

FIRST MILE CONNECTIVITY CONSORTIUM

October 3, 2014

ONLINE SUBMISSION

Mr. John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON K1A 0N2

RE: Broadcasting Notice of Consultation CRTC 2014-190 – Final Reply Comments

Dear Mr. Traversy:

Below are our final reply comments, including responses to the questions raised by Commissioner Simpson at the public hearing for *Phase 3 of Let's Talk TV: A Conversation with Canadians*. These comments are respectfully submitted by Dr. Rob McMahon on behalf of the First Mile Connectivity Consortium.

Yours sincerely,

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First Mile Connectivity Consortium (info@firstmile.ca)

General Comments:

1. The First Mile Connectivity Consortium (FMCC) is an independent not-for-profit national association. Our members include First Nation and Inuit broadband service providers. During this hearing we are also submitting points related to the work of Indigenous broadcast content producers, including the Aboriginal Peoples' Television Network, Wawatay Native Communications Society and IsumaTV. Our work focuses on innovative solutions to digital infrastructure and services, including the production of digital and broadcast content, with and in rural and remote communities.

2. We thank the Commission for the opportunity to participate in the hearings for *Let's Talk TV: A Conversation with Canadians*. Below are our responses to questions posed to us by Commission Simpson during our presentation on September 19, 2014 and other concluding evidence to support the Commission's deliberations.

Production of Canadian Content by Indigenous Organizations:

22608 *COMMISSIONER SIMPSON: Thank you very much.*

22609 *I guess I would like to start with asking you for more information regarding section 5 of your oral presentation.*

22610 *You said that: "During these hearings, the Commission raised questions regarding the production and distribution of local and Canadian content. Indigenous organizations can help address this issue."*

22611 *Now, you went on to cite several examples of what is being done, but in a more global context what did you mean by that: Indigenous organizations can help us address this issue of producing Canadian content.*

3. A key policy goal for the Commission is to ensure that Canadians are placed firmly at the centre of their television system as citizens, consumers and creators.¹ Indigenous media producers are already engaged in producing uniquely Canadian content. The most recognizable contribution in this area is through the Aboriginal Peoples' Television Network (APTN). As the world's first and only national Aboriginal broadcaster, APTN is licensed as a specialty Category A service – a status recently extended by the Commission until 2018, in part due to the network's "contribution to Canadian expression, cultural sovereignty and regional reflection".² According to APTN's website, more than three-quarters (86%) of its programming originates in Canada, and almost one-third (28%) of its content is in Aboriginal languages. Furthermore, the majority (75%) of the organization's 145 employees are Aboriginal Peoples.

4. While APTN provides one strong example of the important role that Indigenous organizations play in producing Canadian content, it is not the only group working in that area. APTN's work is supplemented by the many local and regional content producers operating in Indigenous communities. In this context, we refer to the four examples that we raised in our presentation.

5. The Red Road Project website currently hosts 26 digital videos generated by youth.³ These videos provide a vibrant forum for Mi'kmaq youth to create and access uniquely Canadian content. They have been distributed through several community channels and through various online services. The initiative involves 23 youth leaders in 13 Mi'kmaq communities in Nova Scotia and New Brunswick who are creating local Aboriginal content that is made available online, free of cost.

6. Permanent Studios in Quebec began as Wapikoni Mobile Studio, a training and production initiative with support from the National Film Board. By 2006-2007, Wapikoni had involved some 500 Aboriginal youth who produced 100 films - 14 of which won Canadian and international awards.⁴ By 2011 – the year that the organization's funding was cut for a time – those numbers had increased to 2,000 youth and some 450 films.⁵ Today, Wapikoni operates as a

¹ CRTC, "Let's talk TV: A report on comments received during Phase I," January 2014, pp.2-3.

² See Broadcasting Decision CRTC 2013-383, para 1.

