section affects the powers of the Governor General, including the power to dissolve Parliament at the Governor General's discretion.

(2) Subject to subsection (1), each general election must be held on the third Monday of October in the fourth calendar year following polling day for the last general election, with the first general election after this section comes into force being held on Monday, October 19, 2009.

⁷⁷ The maxim is said by some to spring from s. 40 of the British *Magna Carta*: “**To no one will we sell, to no one will we refuse or delay, right or justice**” [bold font added].

63. The CRTC has very rarely used suspension, and in the one case of which we are aware merely suspended the commercial portion of a broadcaster's licence for three ays.⁷⁸ In our view, suspension of Rogers' OMNI licences would not achieve the outcome that Canada's ethnic communities desire – which is the immediate reinstatement of original local news on the OMNI TV stations, in each location they serve.
64. While the CRTC has used its revocation power several times, the result of this process will also not result in the immediate reinstatement of original local newscasts. Revocation will require Rogers to stop broadcasting – unless it then pursues appellate remedies from either Cabinet or the Federal Court of Appeal, and if it does, there would be no guarantee that it would reinstate local news before the next federal general election.
65. In our respectful submission, the most efficient route for the CRTC to follow now, to ensure that ethnic communities are able to access local original news from the OMNI TV stations, is to hold a mandatory-order hearing on an expedited basis.

Procedural request: Right to cross-examine

66. Unifor 723M also respectfully requests that the CRTC amend its normal procedures for public hearings of broadcasting matters, by requiring those appearing on behalf of Rogers to be sworn or affirmed,⁷⁹ and by permitting Unifor 723M to cross-examine those testifying on behalf of Rogers.
67. Section 16 of the *Broadcasting Act* grants the CRTC's the powers, rights and privileges of a superior court of record, including the examination of witnesses.⁸⁰

⁷⁸ *Determination on the Matter of the Show Cause Hearing Held in the National Capital Region on 13 July 1988 Concerning the Possible Suspension of the Broadcasting Licence of CKFM-FM Toronto*, Decision CRTC 88-512 (Ottawa, 25 August 1988), <http://www.crtc.gc.ca/eng/archive/1988/DB88-512.htm>. Rumour had it that Standard Radio's ratings increased during the period when it could not broadcast commercials, enabling it to raise its commercial advertising rates, and earn more income. Suspension therefore had the counterintuitive effect of benefitting a non-compliant licensee. We note, however, that in this case the CRTC acted quickly: it issued its notice of public hearing on 28 April 1988, and scheduled the hearing less than a month later on 26 May 1988. (The CRTC subsequently granted an extension of time requested by Standard.)

⁷⁹ S. 42 of the *Rules*.

⁸⁰ S. 16:

The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record.

Nothing in its *Rules* prohibits the CRTC from allowing applicants (Unifor 723M) to cross-examine respondents (Rogers), and to the extent that it is the CRTC's practice to disallow cross-examination in broadcasting proceedings, the *Rules* allow the CRTC to vary its procedures to meet the public interest.

68. Having witnessed the elimination of original, Canadian ethnic programming from the OMNI stations for five years, Unifor 723M seeks the right to test the evidence that Rogers may purport to have to support its decisions; this can only be done by examining the Rogers' witnesses directly.

Procedural request: Combine all related proceedings

69. Finally, Unifor 723M notes that other parties have applied or may apply to the CRTC to address the cancellation of local newscasts on the OMNI TV stations. In light of multicultural communities' serious concerns – concerns that we share – we respectfully ask the CRTC to consider all applications related to this issue in a single, expedited, mandatory order inquiry. A single proceeding would be the most efficient way for the CRTC to hear and determine this matter, and would be equitable to all parties affected.
70. Following the CRTC's determinations in this matter parties would be free to consider their options. If the CRTC grants our request, for example, Rogers would be able to consider avenues of appeal, or to pursue other options for the OMNI stations – meanwhile, the interests of Canada's multicultural communities, and the public interest, would be protected by an order mandating the carriage of original local news on the OMNI TV stations.

VIII Conclusion: only an expedited inquiry by the CRTC into the loss of all news from the OMNI stations – in a federal election year – will enable the CRTC to act in the public interest

71. The changes made by Rogers to the programming of its ethnic over-the-air television stations are contrary to the public interest. The changes contradict Rogers' express commitments to ethnic communities and the CRTC about its programming plans, and are inconsistent with the resources available to Rogers. They fundamentally impair the OMNI stations' ability to reflect and serve local multicultural communities, a central concern of the CRTC's ethnic broadcasting policy for Canada. The changes seriously disadvantage multicultural Canadians by reducing the level of news available to them about their communities and/or in their own languages, thereby limiting their ability to participate fully in Canada's democratic, economic, social and cultural life.

