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Mr. John Traversy  
Secretary General  
CRTC  
Ottawa, ON  
K1A 0N2

Cc: Mr. Peter Foster, Mr. Sheehan Carter

**Re: Audits Conducted by the CRTC of Selected Community TV Channels  
Operated by Cable BDUs**

We appreciate the opportunity to review the responses submitted by Eastlink, Rogers, Shaw, Videotron, and Cogeco regarding selected community TV channels within their licence areas.

Due to the length of this response, we provide an Executive Summary and the following table of contents:

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## EXECUTIVE SUMMARY

Since 1991, the “community element” in Canada’s broadcasting system has been described as one of the three pillars in the system, the others being private and public. Other countries worldwide that recognize a “community” sector assume a property-based definition (i.e. that the community sector is necessarily community-owned and administered, while the public and private sectors are defined by public and private ownership respectively). Canada, however, has had a hybrid of community and private ownership in the “community” sector. Community radio channels are clearly defined in CRTC regulations as having a non-profit, community-managed administration, but community television licences can include both cable-administered channels and (since 2001) community-administered channels.

Cable-administration of community television as a community resource has come under scrutiny in the last decade twice. Following complaints about the low level of public access occurring on cable-administered community channels in 2001, the CRTC created a community-administered licence class. Uptake of these licences has been limited, however, because community licencees are expected to self-fund using an advertising model. They do not qualify for funding from industry and public sources that are available for television channels in the public and private sectors.

In 2001, the Commission also stipulated a minimum percentage (30%) of programming that must be aired by members of the public on cable community channels. The CRTC audited cable companies in 2002, 2003, 2004 and 2005 to see whether this minimum was being met. In all four years, auditors reported significant problems with data collection (inaccurate logs, discrepancies between logs and videotapes, or missing logs and videotapes), misclassification of content as “access” that auditors concluded was produced by cable staff, and widespread failure to meet the 30% minimum.

At the 2010 hearing to review CRTC community television policy, more questions were raised about the value to communities of cable-administered channels, which are funded from between 2 and 5% of cable revenues. Groups such as CACTUS, (as well as most other broadcasting industry stakeholders except BDUs themselves) questioned whether the funding collected from cable subscribers should be made available to genuine community-administered channels.

The Commission responded by raising the access minimum to 50%, to be phased in over 4 years, but left administration of community channel funding in cable hands.

In the current audit, conducted in March of 2011, six months after announcement of the new policy, the accessibility of cable-administered community channels has not improved:

- a) Almost all licence areas failed to achieve a minimum of 30% access content.

- b) The majority failed to achieve a minimum of 60% local content; or if the licence area audited was a regional hub and itself met the 60% minimum, smaller neighbouring licence areas often did not.
- c) Where the Commission had granted particular licencees relief from the 30% and 60% requirements for access and local content respectively by reducing these percentages, licencees often still could not meet the reduced minima, or could not demonstrate that they were making proportionate expenditures on smaller communities within a “zoned” community channel.
- d) Where the Commission had granted exemptions to particular licence areas as “unique undertakings” on the grounds that 5% of revenues in the area are being spent on community programming specific to the area, we were often unable to find any evidence that such expenditures were taking place.
- e) All licencees claimed programs as “access” content that their own web sites or other online information demonstrated were likely staff-driven.
- f) Very little category “C” programming is being produced in any of the audited licence areas (that is, programs made by members of the public without assistance from the licencee). This is surprising given the ease of production by members of the public using their own cameras and home editing systems, and supports the view that cable community channels are neither seen as nor are being promoted as public-access platforms.
- g) Several licencees have discriminatory access policies (either excluding groups considered unappealing to cable subscribers or encouraging others with more experience or financial backing)
- h) Most licencees produce network programming designed to be seen over a large area. Some also produce network templates that local and regional employees are expected to fill to meet “local” minima. Some versions of these templates are even claimed as “access” content.
- i) At least two licencees are charging community groups and municipal councils for access.
- j) Several licencees pursue extensive partnerships with commercial media to supply content for their “community channel”.

## CACTUS Recommendation

It has been our view for almost a decade that the economic and technological environment that once made a cable-community partnership workable for the provision of community television services in Canada has changed irrevocably. Cable companies themselves have over the last decade repeatedly sought relief from their community channel obligations and have closed more than 2/3rds of the community TV production facilities that once existed in Canada.

**We therefore believe the time is overdue for community television licences to be held exclusively by non-profit community groups (as they are in the community radio sector), and that the money tied up in BDU “community channels” should be redirected to these groups to ensure that it is spent in the communities where it is collected, for programming and skills training specific to each community. In the short term, this entails:**

- Refusing any further requests by BDUs to “zone” community channels.
- Removing BDU licence boundary changes from the list of candidates for administrative approvals.
- Adjusting the current clause in community channel policy that stipulates that in the absence of a cable-community channel (that meets that 60% local requirements), that a community group can apply for the licence and accompanying percentage of revenues to offer a community channel.

Wherever a community can meet a higher level of service than the BDU (e.g. can offer a more hyperlocal service to one community within a zone), the community should be given a licence for that community and the applicable percentage of BDU revenues collected in that community.

Implementation of these three short-term measures would start an orderly transition from the BDU-administered model to a community-led model.

Since TV services are now offered by competing BDUs, all of which divert resources to increasingly regional “community channels”, this approach would consolidate scarce resources for this sector in one common production facility per community, where the community’s creative energy could be consolidated with existing community services.

## BACKGROUND

While preparing for the 2010 review by the CRTC of community TV policy, CACTUS received complaints from the public about:

- Problems with access to cable community channels
- Regionalization of the programming offered on cable community channels and the associated closures of access studios in smaller communities.

We wanted to present in our written submission concrete data in support of this anecdotal evidence.

Consequently:

- 1) Under Access to Information legislation, we requested logs of cable community programming, which the CRTC was empowered to request under section 28 of the BDU Regulations in force at the time, including names of access programming and the parties provided access in their production. We wanted to do a 'spot check' of claims about access programming by cable companies, to determine whether the figures they were reporting were accurate.
- 2) We were initially told that the CRTC had no such information. As we had heard that some audits had been done of community programming over the years (similar to the current audit), we requested the same information again. On the last day before the written deadline, we were given copies of audits done between 2002 and 2005, but the names of the parties provided access had been redacted. As there was no way for us to verify whether these parties were really members of the general public or cable company staff, or that these individuals had really exercised creative control over the access programming attributed to them (i.e. we could not verify the information in the form in which it was provided), we realized that we would have no choice but to rely on the still anecdotal but nonetheless voluminous testimony of over 3,000 members of the general public who wrote in to the hearing process with stories of their difficulties obtaining access to cable community channels. We refocused our attention on the second problem of the regionalization of content, and whether we could collect data to demonstrate this trend<sup>1</sup>.
- 3) Because our resources were and continue to be severely limited, volunteers conducted an online review of programming schedules of community channels belonging to the largest four cable companies operating in English Canada: Shaw, Rogers, Eastlink, and Cogeco. Since a licence requirement for cable BDUs who operate community channels is that they advertise the programming schedules, we deemed that
  - i) the availability of such online schedules would be a fair indication of the programming actually being undertaken in communities across the country, and

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<sup>1</sup> We note that the Access to Information Commissioner has since ruled that the names should not have been blacked out, and we were finally given this information, more than a year after the policy review.

- ii) that a comparison of such online schedules would be a reasonable and cost-effective way to determine the extent to which community channel programming is being shared among different systems, and whether cable companies as a group appear to be meeting the 60% minimum requirement for local production.
- 4) During the oral phase of the ensuing policy review, although considerable time was spent discussing problems of access to cable community channels, no attention was given to the perhaps far greater problem that many cable community channels simply no longer exist as unique services focused on small communities. Production studios have been closed in many smaller communities (no access facility exists in many licence areas that purport to offer a community channel, as we demonstrated at the Shaw licence renewals in the fall of 2010). Where facilities do still exist, they often sit unused much of the time, and the same “community channel” is shown over a large area, with few regional insertions.

The results of our online program analysis were not discussed during the oral phase of the hearing, nor were they referred to in the public notice that introduced the new community television policy.

When we pointed out this omission to CRTC staff earlier this year, we were pleased to learn that the CRTC intended to conduct a similar audit of cable community channel performance in the summer of 2011, as it had done in the 2002 through 2005 programming seasons.

Since it is beyond our resources to check every statement made by the five companies audited, we have consulted with members of the general public, with some of the producing groups referenced in the cable company logs, and with former cable company staff who reside within the audited licence areas. We have also (as round 2, since our initial online research was conducted in January of 2010) spent many hours scrutinizing information on the five companies’ web sites about particular programs, schedules, and community channel staff. We offer our conclusions as areas that we recommend the Commission investigate further.

We have two general comments about the audited licence areas:

- 1) In his 1982 report *Cable Community Programming in Canada*, Frank Spiller reported that there were 294 “active” community TV channels on cable in Canada, that had their own production facilities. When we examined Statistics Canada population figures, we discovered that there are only 168 communities in Canada that have populations over 10,000 people. This implies that at the height of Canada’s cable-administered community TV system, most communities with a population over 10,000 people likely had their own channel and production facility. There were another 126 community TV channels that either functioned as additional production facilities in large urban areas (for example, Vancouver had 12 until the late 1990s) or which served even smaller communities. This is useful to keep in mind when we ask ourselves, “Is it viable to offer community TV production facilities in small communities?” and “How small?”

The list provided by the CRTC of cable licence areas prior to the 2010 review of community channel policy contained only 113 communities (just over 1/3 the number in the 1980s), but many of these had already been officially “zoned” (that is, eliminated) during BDU licence renewals, or had been eliminated by cable operators without permission (such as the Pickering-Oshawa systems discussed in this audit). Many of these 113 now have no production facility and are (theoretically) being served by mobile production units from other licence areas. This number continues to dwindle. The newest threat is the administrative approval process, which was used by Rogers in Pickering in August-September, 2011. With absolutely no review or debate, the company was able to subsume yet another unique licence area that should have its own community service.