³ See: <http://www.redroadproject.ca/videos>

⁴ See page 86 of the National Film Board 2006-2007 Annual Report, available for download here: <http://onf-nfb.gc.ca/medias/download/documents/pdf/RappAn-eng2006-2007.pdf>

⁵ See: <http://www.socialdoc.net/magnus/2011/07/19/wapikonimobile-funding-cancelled/>

non-profit organization and receives funding from a range of sources.⁶ It continues to produce and distribute a range of digital media productions that have won over 80 awards at national and international festivals.⁷

7. IsumaTV is an Indigenous media website (www.isuma.tv) with over 5,000 Inuit and Aboriginal films and videos in 56 different languages from across Canada and around the world. Founded in 1990 as Igloolik Isuma Productions, producer of the 2001 Cannes *Camera d'Or* winning film *Atanarjuat The Fast Runner*, since 2007 IsumaTV has assembled with several other Inuit production companies a library of over 1,000 Inuktitut-language films and videos. In 2012 it established an experimental online network of community-based production in Nunavut and Haida Gwaii. The organization also facilitates interactive digital media initiatives, including participation in public hearings. For example, during an event regarding the Baffinland iron mine at Mary River, IsumaTV hosted 71 call-in radio shows and video interviews about the proposed development, as well as live audio broadcasts of hearings in Igloolik and Pond Inlet.⁸ This activity reflects a point made by the Commission in its summary of Phase I of Let's Talk TV: "[Canadians] also say that the broadcasting system should be more responsive to their needs as citizens including access to content to facilitate their participation in the democratic and cultural life of their country, region or city" (p.5).⁹ We submit that IsumaTV's work provides a strong and innovative example of such a process, despite the extremely challenging geographic context that it operates in.

8. Finally, Wawatay Native Communications Society, which is based in Northern Ontario, began producing television content with APTN in 1999. This work includes three nationally broadcast programs: *Wawatay Kids TV*, *Wawatay Presents Cry of the Loon Fishing Adventures*, and *Wawatay Presents Shoomis' Legends*.¹⁰ These programs are intended to help Cree and Ojibway youth learn about their culture, and to share it with others across the country.

9. These organizations provide only a few examples of the robust Indigenous media production sector in Canada. The work they do clearly generates uniquely Canadian content that represents the diversity of Indigenous communities across northern, remote and rural regions. It also provides opportunities for members of these communities to participate as creators, and generates content that meets their needs as both citizens and consumers.

Distinction between funding for distribution and funding for production:

22615 COMMISSIONER SIMPSON: So taking the two categories apart, production and distribution, my limited knowledge of what has been happening in rural communities has been the creation of Aboriginally controlled, for the sake of argument, infrastructure, the broadband infrastructure that will take something off of the satellite for example and distribute it throughout the community using a

⁶ See: <http://www.wapikoni.ca/about/our-partners/our-partners>

⁷ See: <http://www.wapikoni.ca/actualities/news/10-years-already>

⁸ See: <http://www.theglobeandmail.com/news/national/the-north/celebrated-son-of-igloolik-creates-cultural-internet-for-his-people/article16387403/?page=all>

⁹ CRTC, "Let's talk TV: A report on comments received during Phase I," January 2014, pp.2-3.

¹⁰ See: http://www.wawataynews.ca/about_wawatay

variety of means, including line of sight and fibre and the like. So that is the distribution side that you are referencing...

22618 But given that this is happening already, as part of your presentation are you saying that more funding is needed for that or are you keeping your funding requests and observations strictly designated to the production side?

10. We understand that the Let's Talk TV hearings are focused on the production rather than the distribution of media content (including digital content). As Commissioner Simpson stated in our exchange, "We live in Compartments in this world here" (line 22633). However, although we recognize that broadband distribution infrastructure and services may be framed as outside this proceeding, we believe that they should be included in the context of this discussion as they are necessary to achieve the Commission's broader policy goal to ensure that media content is distributed to – and more importantly, from – Indigenous communities. The uniquely Canadian content described in the previous section is of no use if it cannot reach its intended audience.

11. Furthermore, we note that the production and distribution of digital media over IP-based technologies is becoming increasingly important in Canada's media system. As noted by the Groups for the Public Interest in their intervention:

"We are living the future now, where IP continues to become a strong distribution technology platform of choice, and where the Internet continues to be a powerful tool of creativity, innovation, disintermediation, and creative destruction, including in the broadcasting sector. The Internet is now increasingly available on traditional TV 'sets,' and broadcasting is increasingly available and consumed on computers (desktops, laptops, tablets and smartphones). Furthermore, video is the main source of internet traffic, and is projected by Cisco to make up 84% of all Internet traffic by 2018, highlighting the convergence of broadcasting and telecommunications" (para 208).