-
72. Cancelling all local news on the OMNI TV stations raises grave questions about
- Rogers' suitability as the licensee of the stations
 - Rogers' understanding of and compliance with
 - the commitments it made to obtain the OMNI licences,
 - the CRTC's policies for ethnic broadcasting and local advertising, with the *Broadcasting Act* and with
 - the promises the company has made to multicultural communities.
73. Unifor 723M respectfully submits that the CRTC's Commissioners bear a duty to Canadians and their communities to inquire into, hear and issue a determination when a broadcast licensee markedly departs from the commitments offered to obtain the licensee's licence or licences.
74. The CRTC must hold Rogers to account – as it has held other licensees to account in the past.⁸¹ Holding all licensees to account – especially those of Rogers' size – is in the public interest as it will encourage all licensees to comply with the *Broadcasting Act*, the CRTC's policies, its regulations and the terms and conditions of their own licences.
75. Unifor 723M therefore submits this application to request that the Chairperson of the CRTC exercise his authority under subsection 20(1) of the *Broadcasting Act* to appoint a panel of Commissioners to hear, inquire into and determine under subsection 12(1) whether Rogers is complying with the terms and conditions of its over-the-air ethnic broadcasting licences, with the requirements of the CRTC's *Ethnic broadcasting policy*, and with the *Broadcasting Act*.
76. We ask that the CRTC then issue a mandatory order under subsection 12(2) to reinstate original local news on its OMNI TV stations until its licences expire.
77. We request the right to cross-examine Rogers at this hearing, and ask the CRTC to combine and determine all proceedings related to the elimination of local news and other programs from the OMNI TV stations through an expedited public hearing process.

⁸¹ For example, beginning in August 2004 the CRTC received complaints about Harmony Broadcasting's operation of CJWV-FM Winnipeg, an instructional campus radio programming undertaking. Harmony's licence had been renewed in 2004 until August 2011.

The CRTC investigated the complaints and in August 2006 called Harmony to a public hearing in September 2006. It subsequently issued mandatory orders to Harmony in January 2007, and subsequently revoked Harmony's licence in July 2008.

Sincerely yours,



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A copy of this application has been sent by e-mail to:

Rogers Broadcasting Limited: Susan Wheeler, Vice-President, Regulatory, Media,
at Susan.Wheeler@rci.rogers.com

Appendix 1

Table 1: OMNI newscasts cancelled by Rogers in May 2015

Program	Aired	Type	Stations	Duration	Language
<i>Italian News</i>	Weeknights	News		30 minutes [prev 60 min]	Italian
<i>OMNI Punjabi TV News</i>	Weekdays	News			Punjabi
<i>Cantonese News</i>		News		2 x 30 minutes (early and late show)	Cantonese
<i>Mandarin News</i>	Weeknights	News		2 x 30 minutes (early and late show)	Mandarin
<i>Ponto de Encontro</i>	Weekly			30 minutes	Primarily English with some Portuguese
<i>Portuguese Community Calendar</i>	Weekdays	Community events		1 minute interstitials	Portuguese

Appendix 2: 2013 OMNI program cancellations

<i>OMNI News Portuguese Edition</i>	daily newscast in Portuguese
<i>Liga Logia</i>	weekly newscast in Greek
<i>Svitohliad</i>	weekly newscast in Ukrainian
<i>Zukosa</i>	weekly newscast in Polish
<i>Pomeriggio Italiano</i>	daily magazine in Italian
<i>Insieme</i>	daily magazine program in Italian
<i>Trendy Zone</i>	weekly magazine program in Cantonese
<i>Mandarin Weekend</i>	weekly magazine program in Mandarin
<i>Wai Wai Wide</i>	weekly program in Japanese
<i>Edo Kai Tora</i>	weekly magazine program in Greek
<i>Obyektiv</i>	weekly magazine program in Ukrainian
<i>Noi Oggi</i>	weekly magazine program in Italian
<i>Aaram</i>	weekly magazine program in Tamil
<i>Badai Ho!</i>	weekly magazine program in Hindi
<i>Vamos Ao Baolinho</i>	weekly magazine program in Portuguese
<i>In[Kultura]</i>	weekly magazine program in Polish
<i>Chardi Kalaa</i>	weekly magazine program in Punjabi
<i>Canada Contacto</i>	periodic magazine in Portuguese, and
<i>Cantonese Business</i>	<i>weekly business program</i>

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