- 2) We note that the licence areas selected by the CRTC to audit tended to be larger licence areas at the centre of a zone or area, rather than the smaller licence areas at the periphery where the majority of community production facilities have been closed. For this reason, in our comments, we attempt to examine (to the extent that we are able without logs for the smaller communities in the periphery) what is going on in the whole area. It may be that a licensee is meeting its 60% local requirement for a licence area having a relatively large population, but exporting that content to smaller licence areas round about. In these instances we have had to rely on posted online programming schedules. We recommend that the CRTC request the logs for some of these smaller communities as well, as noted throughout our comments.

## SHAW

After examining the logs submitted by Shaw for White Rock, New Westminister, Fort MacMurray, Thunder Bay, Saskatoon, we conclude that the licensee met neither its local nor its access requirements in any of the audited licence areas. Although not included in the audit, we concluded when we compared program schedules that the licensee would also appear not to be meeting local or access figures for Moose Jaw, Swift Current, or Prince Albert. Figures provided in the licensee's own logs often do not match the figures provided in the cover letter and summary documents.

The company also:

- lacks posted program schedules for many of its service areas
- offers inadequate access to community production facilities throughout the Vancouver's Lower Mainland
- appears to air nothing but a professionally produced newswheel that replays all day in several of its smaller systems, attributing "access" to the subjects of individual segments.
- relies heavily on commercial content and formats (radio replays, reviews of commercial products)
- has no content by Aboriginal Canadians

### **White Rock**

We note in its cover letter dated July 4, 2011 that Shaw admits that it does not have individual program listings for many of its service areas, including White Rock (one of the licence areas under scrutiny in this audit), despite the fact that these service areas have been part of Shaw's system for more than a decade:

*"Shaw operates channels in British Columbia, Alberta, Manitoba, Saskatchewan and Northern Ontario. We are currently developing program listings for our website, [www.shawtv.com](http://www.shawtv.com)."*

When we tried clicking [www.shawtv.com](http://www.shawtv.com) as suggested by Shaw (more than a year after the announcement of the new policy), we are in fact redirected to myshaw.ca. When we choose "White Rock", we are taken to a page that says "Shaw TV Vancouver and Area" and prominently features the programs *Urban Rush* and *Studio 4*, both of which are produced in Vancouver, not in White Rock. There is no White Rock-specific content.

In the same letter, Shaw states:

*"Our New Westminister and White Rock systems provided 44% access content to viewers for the week in question."*

Shaw's second document, responding the Commission's questionnaire, states:

*"81.92% of programming was produced uniquely for the [White Rock] community."*

However, the logs submitted for White Rock report that the total of local content is an abysmal 3.89%, and access content is nearly non-existent at 0.22%.

We note also that Shaw claims that since White Rock and New Westminister service areas “include part of Surrey”, that each of those service areas is served by the Surrey studio. In fact, we have consulted the licence area map for New Westminister-Delta, and it does not overlap any part of Surrey.

This one studio is therefore used to serve two licence areas, which have combined populations of more than a million people. We note also that in a meeting CACTUS held with Vancouver-area access producers, these producers had multiple complaints about access to production facilities, in particular the Surrey studio:

- They are not allowed to use the Shaw central Vancouver studio, and can only access the editing facilities after hours. One access producer said it took more than a decade of complaining before he was given an access control card to enable him to take advantage of the offer to use the editing facilities after hours. They must travel out to the Surrey studio (a distance of more than 30 kilometers).
- The Surrey studio is technically deficient; at times, it has been described by volunteers as “an empty warehouse without even a lighting grid”.
- Other volunteers report that CD players, dimmer boards, and other equipment that is needed to record studio programs are routinely removed from the Surrey studio for use in the main Shaw facility in Vancouver, to which they don’t have access.

We conclude that the Surrey studio is where access groups from all over the region are sent, while the best equipped and most central facility is used predominantly for Shaw licensee-produced productions.

We note that in the 1990s, there were a dozen neighbourhood offices throughout B.C.’s Lower Mainland, all of which have been closed by Shaw, except for its downtown facility and what remains of the Surrey studio.

### ***New Westminister***

Shaw reports identical local and access production figures for New Westminister as for White Rock in its summary Word document: 81.92% and 44.18% respectively.

However, the logs themselves report totals of 17.23% and 11.27% respectively, only a fraction of the 60% and 30% stipulated under the new community television policy.

When we examine the raw figures that lead to the 17.23% and 11.27% totals, we find several further anomalies:

- None of the programs claimed as Class B or C (access) are in fact produced within the New Westminister licence area. For example, *Rockinitis* and *Vancouver Punk*,

produced by Michael Wilmore, are produced in Vancouver. Similarly, the *Animal Show* is produced by a Vancouver-based organization and features Vancouver-based stories predominantly, not New Westminster. One of our members who lives in New Westminster compiled the spreadsheet attached as appendix A, in which he analyzes the source of the programs played during the audited week. Not a single program (access or otherwise) is produced in New Westminster or about New Westminster topics.

- If we subtract the 11.27% (class B) claimed by Shaw as access for New Westminster, since it was actually produced in Vancouver or in other licence areas, the remaining 6% that Shaw adds to achieve a total of 17.23% as “local” are Class E programs. Shaw’s logs show a total of 4 hours of such Class E programming playing on Monday in the audited week, and another 4 hours playing on Saturday. In fact, when we examine the logs for those days, we find no program classed as “E”.
- Furthermore, class E is in any case usually used to refer to government sourced PSAs, and should not be included in the classification of “local” programming, which should include only classes A, B, and C (licencee-produced, community-produced but assisted by the licensee, and community-produced with no assistance).

Therefore, our analysis of the programming week in question is that the totals for both local and access production in New Westminster should be 0% and 0% respectively.

As for White Rock, when you select “New Westminster” on myshaw.ca, you find yourself at a “Vancouver and Area” page, with no specific program schedule. Neither of these systems have an individual identity by programming or promotional presence within Shaw’s systems.

### ***Fort McMurray***

Clicking “Fort McMurray” (on Sept. 28<sup>th</sup>, 2011) does take one to a Fort-McMurray specific page at myshaw.ca. However, when you click “View our Daily Schedule”, the schedule just says *ShawTV Fort McMurray* and the date in the title is “July-Aug. 2011”. It appears that the same one-hour (?) program is replayed all day long. There appeared to be two or three updates to this program during the week, according to the log for the week audited.

Shaw states in its cover letter:

*“In Fort McMurray, 45.77% of programming consisted of access content.”*

When we examine the logs submitted by Shaw for Fort McMurray, the summary at the head of the Excel file in fact states that 45.77% of programming is local (well short of 60%) and that only 30.36% is access content. When we examined this log in still more detail, we discovered that the majority of the access content claimed consists of segments within this single Shaw-produced program called *Shaw TV Fort McMurray*

which is replayed all day. It is our understanding that segments within professionally produced cable magazine programs do not qualify as “access” content, and that the practice of claiming such segments as access (when the public and community organizations are simply interviewed in front of camera by Shaw staff, in the same way they might be interviewed by CTV) had been discredited in the series of audits done by the CRTC between 2002 and 2005<sup>2</sup>. The wording in the new policy that defines what constitutes “access” precludes counting these kinds of segments as access as well<sup>3</sup>. A regular segment called “Events Board” that is acknowledged in the log to be produced by “Shaw TV MacMurray” is even claimed as access (identified as “code B”).

No single stand-alone program in this system appears to be made by a volunteer, and the only local content is one program that cycles all day long.

Therefore, not only does Fort MacMurray fall short of the minimum local content requirement, its definition of access (its use of “code B” in the logs) runs counter to both current and past community TV policy.

We also noticed that when we clicked the “Personalities” button for Fort MacMurray, we are taken to a photo and bio of a Shaw staff “Video Journalist”. We believe it’s indicative of Shaw’s corporate direction with regard to its community channels that the company continues to promote primarily its own staff and programming rather than access

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<sup>2</sup> For example, in the 2005 audit of Rogers in Ottawa, the auditor wrote: *“A number of programs classified as access programming are produced by individuals or community groups and are good examples of access programming (e.g. Amy Lockwood Project, Daquan, Hellenic Kaleidoscope. In these cases, the individual or group provided access is identified in the program log.*

*However, in the case of other programming classified as access programming, (OHL Hockey, Ottawa Citizen Business Television, and Decorative Painter), the logs do not identify the party provided access, but rather a community group or individual featured in the program.”*

<sup>3</sup> The new policy reinforces the assumption that short segments within staff-produced programs in which the public simply appears in front of camera do not qualify as access:

- 1) *The idea for an access program must originate from a community member not employed by a BDU; and*
- 2) *The community member must be involved in the production team:*
  - a. *in an on-camera role (e.g., a personality or actor that appears in a predominant portion of the production); and/or*
  - b. *as a creative member of the production crew (e.g., directing, producing, writing).*

We note the use of the term “access program” as 1) as a self-contained and stand-alone entity, not a segment within a larger staff-controlled and produced format. This understanding is echoed in 2. b) in which the Commission writes that if the community member’s involvement is in “*in an on-camera role*”, it must be “*in a predominant portion of the production*”. Members of the public who are given short interviews as part of a professionally produced news magazine formats such as ShawTV Fort McMurray cannot be said to have originated the idea for the program or to appear in a predominant portion of the production.

programming and members of the community at large who might contribute to the channel.