12. Given these conditions, we submit that processes of technological convergence make it increasingly difficult to separate the production of digital content from its distribution. The organizations discussed in our intervention provide clear evidence of how this convergence process is taking place inside Indigenous communities. Our constituents collectively stress that the availability of distribution infrastructure is as important as production support. In fact, fair access to national production financing from Canada Media Fund (CMF) and Telefilm Canada has long been entirely dependent on certified distribution commitments from CMF or Telefilm approved eligible broadcasters or distributors. Without expansion of Indigenous distribution infrastructure, it is impossible to expand Indigenous production opportunities through the taxpayer-funded national agencies established to maintain a professional film and television production industry.

13. For example, IsumaTV – founded in 1990 as a media production company – established in 2007 an online broadcaster, Nunavut Independent Television (NITV) and an Internet TV network of local servers, Digital Indigenous Democracy, to guarantee distribution of more Indigenous media content to remote northern communities and a national online audience. This was necessary given the lack of digital infrastructure in Nunavut, as well as the lack of Canadian eligible broadcasters or distributors besides APTN willing to license Indigenous productions. Canada Media Fund now recognizes NITV along with APTN as 'eligible broadcasters' to issue

licenses that trigger CMF production financing. IsumaTV is Canada's first Northern Internet Distributor to trigger CMF and Telefilm CFFF production financing for Indigenous-language programming.

14. On the other hand, funding to support media production is important to organizations that historically focused on distribution. For example, the Red Road Project and "Project 60" (a political engagement initiative undertaken during the 2011 Canadian elections commemorating the fact that Native Canadians have only been allowed to vote for 60 years)¹¹ began as projects of Atlantic Canada's First Nation Help Desk. The organization exists to support connectivity services and infrastructures in First Nations communities but over time this role evolved to encompass digital media production to engage and empower communication strategies. These examples illustrate the convergence of digital media production and distribution in Indigenous communities in Canada.

15. We submit that the Commission has a role to play in regulating this convergence process and its outcomes for Indigenous producers and distributors. The *Broadcasting Act* requires that the Commission ensure that the Canadian broadcasting system evolves alongside technological change.¹² As noted by the Documentary Association of Canada: "the CRTC has the necessary jurisdiction to take a broad view of the Canadian broadcasting system, though in certain areas such as the Digital Media Exemption Order, it has chosen not to regulate up to now" (para 8).¹³ In this context, we agree with several interveners who submit that the Commission should hold a separate hearing to determine how the Digital Media Exemption Order should be amended, or rescinded.

16. We also note a point raised by the Canadian Association of Community Television Users and Stations (CACTUS) regarding the community and economic development benefits associated with the convergence of broadband and broadcasting distribution. In paragraph 58 of their submission, CACTUS states that:

"Local towers under municipal control can also be used to offer broadband Internet. These services are more cost-effective for municipal and community entities to offer than ever before, thanks to the ability to multiplex digital signals (technology that has so far been underutilized in Canada)... We believe the option of local redistribution is critical in the current environment of media ownership hyperconcentration. There must be a competitive balance to 'the big four' that rests in communities' hands. It's about increasing consumer choice and local content."¹⁴

17. We concur with this point, and note that the First Mile approach to distribution infrastructure and services reflects the opportunities for innovation that can emerge when communities take control and ownership of such resources.

¹¹ There are 24 'Project 60' videos at: <http://vimeo.com/album/3066325>

¹² *Broadcasting Act of Canada*, sec 3(1)(d)(iv).