### ***Moose Jaw***

Although Shaw's Moose Jaw was not specifically audited, Shaw's cover letter claims Moose Jaw also achieves "35.96%" access, so we thought we should examine Shaw's web presence for Moose Jaw. There is a single web page for Moose Jaw and Swift Current, although they are two separate licence areas. The daily schedule posted (unlike Fort MacMurray) was up to date for the last week of September when we checked. However, like Fort MacMurray, the only program shown all week (which apparently replays all day) is called *Shaw TV Moose Jaw's Community News Source*. This is clearly a staff-produced program, and we assume that what access content is claimed is for interviews of the public and other groups that only appear on camera.

There does not appear to be a single other program on the schedule that might be produced by a member of the community. This professionally produced newswheel format has been pursued within Shaw's smaller systems (and also some larger systems like Calgary) since at least 1998, when it was implemented during the time our spokesperson, Catherine Edwards, worked there. Volunteers in the community that want to make full-length programs are told "we don't do that anymore, we just do segments". In the case of Shaw's smaller systems at least, this pattern does not appear to have changed since the new policy was announced in the summer of 2010.

### ***Thunder Bay***

When we selected "Thunder Bay" at [myshaw.ca](http://myshaw.ca) on Sept. 28<sup>th</sup>, we found ourselves at a page entitled "Shaw TV Northwest Ontario". It was described as "your community programming from around the region". While individual short videos were available for online playback at this site, no schedule was posted.

As in Fort MacMurray, if you click "Personalities", you are taken to a page showing photos and bios of Shaw employees who are called "producers" (rather than facilitators, volunteer co-ordinators, or anything to imply they might work with the public), and there is no apparent promotion of any community organizations or members who are involved in Shaw productions in Thunder Bay. The web site is a means of promoting Shaw staffers and products, not of engendering links and partnerships among the community groups and individuals who might wish to use the channel for self-expression and networking.

As in Fort MacMurray and Moose Jaw, there don't appear to be individual programs on Shaw's community channel in Thunder Bay, just a cycle of short clips that replay all day (and most of the week, with occasional updates).

Shaw claims 64.73% local production and 59.82% access content for its Thunder Bay community channel. Aside from the fact that Shaw is claiming segments within a professionally produced news magazine as “access”, we discover further anomalies:

- A “Shaw TV Access Programming PSA” produced by “Shaw Calgary” that is claimed as Code B or “access” (and therefore local as well).
- A 30-second PSA for volunteering at Shaw (also produced by ‘Shaw Calgary’) is claimed as code B, or both access and local.
- A 3:33 segment about “sled safety” that lists “Judi Martin” as the producer is claimed as access (and local). When we google sleds and Judi Martin, we discovered that she’s a sled dog racer from Washington State (see <http://www.huskynews.com/news/other-sled-dogs-races/sled-races-begin-on-casper-mountain/>). So, while it’s possible that she attended a Thunder Bay sled event, and was interviewed about sled safety, it appears highly unlikely that she produced the segment locally. More likely, the segment is a sled safety PSA acquired or produced by Shaw in Thunder Bay.

It’s impossible at a distance to verify every segment claimed as access (even if it were legitimate to claim such short segments as ‘access’ when the program is staff-driven and produced news magazine.) Nonetheless, this casual perusal has already discounted over 4:30 minutes (7.5%) of supposed “local” and “access” content within the one-hour program wheel. We conclude therefore that Shaw is in violation of both its local and access minimum percentages for this licence area.

## **Saskatoon**

In Shaw’s summary document, the company claims that 86.45% of the programming is local to the Saskatoon system, and that 52.12% is access programming. Yet once again, when we examine the logs submitted by the company for Saskatoon, the numbers don’t match. The Summary tab in the Excel file provided by Shaw for Saskatoon clearly states that only 56% of the programming shown on the Saskatoon channel is local, of which only 6.8% is access production.

Shaw maintains a single web portal for ShawTV in Saskatoon and Prince Albert, although they are two separate systems. When you click “Shows”, the same shows are displayed for both systems (*Gadgets and Games*, *Paws for Thought*, *Hot Yoga*, *In the Kitchen*, *Remote Control Cinema* (reviews for the Hollywood movie releases), and *Stripped Down*) except for two news magazines specific to the cities: *ShawTV Saskatoon* and *ShawTV Prince Albert*. Therefore, the more important questions would be whether Prince Albert (as the smaller of the two systems that are being lumped by Shaw into one programming region) maintains its 60% local and 30% access quota.

It's impossible to tell from the web site, because no daily program grid is available for either city. It's also impossible to tell from the grid how often programs are repeated. There is no day-long log. However, we did find the following issues:

- The 'shows' listed on the web site are regular segments within *ShawTV Saskatoon* (and are common to *Shaw TV Prince Albert*).
- The one-hour *Stripped Down Local Music Showcase* is listed as code B (access); however, the contact name given on the web site for this program is a Shaw staff producer (Curtis) and the show opens with a billboard "*Curtis and his crew are imaginative and passionate about promoting local music*". Clearly, this individual is the creative force behind the program. The logs, however, claim the particular band that is featured each week as the "Producer" (Quadrant Khan in the week audited). Clearly, the bands cannot be initiating the idea for the program, since they appear only once in the series. Since this is the only full-length program (one hour in length) claimed in the access category, it no doubt accounts for most of the paltry 6.8% of access production claimed. Our conclusion is therefore that there is virtually no access content on ShawTV in Saskatoon.
- Most of the remaining content claimed as access was—as in Shaw's other prairie systems—for segments within the professionally produced news magazine *ShawTV Saskatoon*. The anchor/producer for this news magazine according to Shaw's Saskatoon "Personalities" page is Ann Perry, a Shaw employee.

Even setting aside the fact that claiming such segments within staff-produced magazine programming as access is precluded under community TV policy, several segments claimed as "access" would still be suspect. For example, promos for other programs are claimed as access, such as the "Promo for Cooked with Shack" and the *Gadgetry and Games* promo. *Gadgetry and Games* is a regular segment produced and hosted by Shaw employees (Sal Accordo).

Similarly, the segment entitled "Team Canada Women's Hockey" allegedly produced by Melody Davidson is almost certainly staff produced. Melody Davidson works for Hockey Canada and is based in Oyen, Alberta. She doesn't live within the licence area.

- 0% of the ads aired were for access productions.
- All of the staff listed on Shaw's "Personalities" page have titles like "reporter", "producer", "journalist", implying that they exercise creative control of content. None suggest that their roles are to co-ordinate the public to facilitate its own production.

We note in general that the type of program being produced in Saskatoon resembles a lifestyles channel, not a community-access channel (pets, yoga, music, fashion reviews, cooking). Almost 4 hours per week is devoted to WHL hockey (from Kamloops, out of province), and 3 hours every morning is a televised version of a local commercial radio program (not even a community radio program). Shaw Saskatoon cross-promotes commercial products on two full-length programs (movies and WWF games), rather than

indigenous Saskatoon or Saskatchewan productions. There's nothing alternative here, as suggested by the Commission in its long-standing list of Roles and Objectives for the community channel:

*"The community channel should:*

*[item 4 of 8] - seek out innovative ideas and alternative views"*

We surmise that the channel lacks originality for the simple reason that it is not leveraging the creative resources of the community. Instead, it appears to rely on a few staff members to drive the content. The remainder is imported content from other parts of the "Shaw network", recycled content from local commercial radio stations or review programs of Hollywood and other mainstream sources.

### ***Additional Comments: Shaw***

In light of the many misclassified elements in the logs supplied by Shaw, we conclude that Shaw's self-reporting on both access and local content is unreliable.

We have two additional comments on Shaw's cover letter:

Although the company claims it has "*held 21 community dialogue sessions*", there is no mention of community advisory committees on its web site, as recommended under the new policy. We would have hoped for a more open orientation toward the community. Sid Tan, with W2 (a community TV corporation in Vancouver) informed us that such a "community dialogue session" held on December 8, 2009 in the lead-up to the community TV policy review was by-invitation only<sup>4</sup>.

Second, while Shaw claims on the second page of its letter:

*"In addition, we have a strong relationship with the city council in each of our systems, and air hundreds of hours of municipal council coverage every month."*

We noted at the licence renewal for all its systems in the fall of 2010 that of the 34 community production studios that existed throughout Shaw's licence areas in 1999 according to the Matthews Cable TV directory, more than 20 have been closed. For example, we could confirm the existence in Manitoba of only a single studio in Winnipeg. We would be willing to bet that there is no council coverage anymore in Flin Flon, Thompson, Morden, Portage, and Selkirk, which are still within Shaw's Manitoba licence areas. Ditto for the many communities in BC whose studios have closed. We reattach our list overpage.

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<sup>4</sup> The closed nature of these sessions is documented in a series of e-mails exchanged between Sid Tan and Shaw staff in November of 2009, and can be supplied on request.

<b>Studios in 1999</b>	<b>Studios CACTUS Can Confirm in 2010</b>	<b>Shaw's Commitment in 2010 License Renewal</b>
<b>Manitoba</b>		
Winnipeg (2)	Winnipeg (1)	Winnipeg
Flin Flon		
Thompson		
Morden		
Portage		
Selkirk		
<b>Total: 7</b>	<b>Total: 1</b>	<b>Total: 1</b>
<b>Alberta</b>		
Calgary (2)	Calgary (1)	Calgary
Edmonton (2)	Edmonton (1)	Edmonton
Canmore		
Fort McMurray	Still a business office; no schedule on-line	Fort McMurray
Hinton		
Lethbridge	Lethbridge	Lethbridge
Medecine Hat		
Red Deer		Red Deer
<b>Total: 10</b>	<b>Total: 3-4</b>	<b>Total: 5</b>
<b>British Columbia</b>		
Vancouver (9 neighbourhood offices with cameras, edit suites)	Vancouver (1)	Vancouver (2)
Abbotsford		
Burnaby		
Campbell River	Studio exists; not used	
Castlegar		
Chilliwack		Chilliwack
Powell River	1 staff; no volunteers	Powell River
Cranbrook	Business office; no on-line schedule	
Duncan		Duncan
Fernie		
Port Coquitlam		Coquitlam
Hope		
Kamloops		Kamloops
Kelowna	Kelowna	Kelowna
Kimberley		
Meritt		

Nanaimo	Nanaimo	Nanaimo
Nelson		
Parksville		
Penticton		
Port Alberni		
Prince George		Prince George
Richmond		
Surrey		
Vernon		
Victoria	Victoria	Victoria
Whistler		
<b>Total: 34</b>	<b>Total: 5-6</b>	<b>Total: 11</b>

We also saw no content produced by or about Aboriginal Canadians, whose population density is highest in Western Canada throughout Shaw’s systems. We note that this observation was made by the Aboriginal Peoples Television Network at the 2010 review of community TV policy as well, and that the policy clearly states as item 6 of 8 in the Commission’s Roles and Objectives with respect to the community channel that it should:

*“reflect the official languages, ethnic and Aboriginal composition of the community”*

We did not see that any progress has been made on this issue since the announcement of the new policy.

While the company does now prominently advertise for volunteers and solicits program ideas on its web site, the company’s failure to maintain individual program schedules and web sites, its continued reliance on professionally produced news magazines, and its promotion of its own staff as “personalities” lead us to believe that little has changed at Shaw as far as the company’s underlying understanding of a hyperlocal community access mandate.

## ROGERS

After examining the logs submitted by Rogers for Barrie, Moncton, Oshawa, London, and St. Johns, we conclude that:

- The licensee meets neither its local nor access minima for Barrie, nor for the neighbouring licence areas of Orillia, Collingwood, Keswick or Camp Borden.
- The licensee appears to have conflated its access and local figures for the English and French channels in Moncton. While the licensee may be meeting the reduced 40% local minimum for these channels individually, it appears to be generating a negligible amount of access content for either channel.
- The licensee does not appear to be meeting its community programming obligations for Cap-Pele or Shediac, which have been carved out of the Moncton regional licence.
- The licensee was not meeting either the 60% or 40% access minimum for exhibition or spending in the Pickering licence area at the time of the audit.
- While the licensee appears to meet its local and access minima for Oshawa and London, its classification of “B” programming is questionable in many instances.
- The licensee does not appear to be meeting its local and access minima for Tilsonburg, ON where it maintains no production facility. Subscribers in this licence area see predominantly programming from Woodstock and London.
- The licensee meets its 60% local minimum for St. Johns, NL only by replaying three programs over and over (as many as 48 times in a single week). It fails to meet the access minimum.

The company also:

- requires several non-profit community service groups either to pay for air time, technical support, or to share a portion of their bingo revenues.

### **Barrie**

Rogers July 4<sup>th</sup> cover letter states in paragraph 1:

*“As we indicate in Appendix A (question 4), Rogers meets the Commission’s access programming requirements. For unique community channels (London, Barrie, and Oshawa), Rogers meets or exceeds the 30% minimum local access requirements. Rogers also meets the 60% minimum local programming requirements for these community channels.”*

### Local Content in Barrie

According to Appendix A, however, Rogers TV in Barrie produces only 37% unique local content (its response to question 5). The company admits that 63% of the content on the Barrie channel is shared with other community channels.

We question whether the company even meets 37% local content. Other than Barrie City Council, many of the shows identified in the the logs provided by Rogers as “local” to Barrie are identified as “Simcoe County TV”, but Simcoe County also includes the licence areas of Camp Borden, Collingwood, and Orillia. For example, *Simcoe County Sports* appears to cover sporting events around the county, not just Barrie. *Daytime Simcoe* discusses events around the county; *High School Rush* is claimed as local to Barrie, yet the company web site describes the program as “*Simcoe County’s information stop for all the latest news, views and interviews on what’s happening in and around the local high school scene.*” *It’s Elementary* is claimed as local to Barrie, yet the web site describes the program as “*about the exciting things children are learning in kindergarten through grade eight; profiling the great schools and kids in Simcoe County.*” We would suggest that the CRTC request the logs for Collingwood and Orillia for the same week, and see whether these programs are also claimed as local to those licence areas.

We note that there does not appear to be a Rogers production facility in Camp Borden nor in nearby Keswick (just over the Simcoe County border), nor is there a schedule posted for either Camp Borden or Keswick online.

Independent schedules are posted only for Barrie, Collingwood, and Orillia. We therefore strongly suspect that Rogers is in violation of its conditions of licence for Camp Borden and also Keswick, since both were listed as independent licence areas in the list of 139 provided by the CRTC in 2009-661-3.

More than half (50%) of the program schedule given on the web site for Orillia and Collingwood are the same as for Barrie, confirming that the local content for all three licence areas are likely similar to Barrie’s at 37% (if that high), and substantially below the 60% minimum that is a condition of Rogers’ licences in these areas.

We note that the population of Simcoe County is 422,000, spread over sixteen municipalities, or which Barrie, Collingwood, Orillia are just 3. The County covers almost 5,000 square kilometres.<sup>5</sup>

#### Access Content in Barrie.

Rogers claims that 49.6% of its productions in the Barrie licence area are “access”. This number conflicts with the local total of 37%, since the “access” portion contributes to and is part of the “local” total, and cannot exceed it.

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<sup>5</sup> We note that while Collingwood has elected to take part in a Simcoe County-wide regional municipal structure, Barrie and Orillia have elected to remain separate, and therefore it is not legitimate for Rogers to share programming among these municipalities and to claim it as local to all.

When we examine the logs provided for Barrie in conjunction with the company's web site and posted schedules for Orillia and Collingwood, we found:

- A single volunteer co-ordinator (Matt Smith) is listed on the web site for all three licence areas.
- *High School Rush* and *Tony Guergis Live* are claimed as access, but Ron Clark, the person listed on the Rogers web site as being the "Community Producer" and as the "Producer" for both programs in the log has a staff phone number. Both programs provide 5 or 6 different names as the "Access Groups", and are almost certainly individuals that were simply interviewed that week. These two programs are played 8 and 15 times respectively during the audited week and together account for 11.3% of the programming schedule.
- *Results 360* is also claimed as local and access. Its "Community Associate Producer" according to the web site and the "Producer" according to the log is Ryan Howitt. Ryan Howitt is also given as the "Producer" of a Rogers Collingwood program entitled *Rogers Sports Exclusive* that is not claimed as access in the logs. It is clear that Ryan is a Rogers employee that produces within more than one system and not a "community producer" as claimed. This 30-minute program is replayed 23 times during the audited week, and accounts for 6.8% of the program schedule.
- Similarly *It's Elementary* is claimed as local and access, yet the "Community producer" listed on the web site (Terry Leigh) has a staff phone number and the "Access Group" listed is "Simcoe County School Boards". Clearly no one school board is producing this program (although their issues may be the subject of the program), and in any case it is not local to the Barrie licence area, but is produced around the county. This 30-minute program is replayed 5 times and accounts for 1.5% of the programming schedule.
- *OHL Hockey* was also claimed as "access" (as in Rogers' other systems in which it airs) and that the "Access Group" was the Barrie Colts. Since this is a province-wide series produced by Rogers across its systems, while this particular episode may have been "local" (the Belleville Bulls were playing at the Barrie Colts), there is no possibility that it is the Barrie Colts that on their own initiated the idea for the series or drive its creative direction. This three-hour long program is claimed as access three times, and accounts for 5.4% of the programming schedule for the week.

- *In Focus: Through Their Eyes* is a documentary series that examines topics that air across Rogers systems. The “Community Producer” given on Rogers’ web site for the program as well as the “Producer” listed in the log is Steve McEown. Rogers’ web site makes it clear that Steve is a Rogers employee and 100% responsible for the creative content of the program:

*“Steve McEown is a well respected In Focus documentary producer for Rogers TV. He has successfully launched documentaries such as Beating the Bully, Orillia Opera House, War at Home [the episode claimed as access in the audited week], After The Crash, Raising the Spirit, and Seeking Shelter. His care, compassion and ability to tell a story through his camera lens, has afforded him many nominations and awards.*

*After attending 2 years at Ryerson University in the Radio and Television Arts program Steve went on to pursue a musical career as one half of the duo Even Steven. While performing in the area with Even Steven, Steve volunteered to produce a music series for then Trillium Cable 10 and was subsequently hired as a full time producer.*

*Steve is excellent at his craft and provides a service to his community through his documentary specials. Tune in to Rogers TV for the documentary series, In Focus.”*

The “Access Group” listed in the log (Barrie Eastview Highschool and E.F. Educational Tours) are the subjects of this particular episode, *War at Home*. This 30-minute program is replayed 8 times in the audited week, and accounts for 2.4% of the programming schedule.

These programs collectively account for 27.4% of the programming schedule. Even if we accepted 37% as an accurate figure for the production that is “local” to Barrie during the audited week, when we subtract the amount of programming claimed as access that likely is not access, we are left with less than 10%. In our view, Barrie is therefore well below the 60% and 30% local and access minima required by its licence.

## **Moncton**

It is our understanding that Rogers retains 3% of the revenue it collects in Moncton on the grounds that it operates two separate community channels (one in English and one in French), yet it appears to have conflated the access and local production figures from the logs of the two individual channels to arrive at the figure of “49.32% produced uniquely for the Moncton zone-based channel”, of which “25%” is access programming.