¹³ The Documentary Organization of Canada, "Broadcasting Notice of Consultation CRTC 2014-190 – "Let's Talk TV: A Conversation with Canadians", a formal review of the television system"

¹⁴ Canadian Association of Community Television Users and Stations (CACTUS) - Intervention - Let's Talk TV Phase III 2014-190, June 25, 2014

Funding Sources for the Production of Digital Content by Aboriginal communities:

22626 [COMMISSIONER SIMPSON] *But on the production side, first off I'm pleased that you are acknowledging that APTN is making strides in this area. That has been, at least my impression, that they are working harder to reach deeper into the smaller communities and more specific areas of need and interest in program production, but of course, you know, they can't do it all.*

22627 *So I'm curious as to in section 11 where you are saying that one of the prime areas of concern -- and we are not surprised, we hear this all the time -- is access to secure funding.*

22628 *Where is the funding for the kind of projects you have referenced in your presentation today coming from now? ...*

... 22637 *So talk to me about existing funding sources, deficiencies and whether or not you are looking for a new fund or funding, which are quite different.*

18. With regards to funds and funding to support the production of Indigenous media content, we suggest the Commission can play three important roles, and discuss each in turn. **First, the Commission must recognize that funding to support Indigenous media content must be coordinated among agencies. We believe that the CRTC should require that a mechanism be established to coordinate this funding.** A key point that we outlined in our intervention is that at present, Indigenous media producers must contend with a confusing and complex array of potential funding sources. For example:

- Wawatay Native Communications Society receives funding from the Nishnawbe Aski Development Fund, FedNor Canada, the Department of Canadian Heritage (Canadian Culture Online), and Culture.ca.
- The Red Road Project receives New Paths project money from Aboriginal Affairs and Northern Development Canada (First Nation School Success Program) and utilizes Youth Employment Initiative funds that begin with HRSDC and are administered through AANDC.
- Permanent Studios and Wapikoni Mobile received funding from many sources, including Canadian Heritage through Canadian Culture Online and Human Resources and Skills Development Canada.¹⁵
- IsumaTV received development financing from Telefilm Canada, Canadian Content Online, the Canada Media Fund and the Government of Nunavut. This included a one-time \$1 million investment from Canada Media Fund's Experimental Stream.

19. This multiplicity of funding sources does not reflect an abundance of opportunities. On the contrary, it highlights the difficulties that Indigenous media producers and distributors face when trying to establish and maintain their projects over time. For example, although Permanent Studios had support from government agencies including Canadian Heritage and Human Resources and Skills Development Canada, the organization was abruptly forced to end its

¹⁵ For Wapikoni Mobile's current financial partners, see: <http://www.wapikoni.ca/about/our-partners/our-partners>

production work when its funding was unexpectedly cancelled in 2011.¹⁶ In another example, Wawatay's longevity is an exception compared to some of the 12 other Native Communications Societies established at the same time through government funding in the late 1980s, and has also required ongoing efforts to piece together funding from various sources. Between 1973 and 1990, the Government of Canada's Native Communications Program (NCP) supported a national network of 13 Native Communications Societies. These institutions developed a vibrant Aboriginal newspaper and community radio sector. However, unexpected budget cuts in 1990 struck hard after the federal government cancelled the NCP's budget without warning. *Kainai News* in Alberta and *Micmac News* in Nova Scotia immediately stopped publishing. In total, nine of the Native Communications Societies closed down during the 1990s.¹⁷

20. These examples illustrate the challenges facing Indigenous producers who rely on unstable funding from multiple government agencies, as opposed to a clearly established, dedicated fund from predictable sources. It echoes a point made by the Forum for Research and Policy on Communications that "the many sources of support for Canadian program production are not fixed – meaning that the financial support that exists for programming services today, such as provincial tax credits, may not be there tomorrow" (ES 74). In this context, we believe the Commission can play an important role in helping to coordinate these various funding sources. We discuss how in the final section of these comments.