We estimate that each individual channel may fall short of the 40% minimum for the zone, and certainly do not reach individually or collectively 25% access programming. We found several elements of the log questionable, both from the point of programming counted as “local” to the zone and programming counted as “access”, as follows:

### Local Content in Moncton:

- Rogers double-counts Moncton City Council (it is listed as a “local” production on both its English and French channels). At 84:28, it represents 2.1% of the local total claimed for the English channel, and 1.9% of the French channel. Half of these amounts (1.05% and 0.95%) should be subtracted from the local content claimed for each channel.
- The animated program called *Acadieman* has a bilingual format and is categorized as “local” on both the French and English Moncton channels, and is therefore double-counted. It is played a total of 15 times on the English channel in a single week and accounts for 11.1 % of the schedule, and 7 times on the French channel, accounting for 4.6% of the schedule. Half of these numbers (5.5% and 2.3% for the English and French channels respectively) should therefore be subtracted from the local total for each channel.
- We further note that while preparing this information, we were informed on Oct. 10, 2011 by CRTC staff that Cap-Pele and Shediac have been “carved out” of Rogers’ Moncton regional licence. Since Rogers maintains no production facility or head end to our knowledge in either community (and these communities are fully interconnected with its Moncton system), the only claim to these communities being unique undertakings that would qualify them to be carved out is if Rogers can demonstrate that it spends 5% of the revenues collected in those communities on programming specific to these areas. We saw no evidence of this for the week audited (no programming at all from either community). We would therefore recommend that the CRTC ask for a yearly accounting for these communities.

### Access Content in Moncton:

- Furthermore, we noted when researching *Acadieman*, that it appears to be a professional co-production between Rogers and a private commercial television production company called Mudworld Productions. Michel Fortin (Rogers Moncton’s mobile producer) is listed as the contact on Rogers’ web site, and at least one of Rogers’ staff (Tracey Thompson Smith) does voices on the program. Rogers’ web site states, “Created by Dano LeBlanc [of Mudworld Productions], *Acadieman* came to life on the small screen as the first animated series **produced** by Rogers TV” (bold is ours). In other words, this program is a co-production between private and professional production companies, not an access production, and the full figures claimed above (11.1% from the English schedule and 4.6% from the French schedule) should be removed from the access totals.
- It appears that Mudworld (and Rogers) are trying to sell this series to commercial private television channels such as TV5, as shown in the article at this web site: *Acadieman* being shown on TV5. See <http://www.cbc.ca/news/canada/new-brunswick/story/2010/10/22/nb-acadieman-cancelled-tv5-529.html>. As a general note, while CACTUS has no objection to cable community channels functioning as experimental platforms for emerging artists to try out their ideas (we support it in fact,

and note that other Canadian talents such as Mike Meyer, Dan Ayckroyd, Tom Green, and Guy Maddin got their starts in a similar fashion), we question whether community channel resources that should be offering genuine amateurs access to training and facilities are in this case being diverted to professional production that is intended for sale on commercial platforms from their inception. We note the similar case cited by Mr. Paul Power of Eastlink later in this document producing *Ghost Cases* using community channel resources in the Maritimes, and Rogers sale of *Fine Print* (originally a Rogers TV production) to Book TV, The Biography Channel, G4Tech, CLT, Court TV and Omni Television.

- For the program *Cake Deco*, claimed as access, Rogers' web site clearly states that Charles Vienneau and Denis Mazerolle (both Rogers staff) are its "producers", while the producer identified in the log (Gonquela Bastarache) is stated on the web site as being one of two program "Hosts". The contact phone numbers provided are also those of the two Rogers producers; no contact information is provided for Bastarache. It's fair to assume Bastarache is not really the producer. This 30-minute program was replayed 9 times in the audited week, and accounts for 10% of access content claimed by Rogers in the English Moncton system for the week.
- On the French channel, the program *La COUNTRY Show* is claimed as access. On the log, the Rogers staffer Jeff Boudreau is listed as producer, but the access group given is John and Gloria Dupuis, the program's hosts. Rogers web site on Oct. 5<sup>th</sup> 2011 still listed *La COUNTRY Show* as airing, with Jeff Boudreau still listed as producer and contact person, and a different person, Francelle Maria (a professional musician) listed as host. The changeover in host confirms that these individuals were only ever hosts, and not producers, or else one would expect the show to have been cancelled when they left. *La COUNTRY Show* is 30 minutes long and is played 5 times in the audited week, accounting for 3.3% of the access total claimed by Rogers for its French Moncton channel.
- Similarly, the program *Ca passe au sud-est*, a community news magazine about southeastern New Brunswick is claimed as local and access, yet lists Jeff Boudreau (the same Shaw staffer that produces *LA COUNTRY Show* for the French service) in both the program log and on Rogers' web site as being the show's producer. Cindy Ross and Justin Guitard are listed in the log as the "Access Group", yet on the web site, they are listed only as hosts, with no contact information. This means that members of the public that might want to suggest story ideas have no way to contact the individuals supposedly in creative control of the program. We strongly suggest that this show is not access either. It is replayed 13 times during the week audited, and accounts for a further 8.6% of the access content claimed by Rogers for its French Moncton channel.
- Similarly Jeff Boudreau is listed on both Rogers' web site and in the program log as the producer of the program *Bernie and Zookeeper*, and no contact name is given at the zoo on Rogers' web site, suggesting again that creative control rests with Rogers' staff, since viewers have no way to contact the supposed "access group" responsible for the show according to the log. This program is replayed 10 times

during the programming week, for a total of 300 minutes or 7.7% of the programming schedule.

- Representatives of the Rotary Club, the Lion’s Club, and the UCT (Union of Commercial Travellers) informed us that they must pay Rogers \$50 for a “volunteer” to technically oversee bingo productions, and also charges them 15% of whatever they raise on air. Rogers has categorized these bingos (2% of the programming week audited on its English channel and 4.7% of the French channel) as “access” productions in the logs. Since these groups have had to pay for the time, their content should more properly be classified as a kind of sponsorship or infomercial, and should not qualify as “access” content.

If we subtract the programs that strongly appear to be staff-produced from the 25% access claimed by Rogers (although it’s unclear to which channel the 25% applies):

<b>Moncton English Zone</b>	<b>Moncton French Zone</b>
25% minus:	25% minus:
- 11.1% Acadieman	- 4.6% Acadieman
- 10% Cake Deco	- 3.3 LA Country Show
- 7.7% Bernie and the ZooKeeper	- 8.6% Ca pass au sud-est
- 2% Bingos	- 4.7% Bingos
<b>Net Access Content: - 5.8%</b>	<b>Net Access Content: 3.8%</b>

... we yield a net access content for Moncton’s English Zone of negative 5.8% and for the French Zone, 3.8%. Since a negative figure for the English Zone is not possible, the 25% access figure provided by Rogers must have been an average of the two and implies that even if we allowed all of Rogers claimed “access programs”, it still would not have met the minimum quota in its English system. The actual access content for both channels would appear to be negligible.

Additional Comments: Moncton

No city councils were aired from any of the outlying communities in the week that was audited. Since most city councils are televised once per month, it’s possible that programming logs for other weeks in the month of March this year might have included their city councils, but it’s unlikely that all 16 (!) other communities lumped into this “zone” happen to have coverage the other three weeks of the month. Our guess is that none of them have received coverage of their city councils since their access studios were closed by Rogers earlier in this decade. We know that studios formerly existed in at least five of these communities: Big Cove, Petitcodiac, Richibucto, Shediac, and Ste. Marie de Kent. We note that Moncton is situated on the county lines of Westmoreland and Albert. So while some of the 11 communities in the zone share at least a common county with Moncton, Ste. Marie de Kent, Ste. Anne de Kent, Bouctouche, Richibucto, Richibucto Village are all in Kent County. The most farflung (Richibucto) is more than 94 kilometers from Moncton, or more than an hour’s drive.

Rogers' assertion in its 2006 licence renewal in which it requested a "zone-based approach to community programming" that decreasing revenues due to competition made maintenance of these formerly separate studios untenable was simply not true. As the CRTC states in its public notice 2010-622 and –623, cable revenues have continued to rise ahead of inflation throughout the whole period.

The real economics underlying the trend toward regionalization is that volunteer-produced productions are cheap and staff productions are expensive. The more a cable operator professionalizes production and focuses its few staff resources on a few all-professional programs, the less it can afford to deploy employees equitably throughout its service areas to facilitate genuine community production. Studios in small communities must be closed and staff must be consolidated in larger centres to pay for all-professional staff production crews.

## **Oshawa**

In Rogers' Appendix document, the company claims 50.4% access production and 82.1% local production.

### Local Content in Oshawa

With regard to local production in Oshawa, the key issue is that already identified by us in our complaint filed with the CRTC on Oct. 17<sup>th</sup>, 2011. That is, Rogers' Oshawa production facility is producing programming that is also seen (100% on an identical service) in the neighbouring licence area of Pickering, and calling content for the whole region "Durham". In Rogers' reply to our complaint, they claim that because both Pickering and Oshawa belong to the regional municipality of Durham, that all programming produced counts as "local" to both licence areas. In fact, this is not the case on two grounds:

- While Oshawa and Pickering do both belong to the regional municipality of Durham, Pickering and Oshawa maintain separate municipalities and councils. Community channel policy states that programming produced from another licence area but within the same "municipality" can be counted as "local". It does not say that programming produced from another licence area but within the same "regional municipality" can be counted as local. The County of Durham has more than 500,000 residents and is an enormous area to be served by a single community channel.
- Even if Oshawa and Pickering were part of the same "municipality", CACTUS was informed by CRTC staff on Oct. 20, 2011 and again when we double-checked on Nov. 17<sup>th</sup> that while a BDU can count programming produced in a different licence area but within the same municipality to contribute toward its "local" quota, it cannot double-count the expenditures on local production in both licence areas. The onus is on the BDU to demonstrate that the full 2% (or 5% if applicable) has been spent on production specific to each licence area. Clearly, the intent is to give BDUs some

flexibility to air programs of common interest across a municipality, but not to enable BDUs to shut down production facilities outright, as is the case in Pickering (and which we will demonstrate is also the case in Bedford/Sackville Halifax further on in our audit comments).

When we examine the log for Oshawa (the same service seen by cable subscribers in Pickering), content has either been produced for the entire Durham region (on programs such as *Eye on Durham* or *My Community Durham*) or they focus overwhelmingly on subjects in Oshawa. For example, the OHL game aired is the Oshawa Generals. The guest on the *Political Report* is Oshawa's mayor John Henry. The host of the comedy program *The Midnight Express* is from Oshawa. The week's episode of *Eye on Durham* features the Oshawa Public Library's March break program. This week's episode of *In the Durham Region* features the Hearth Place Cancer Centre in Oshawa. Alva Folkes, the host and community producer of the *Alva* program lives and practices in Oshawa, and so on. We could not identify a single program that focused on or was produced by an individual from the Pickering licence area.

We believe that since Rogers has elected to offer a single programming service across these two licence areas (and had previously subsumed Ajax as a licence area, which also maintains a separate city council), that the onus is on Rogers to demonstrate that the appropriate proportion of the community channel budget (both access and local) are being spent in the Pickering licence area. This was not the case for the audited week. We note that Pickering's population is approximately 2/3rds that of Oshawa. Although we don't know the exact subscriber numbers within the two licence areas, we would therefore have expected to see roughly 1/3<sup>rd</sup> of the programming originating in Pickering. Clearly little to no outreach is being conducted there.

In summary, at the time the audit was done, we believe that Rogers was in violation of its condition of licence in Pickering with respect to local content, and suggest that the CRTC summon the logs for Pickering for the same week in March of 2011 to verify this finding.

We also note that the use by the CRTC for administrative approvals for BDUs to change or extend their licence boundaries always raises policy issues with respect to community channel service. Any change in service boundary raises the questions:

- If this licence area is being enlarged, does the population merit a second community channel?
- If two licence areas are combined, what happens to the community channels that were there previously?

As long as community channels are administered by cable companies and their service areas depend on BDU licence boundaries, any change to those boundaries has potential impact on the community channel.

We note in paragraph 6 of CRTC 2010-960 (*Broadcasting applications that do not require a public process*) that the adjustment of BDU boundaries is given as one of the procedures that should qualify for administrative approvals. It is our view that they should not, because community channel service is always affected, and therefore constitutes a policy issue for each and every service area boundary change. Since requests for administrative approvals are not made public, there is currently no way for the public to raise the alarm about impacts to a community channel from a BDU's request to change its licence area boundaries. The more than 100,000 citizens of Pickering lost their right to an individualized community channel on September 11<sup>th</sup> of this year because of this process.

### Access Content in Oshawa

We found the following anomalies in Roger' logs for Oshawa with respect to content claimed as "access" (category B):

- *OHL Hockey* is claimed as "access". The producer listed is Scott Lindsey, who is the mobile producer employed by Rogers and the undertaking listed is "Oshawa". The party provided access is "Oshawa Generals". This program, a game between the "Mississauga St. Mikes Majors" and the "Oshawa Generals" (at 150 minutes in length) is replayed three times and constitutes 4.5% of the program schedule. While it is vaguely possible that the "Oshawa Generals" might actually be the producer for the program (exercise creative control), there are three further replays of OHL Hockey for the game "Oshawa Generals at Kingston Frontenac", which are listed as an "Import" (not produced by the Oshawa undertaking), yet the "Producer" listed is still "Scott Lindsey". It would seem clear that Scott Lindsey is actually the producer of the program, in charge of both home and away games. This echoes our comment made in Barrie, that a province-wide series cannot possibly be originated by multiple individuals living in different communities and claimed as access in each one.
- *My Community in Durham* is listed as "access" yet is a professionally produced news magazine. Interviewees of individual segments are listed as the "access groups", a practice that was discredited at last year's community TV policy review. Each week, the groups listed are different and they therefore cannot be responsible either for the original idea for the programming nor for creative control for the program as a whole in any given week. Furthermore, Rogers' web site clearly states, "*Sasha-Ann is the producer and host of My Community in Durham. Having spent time as a volunteer with Rogers TV while completing her studies, she joined the Rogers TV family in the fall of 2010 as a videographer.*" This 30-minute episode is replayed 14 times in the audited week and accounts for 4.2% of the programming week.
- *Seniors Talk with Sgt. John* is claimed as "access", yet Rogers' web site lists Rogers' staff member Debra Hutchinson as the "Host/Producer" of the program. Both the phone number and e-mail contact given are Debra's and there is no apparent way to contact the individual listed as the "access group" in the log (Sophie Hills). Sophie

Hills is listed as the guest for the week in question. This one-hour program is replayed nine times during the audited week and accounts for 5.4% of the program schedule.

- The half-hour documentary *Y Would I Care* is listed as “access”, but Rogers’ web site clearly states that the producer is Sandi Grant, a Rogers employee. Its single replay accounts for a further 0.3% of the programming schedule.

If we subtract these amounts from the 50.4% access production that Rogers claims for the week, we obtain the following:

<b>Oshawa</b>
50.4% minus:
- 4.5% OHL
- 4.2% My Community in Durham
- 5.4% Seniors Talk with Sgt. John
- 0.3% Y Would I Care
<b>Net Access Content: 36%</b>

Rogers reaches the access policy minimum, but displays the same tendency as in Moncton to misreport programs as access when they are clearly staff-driven.

As a final comment on the Oshawa system (which is serving the entire County of Durham), it is disappointing that even when Rogers can rely on the revenues coming from a population of more than half a million, so relatively few programs are produced that many have to be replayed more than dozen times per week to meet local and access minima. The majority of series in this log for last year’s programming season (March of 2011) are still on the air. This failure to generate new content has been noted by Rogers’ viewers. On the web page for the Rogers’ program a viewer for the *The Midnight Stroke* (still listed on the schedule and replayed 10 times in the audited week, contributing 3.3% of the programming week) made these comments:



Once again, this is the weakness of any attempt to use community programming budgets to generate professionally produced content. There simply isn't enough money to maintain hyperlocal facilities and to produce substantial quantities of programming using a staff-driven model.

### **London**

In its Appendix A, Rogers claims 88.59% local production for London and 57.41% access content.

#### Access Content in London

- Rogers' web site clearly states that both the host and producer for the program *Game On* is Jeremy Parking, a Rogers employee: "Join Western student Caroline Cameron, and *Rogers TV's* Jeremy Parking, as they host the half-hour program, *Game On!*" Jeremy's name and phone number at Rogers are provided as the "Associate Producer" to contact. Jeremy is also given as the producer in the log, yet the program is claimed as "access". The "Access Group" given in the log is "Coulters Pharmacy", which doesn't appear to have any direct relationship to the program, which examines sports, hobbies and games. Coulters Pharmacy is a business in London, and is given as listed as a sponsor for both this and other programs in the log. This half-hour program is replayed ten times during the audited week and accounts for 3% of the programming schedule.

- The program *Inside London* is claimed as “access”, yet the Rogers employee Jeremy Cook is named as the “Producer” on Rogers’ web site, and in the log for the week in question. Tim O’Neill, the program’s host, is also a Rogers employee. This half-hour program is replayed twelve times during the audited week and accounts for 3.6% of the programming schedule.
- OUA Mustang Sports is listed as “access”, yet the producer given in both the log and on Rogers’ web site is Rogers’ mobile producer, Neill Johnson. The web site describes the program as, “*Rogers TV brings OUA fans coverage of Western Mustangs games including playoffs and championships hosted by Western during the 2010-11 season. Catch an exciting and varied line-up of men’s and women’s sports: football, basketball and soccer.*” For the audited week, the “Access Group” given is “Western University Sports Teams”. Clearly, multiple sporting clubs cannot produce or creatively drive the production of different episodes. The program’s description also implies that it is a Rogers initiative. We note that programs that are clearly community produced are usually identified as such in these web descriptions. This 108-minute program accounts for 1.1% of the programming schedule.
- The program *London Calling* is both hosted and produced (according to Rogers’ web site and the log for the audited week) by Drew Skitt, a Rogers employee, who actually lives in Toronto. This half-hour program is replayed thirteen times during the audited week and accounts for 3.5% of the programming schedule.
- *On Patrol – London* is claimed as “access”, yet is part of a Rogers-produced network program with at least six versions airing in London, Toronto, Barrie, Owen Sound, Ottawa and York. All use the same graphics and music, and list different Rogers staffers as producers on Rogers’ web site. It seems clear that RogersTV is the driving force behind this series, not the local “Police Services” given as the “Access Group” in the log. This half-hour program is replayed four times during the audited week and accounts for 1.2% of the programming schedule.
- *Mosaic* is claimed as “access”, yet the Producer given on Rogers’ web site and in the log for the audited week is Marilyn Buggy, a Rogers employee. It is her phone number and e-mail that are provided as contacts for the program, not any individual or organization in the community. The person listed as the “Access Group” on Rogers web site (Sarah Darsha) is a professional journalist employed by Rogers, and has hosted at least two other Rogers programs according to Rogers web site: “*Sarah Darsha is a graduate of the Broadcast Journalism program at Sheridan College. She was born in London Ontario and is a proud Canadian, Egyptian Muslim. Being a journalist has been her life long dream. She has hosted Al Magela Al Arabia on Rogers TV and by hosting Forest City Living her dream is now a reality. She takes pride in joining RogersTV to help bring together the London community.*” This half-hour program is replayed nine times during the audited week and accounts for 5.4% of the programming schedule.
- *Optimist TV Bingo* is described as “access”, yet the London Optimist club informed us that under contract with Rogers, they have to pay \$251 per week to air their

bingos, which amounts to more than \$12,000 per year. Like the Moncton-area bingos, this is therefore not “access” but paid programming. This one-hour program accounts for 0.6% of the programming schedule.