21. Second, the Commission should hold public hearings regarding the establishment of a new Fund to support community programming, including the production and distribution of Indigenous content. Several interveners, including the Forum for Research and Policy on Communications, the Small Market Independent Television Stations ("SMITS") Coalition, the Canadian Media Guild, and the Groups for the Public Interest all recommended that the CRTC establish a new fund to support the production and distribution of independent local and/or community media content. We recognize the challenges that arose from the past funding mechanism put in place by the Commission to support local programming (the Local Programming Improvement Fund). Nonetheless, we are interested in the proposal put forward by CACTUS, which suggested the creation of an independent fund, such as a Community Media Access Fund, to which community-based organizations could apply to support digital community media centres (para 25).¹⁸

22. Further to this issue, we agree with several interveners who stated the importance of ensuring community control and involvement in the administration of such a fund. For example, CACTUS suggested that the Commission require BDUs to provide funds to a Community-Access Media Fund, so that this money can be effectively deployed and monitored under an independent administrator. The Forum for Research and Policy on Communications similarly stated that the governance of a modified local programming fund – potentially modeled on the Community Radio Fund of Canada – should be divided between broadcasters, the public and employees (recommendation 13).

¹⁶ See: <http://www.ledevoir.com/politique/canada/327648/cinema-ottawa-porte-un-coup-aux-jeunes-createurs-autochtones> and <http://www.ledevoir.com/politique/canada/327716/a-la-defense-du-studio-wapikoni-mobile>

¹⁷ For more information, see Lorna Roth's 2005 book *Something New in the Air: The Story of First Peoples Television Broadcasting in Canada* (2005; McGill-Queen's University Press).

¹⁸ CACTUS – Let's Talk TV Phase III 2014-190, Oral Comments September 17, 2014.

23. These points echo an argument that we made in past submissions to the Commission. During the Commission's review of Northwestel's Modernization Plan (CRTC 2012-699), our response to the Commission's Request for Information included a suggestion that the Commission consider establishing an independent funding organization, or Office inside the Commission, to assess applications to a subsidy mechanism to support digital infrastructure and services in Indigenous communities. To reduce any undue administrative burden placed on the Commission, we proposed the Commission put out a call for public comments regarding the establishment of such an organization and associated application criteria.¹⁹ In our submission to the recent Satellite Inquiry (CRTC 2014-44), we also stressed the need for funding mechanisms to include governance models that enable member communities and their regional partners to retain ownership of infrastructure, manage services themselves, and generate local jobs.²⁰ Here, we reiterate these points to highlight their importance to our constituents in the context of any proposed fund regarding the production and distribution of community media content.

24. We recognize that the Commission will be examining the ongoing effectiveness of the Community Television Policy in a future hearing (CRTC 2015-16). We welcome an opportunity to contribute to that proceeding to provide input regarding the appropriate scope, administration, funding and operation of such a fund. We suggest that issues associated with the production and distribution of Indigenous media content be specifically considered at that proceeding.

25. Third, the Commission should support Indigenous media production through the apportionment of funding specific to northern, remote and rural regions. We also recognize that there are existing sources of funding for Aboriginal media content, such as the Canada Media Fund (CMF). However, we raise concerns regarding the apportionment of funding from these existing sources. One potential solution to this issue was raised in the exchange between Commissioner Simpson and the TV Nunavut Educational Broadcast Society. Media producers in Nunavut are struggling to create relevant content for their audience – a challenge also faced by our constituent groups. Similar to the remote and northern communities located in the provinces and territories, Nunavut is among the most expensive places in Canada to produce and distribute media content. But at the same time, most existing funding mechanisms are based in – and provide the majority of resources to – southern Canada (p.4).²¹

26. In the transcript of their discussion with Commissioner Simpson on Sept. 12, 2014, the TV Nunavut Educational Broadcast Society raised issues that are of direct relevant to our constituents. The relevant portions of the transcript (lines 12230 – 12246) highlight the need for the Commission to apportion existing funds towards specific regions, including northern regions like Nunavut. At present, community television channels can access funding from the tangible benefits established through contributions from BDUs. The Commission recently ratified these sources, such as the Canadian Media Fund, which will receive significantly more money to support various types of programming, including for Aboriginal producers. But while the amount of tangible funding may be increasing, the apportionment or distribution of this funding remains

¹⁹ File Mile Connectivity Consortium, Request for information (CRTC File: 8663-C12-201215302), March 27, 2013.

²⁰ First Mile Connectivity Consortium, Telecom Notice of Consultation 2014-44 – Final Reply Comments, Sept. 4, 2014.