Our estimate of access content in London is therefore:

<b>London</b>
57.41% minus:
- 3% <i>Game On</i>
- 3.6% <i>Inside London</i>
- 1.1% <i>OUA Mustang Sports</i>
- 3.5% <i>London Calling</i>
- 1.2% <i>On Patrol - London</i>
- 5.4% <i>Mosaic</i>
- 0.6% <i>Optimist TV Bingo</i>
<b>Net Access Content: 39%</b>

While Rogers still exceeds the minimum access content (30%), we find it disturbing that in each licence area, Rogers misrepresents the quantity of access content produced by as much as a third. It appears that just as in the 2002-2005 set of audits, the company’s understanding of what constitutes access content is “questionable” (the word used by the CRTC auditor), even with the more explicit definition provided in the CRTC’s new policy 2010-622. This is the case even to the casual observer who must rely on an Internet search as we did, since we have no members in London at present. The actual access figure may be much lower.

### ***Licence Areas Near London***

In order to assess the log provided for London by Rogers with respect to local content, we must consider what is happening in surrounding communities. The substance of the data we presented last year was that programming is being shared throughout multiple systems, with the bulk being produced in larger systems and exported to smaller systems nearby. In the case of London, London is the “large” city and the smaller systems bordering include Woodstock, St. Thomas, and Tilsonburg.

We note that 13 Rogers community TV staff are listed as working at 21 Ridgeway Circle in Woodstock (if you’re on Rogers’ Woodstock page) or as working in “Woodstock-Tilsonburg” if you’re on the Tilsonburg page, including the same volunteer co-ordinator. In other words, a single production facility serves both the Woodstock and Tilsonburg licence areas. The same 13 staff including the same volunteer co-ordinator (Marcy Demelo) is listed for St. Thomas, but the address provided is: 535 Talbot St. Thomas. If you go to the London page, you get a list of 22 staffers, but including the same 13 as you get in the other licence areas, and the same volunteer co-ordinator, Marcy Demelo.

It would appear that there is a regional approach to production, without a clear distinction between three facilities in the four licence areas.

Although we can't examine the logs for these systems since the CRTC didn't request them, we can examine their program schedules as of today's date (November 22<sup>nd</sup>, 2011) online to get a sense of the degree of program sharing. In all three systems, a community bulletin board is played for much of the day:

### **Tilsonburg**

- A community bulletin board plays until noon.
- At noon every weekday, the one-hour studio-produced *Harada* is played. Since Tilsonburg doesn't have a studio, it must originate in a different licence area. The description of the program on Rogers' web site says, "*John Harada, from the morning show on 104.7 Heart FM goes one on one with special guests at the Rogers TV studio about lifestyle, entertainment and special community events. John has it covered if it's happening in Oxford County!*" It is therefore neither recorded in Tilsonburg nor focused specifically on Tilsonburg (Oxford contains London, Tilsonburg and Woodstock) and therefore cannot be claimed as "local" to the Tilsonburg licence area. Since it's not played back in London, we assume it could be claimed as "local" in Woodstock, where it is likely taped. The producer given on Rogers' web site is a Shaw staff person. The program appears to be another example of Rogers' partnerships with commercial radio stations.
- The community bulletin board is played from 1 p.m. to 7 p.m. every weekday and again after 10 p.m.
- Prime time (7 p.m. to 10 p.m.) weekdays includes:
  - the 30-minute *Simply Cooking with Jed*, produced by a member of the Woodstock community (i.e. not local to Tilsonburg).
  - The 30-minute *Inside Tilsonburg*, another example of a Rogers network program model (e.g. *Inside London* above). Similarly, *Tilsonburg Council* and *Tilsonburg Business Awards* appear to be local and licensee-produced.
  - Similar to *Harada*, the half-hour talk show *One on One* is hosted by a local radio personality, and is staff-produced. The web site states that it focuses on Tilsonburg.
  - Rogers' web site states that the 30-minute *Drug Awareness* appears to be community-produced, by the Oxford County Drug Task Force and the Fusion Centre, both located in the Woodstock licence area. It therefore cannot be considered "local" or "access" in Tilsonburg.
- *The Wrap* is a half-hour post hockey game talk show taped in London and is therefore neither local nor access in Tilsonburg.

- *Innovation* is hosted and produced in Woodstock.
- On weekends, the one-hour *Victory for Today* is played twice, and appears to be a US-sourced Christian fundamentalist program. (No information is provided on Rogers' web site, but a web site exists for a program with this name produced in Los Angeles.)
- *Community United* is about United Way of Oxford County. The organization's headquarters is in Woodstock. Since there is no production facility in Tilsonburg, we assume this program is local to Woodstock.
- *Pets 101* appears to be -produced in Woodstock by the owner of a Woodstock pet store.
- *Oxford County Living* appears to be produced out of Woodstock. The web site describes the program as examining events and people of Oxford County, so cannot be considered local to Tilsonburg.
- Various sporting programs appear to be replayed from the London and other systems on weekends, including the London Knights.

The programming schedule for Tilsonburg is therefore overwhelmingly filled with programs from Woodstock or London, or which purport to be about Oxford County, but are not produced in Tilsonburg. The local content is limited to *Inside Tilsonburg*, *One on One*, *Tilsonburg City Council* and *Tilsonburg Business Awards 2011*. For the week we reviewed the online programming schedule (Nov. 19-24), replays of these programs accounted for just 10.5 hours or 33.8% of the 31-hour programming week, well below 60%.

None of these programs appeared to be conceived or produced by community members. Since the city council is replayed 3 times for a total of 6 of the 10.5 local hours, even if all the other three programs were "access", they would account for only 14.5% of the programming schedule, not even half the 30% access minimum expected by community channel policy.

### **Woodstock**

According to Rogers' online programming schedule for this week (Nov. 19-24), most of the programs listed above for Tilsonburg are also played in Woodstock, in addition to other Woodstock-specific programs. Therefore, Woodstock would appear to meet and exceed its local and access requirements.

We note that while community channel policy does not require there to be a production facility within every licence area (the cable company has been permitted in past licence renewals to serve licence areas from production facilities outside the area; for example, in the fall of 2010 when we pointed out that Shaw had no facilities within more than half of the licence areas it was renewing at the time), we believe this is a mistake and the evidence from Woodstock and Tilsonburg, as well as Pickering and Oshawa is the

inevitable result of such facility closures. Staff and facilities in one licence area cannot be expected to be as familiar with or handy to organizations and individuals in another licence area. Similarly, cable subscribers in the unserved area are unlikely to be aware of or take advantage of training and producing opportunities when there is no street presence in the community by the so-called “community channel” that serves that community, nor presence on the channel they see in their living rooms.

### **St. Thomas**

A casual perusal of the online programming schedule posted for today (Nov. 20, 2011) and an examination of the program descriptions on Rogers’ web site suggests that Rogers meets its access and local minima for the St. Thomas licence area. We surmise that this is because as in Woodstock, St. Thomas has a production facility and a street presence in the community served.

### **St. Johns, NL**

Rogers claims that 31.25% of the programming on its zone-based St. Johns, NL channel is access and 66.4% is local.

We note that the population of Newfoundland’s territorial capital is 192,000, and that the city had 71% cable penetration in 2004 (the most recent year for which we could find figures). We would therefore estimate that 2% of Rogers’ cable revenues (the amount available for community programming) would be about \$860,000 annually. We note on Rogers’ web site that the channel employs 16 people, which seems about right for this budget.

What is surprising is the miniscule amount of programming produced. As Rogers acknowledges in its *Appendix A* document, the only local programs are *St. Johns City Council* (a regulatory requirement) and *Out of the Fog*, a professionally produced news magazine that appears to suck up all available resources of the channel. As we have noted previously, under a voluntary model, each staff person should be able to co-ordinate the production of about 5 series programs, if they are really creatively driven and crewed by community members. For a budget of close to a million dollars, we would have expected a full programming schedule and 30 or 40 regular shows.

So what’s going on? When we examine the logs we find:

- There is only a full program schedule of moving video on Saturdays and Sundays (from 9:30a.m. – midnight). The rest of the week, a community bulletin board is shown all day, with video programming only from 5 p.m. to midnight.
- The program *One Chef One Critic* is played an incredible 30 times during the audited week (and plays 48 times this week, Nov. 19-26), often back to back. It is claimed as “Access”, yet the “Access Group” identified for the audited week name two guests that appeared on that particular program (Mark McCarthy and Julia Kwon). While the two hosts are community members, and the Producer identified in the log is one

of the hosts (Karl Wells), an incredible 5 Rogers staffers are identified as “Producers” for the program on Rogers web site: Anna Delaney, Jen Cooper, Michael Fisher, Perry Cooper, and Jane Wong. That’s a lot of staff resources devoted to a purportedly “access” program. This program accounts for 28.3% of the program schedule, almost all of the 31.25% of access programming claimed by the company.