²¹ From TV Nunavut Educational Broadcast Society (Letter submitted to CRTC June 24, 2014).

highly concentrated in urban and southern regions where most Canadian eligible broadcasters and distributors are based, and few if any Indigenous-language productions are ever licensed.

27. Wider access by northern independent producers to increased funding from the Canada Media Fund and Telefilm depends on expanding and subsidizing eligible northern distribution infrastructure to permit more license ‘triggers’ issued to producers seeking professional production financing for Indigenous-language programming from any increase in CMF or Telefilm funds. While APTN plays an essential role in licensing Indigenous production, it is only one broadcaster and only 28% of its content is in Aboriginal languages. Other southern broadcasters license no Aboriginal-language content at all. Achieving more regional productions for linguistic minority audiences requires more financing of regional distributors and broadcasters willing to license more linguistic-minority productions. Commissioner Simpson noted that at present, there is no directive for an apportionment to northern spending, which has been a challenge to many regional producers. This comes despite the Commission’s policy goal to expand interest in regional productions for linguistic minority populations (line 12233-12236). For example, Commissioner Simpson noted that the Ontario government stated that their province contains more than 50% of Canada’s production industry, which is centred in Toronto (line 12236). Furthermore, he stated that technology is removing barriers for producers located in remote and northern regions to produce creative media content – a point evidenced by the examples that we raised above (line 12237).

28. We support the TV Nunavut Educational Broadcast Society’s recommendation that a portion of this funding be specifically dedicated to the northern and remote regions that often fall through the cracks (line 12230-12232). We further suggest that this apportionment be expanded to include northern regions beyond Nunavut, including all three territories and the northern regions of provinces. That is because these regions share many of the same challenges to the production and distribution of media content. Such a decision would support the sustainability of the locally and regionally distinct digital media productions already taking place in these communities. Therefore, we agree with the statement by Commissioner Simpson that it may be time for the Commission to review a policy to see more funding apportioned to northern regions (line 12238). We welcome an opportunity to contribute to that process.

Issues of participation in policy and regulation:

22646 The third barrier is the lack of participation in digital policy and regulation.

22647 Now, you are saying -- I can see you saying a lack of policy with respect to aboriginal content or aboriginal productions, but when you say lack of participation in digital policy and regulation, would you unpack that for me, please?

29. At present, there is a lack of concrete, ongoing participatory opportunities with respect to how digital policy and regulation in Canada impacts the Indigenous organizations and communities that make up our constituency. The past failure to provide these parties with opportunities to participate in decisions regarding the distribution of digital content is evident in the lack of adequate digital infrastructure and services in many Indigenous communities. The Indigenous constituents of the FMCC believe that they deserve a seat at the table – and can provide the Commission with unique insights. Their desired engagement moves beyond issues of funding to include attempts to ensure that people living in Aboriginal and/or isolated regions

receive fair and equitable treatment in the formation of policy and regulation. To ensure these consumers, citizens and creators gain substantive opportunities to engage in this process, they should be provided ongoing opportunities to substantively contribute to decisions about funding, assist the Commission in identifying and addressing the barriers they face, and highlight the value they provide to all Canadians through the production and distribution of Indigenous digital content. If requested, the FMCC can facilitate this activity, including through videoconferencing and other technologies that support remote participation.

30. As an example of what such a process could look like, we refer to the Commission's past activity in the formation of Northern and Aboriginal media and telecommunications policy in the 1980s and 1990s. As noted by the TV Nunavut Educational Society, this work led to tremendous growth for northern broadcasting, eventually culminating in the formation of the APTN. In the 1980s, the Commission worked with other government agencies and Aboriginal groups to establish the *Northern Broadcasting Policy Statement* and the *Northern Native Broadcast Access Program*. We agree with the Society's point that the principles articulated in the *Northern Native Broadcasting Policy* of 1983 are still valid today, and that their implementation would assist in developing future regulatory policy for the North (p.5)²². We point to this example to draw the Commission's attention to past successes. We believe it is time to articulate a similar strategy in the contemporary context of digital content production and distribution.

31. We thank the Commission for the opportunity to participate in this proceeding and to appear at the hearing.

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²² From TV Nunavut Educational Broadcast Society (Letter submitted to CRTC June 24, 2014).