- The 30-minute program *Out of the Fog*, a professionally produced news magazine, is worked on by eight Rogers staffers, according to the company’s web site. Two of them are reporters, and one is the host. We note that only 1 of the 16 employee positions listed on the company’s web site has a role that implies facilitation of the public to make programs: Jen White, the “Producer/Volunteer Co-ordinator”. All the rest are described either as “Television Producers” or “Hosts” or work in technical or administrative roles. The company does not claim that this program is “access”, but it bears scrutiny because it explains where the channel’s resources are being spent. This program is “local”. Like *One Chef One Critic*, it is played dozens of times per week (73 times in the audited week, and 63 times this week). Like *One Chef One Critic*, it is often played back to back virtually all day and accounts for 68.9% of the programming schedule by our calculations (more than the 66.4% claimed by Rogers, in fact as its “local” component).
- The 30-minute program *Breaking Ground* is played 10 times, accounting for 9.4% of the programming schedule, and is claimed as both local and access. The description on Rogers’ web site states, “*This series takes us on more agricultural journeys in the province of Newfoundland and Labrador. A wide variety of shows will take you to vegetable farms in Labrador, dairy farms on the Northern Peninsula, a winery in Notre Dame Bay, and secondary processing facilities on the Avalon.*” If this is accurate, we don’t see how it can be claimed as local to the St. Johns system. While no producer information is supplied on the web site, the “Access Group” according to the log appears to be the subjects of the particular episode, not a community producer. Furthermore, the “Producer” stated in the log is Bill Coultas, a Rogers employee. It would therefore appear that the program is neither “local” nor “access”.
- The only other program in the schedule other than one broadcast of the City Council is *Corner Brook Cafe*, which Rogers acknowledges as being neither local nor access

In summary, there’s no question that Rogers meets its 60% local minimum by replaying *Out of the Fog* and *One Critic, One Chef* to death. Its claim to meeting its access minimum rests on accepting the overwhelmingly staff-driven *One Critic, One Chef* as “access”. However, our greater concern with this channel is that almost a million dollars are being spent on the production of three television programs that are played back to back all day. There is not a single category “C” program (submitted by a genuine member of the community, unassisted by the licensee). If the channel was promoting its own access mandate at all, one would expect at least a few. St. Johns is known as an artistic and creative hub. Where is the community on this channel?

Clearly, the focus of this channel is on the professional production of not even “a handful” of programs.

## EASTLINK

After examining the logs submitted by Eastlink for Bedford/Sackville and Sudbury, we conclude:

- that the licensee met neither its local nor its access requirements in Bedford/Sackville, despite being given lower thresholds as a condition of its licence
- the licensee would similarly not be able to meet either its local nor access requirements anywhere in Nova Scotia, which is operated as a single network with occasional insertions; we recommend the Commission summon the logs for the other licence areas in NS for the audited week for comparison and to verify our findings.
- The licensee fails to meet the 30% access minimum for Sudbury.

The company also:

- has inaccurate program schedules for NS communities outside Bedford/Sackville
- fails to offer production facilities within many of its licence areas
- charges the Cape Breton Municipal Council for coverage

### ***Eastlink's Web Site and the Availability of a Programming Schedule***

In its response letter to the CRTC's audit dated July 4<sup>th</sup>, Eastlink affirms that its systems air unique programming, and rebuts CACTUS' assertion that when we entered a postal code as prompted by Eastlink TV's online web site interface for PEI, Nova Scotia, or Sudbury in January of 2010, we obtained a single list (in paragraph form, not a grid) listing 17 programs. These 17 programs were the same, regardless of what postal code we entered.

It does appear that Eastlink has upgraded the community TV information available on its web site since 2010; however, we are still at a loss how to obtain a weekly programming grid for any one community.

If we follow the direction in Eastlink's letter and select "Eastlink TV" at the left (with our region set to NS for Nova Scotia), we get a very similar single list of programs for the entire province as we obtained in January of last year. As of today's date (Oct. 3, 2011), there are exactly 15 programs in this list. If we try scrolling down and selecting different ones, as suggested by Eastlink, most of them offer a single air time for the whole province, as if the province is receiving the same service (e.g. *Welcome to My Kitchen* offers airing times of Sundays @ 6:30 p.m. and Weekdays at 12:30 p.m.) There are very few exceptions. *TV Bingo* is advertised at a single time province-wide, although there is a community-specific list of "TV Bingo card seller information". Although the information at the head of this list does say, "*Here are just a few of the shows produced by EastLink,*" there are no clues on the site as to where one might obtain a complete list, or a list by individual community. The only way to see what's on the community channel online is by clicking What's On TV at the right of the main Eastlink web site and entering a postal code. You see a master grid for Eastlink's whole cable system, 2

hours at a time, but nowhere is a week-long grid available for just the community channel.

Furthermore, we have been informed by residents of Eastlink's licence areas that the online grid for the entire cable system is typically inaccurate with respect to the community channel. For example, when we entered a postal code for Sydney on the morning of Oct. 5<sup>th</sup>, *Halifax Regional Council* is stated to be on, but Mr. Paul Powers, a resident of Sydney and a former Program Director of the community channel in Sydney, informed us that that was incorrect for Sydney. He said, "*We've been telling them for two years that the online grid only shows the central Bedford/Sackville/Halifax system*" [really two systems by licence, although treated as one]. Therefore, we maintain that judging by its web site, Eastlink continues to present its community programming to the public as a province-wide network, even though there may be occasional local insertions.

### ***Analyzing Eastlink's Nova Scotia Community Channel System***

To enable us to analyze the programming log submitted by Eastlink for Bedford/Sackville, we asked for assistance from Mr. Paul Power. Mr. Power was the Program Director of the Sydney Nova Scotia station for 26 years, first under Cape Breton Cablevision, then K-Right communications, then Bragg, then Eastlink. The Sydney station had 4 full-time employees, but all were let go along with 1/3<sup>rd</sup> of Eastlink TV's Atlantic programming staff in June of 2010. (Mr Power wrote to the CRTC about these layoffs at the time.)

We raise this point because many of Eastlink's licence areas have no community programming staff to serve them at the date of writing, which in large part explains why most programming is recycled over the whole province.

Bedford/Sackville—the system selected for audit—happens to include Eastlink's largest production facility in NS, and from which most of the programming for the province is produced. Since the thrust of the data we presented at the hearing in 2010 (upon which Eastlink and the other BDUs are commenting in this audit) was that systems have regionalized their programming and tend to pipe out programming from large centres to the regions, one has to examine what's going on in those regions simultaneously (e.g. for the same programming week). It's not enough to audit the large system, which may well be meeting its 60% local programming requirement, while the smaller systems round about may be seeing virtually the same thing.

Mr. Power claims that no programming logs exist for the Sydney system. We would suggest that the Commission request the logs for the other systems outside Bedford/Sackville for the audited week. We would be interested to find out whether any of them exist.

The individual Eastlink Atlantic licence areas provided by the CRTC as input to the 2010 community channel review included:

Halifax
Bedford
Dartmouth
Bridgewater
Kentville
New Glasgow
Sydney
Truro

Halifax serves as the master control for the whole province. There is no production facility in Halifax per se, despite its population of over 400,000 and its identity as Nova Scotia's capital city. Eastlink's facility in Halifax comprises rows of monitors and playback devices.

Bedford/Sackville (population > 40,000) has the largest production facility and remaining community programming staff in the province.

Dartmouth (population > 65,000), had its own production facilities until it was closed 7-10 years ago.

There is a production facility in Bridgewater, which Mr. Power believes has a single employee and produces the occasional bingo.

There is a studio in Kentville, which serves New Minas, Windsor, Yarmouth, Shelbourne, Liverpool and Aylesford. Each of the latter had its own production facility until it was closed by Eastlink within the last 3-4 years. Eastlink now refers to this area as its "South Shore System". On the Contacts page on Eastlink's web site, these systems are listed as P.O. box numbers, but their street addresses refer to cable dispatch locations, not to community production facilities. For example, if you have a *Podium TV* idea, the contact for both Bridgewater and Liverpool is Matt Morris; Matt lives in Bridgewater. Similarly, Danny Harvey is listed for Antigonish but works out of New Glasgow. Brett Smith is listed for New Glasgow and Sydney, but is actually based out of Lower Sackville.

The production facility that once existed in Antigonish has also been closed, and the community is apparently now served from New Glasgow.

As aforementioned, the Sydney studio has had no employees since June of 2010, but opens once a week to let volunteers in to do a bingo. Volunteers who had an idea for a program used to be referred to Truro (350 km away), but since the Truro manager quit in August of 2011 (reportedly due to overwork), cable subscribers in Sydney are now given Brett Smith's contact information in Lower Sackville, more than 450 kilometers away. There is still one employee at the Truro facility, which produces only one bingo game per week.

In short, several of the existing licence areas have neither production facilities nor employees to serve Eastlink's local cable subscribers. A few employees are being asked to cover the entire province from a few regional centres.

*According to Mr. Power, "The programming schedule for the province is virtually the same on Mondays, Wednesdays and Fridays". Tuesdays and Thursday are also almost the same, but they tend to schedule 6-9 p.m. in the evening for any local programming in the particular licence area. That's what we were given to fill. We used to have a bingo and a two-hour live talk show, but since the staff were let go, there's just the bingo. First they laid off the playback operators and centralized playback in Halifax and we had to courier our tapes down there. Then they let the staff go and so there's no one to even produce it or courier tapes. They just switch control to Sydney for the bingo game, and then switch back to Halifax. That's it for the week."*

We therefore strongly suggest that the Commission audit the logs for Sydney and other smaller systems. The Sydney system has 18,000 subscribers (the 3<sup>rd</sup> largest in Nova Scotia). Eastlink is expected to devote 5% of its cable revenues or approximately \$712,000 to the production of community programming per year, yet one entirely volunteer-produced bingo is being generated in this system per week.

In PEI, there used to be two production facilities, one in Charlottetown and one in Summerside. The Summerside facility was closed almost a decade ago, leaving a single facility (and 3 employees; the 4<sup>th</sup> was cut last June) to serve the whole province (population 141,000).

Assuming an average of 60% cable subscriptions, 2.5 people per household, \$66 per household per month for a cable bill and combined populations of NS and PEI of just over 1.1 million, we estimate that Eastlink has cable revenues in the neighbourhood of \$209 million annually in these provinces, or a budget of over 4 million to support its community programming facilities and staff. It currently maintains 7 facilities (in Charlottetown, Bedford/Sackville, Bridgewater, Kentville, New Glasgow, Sydney and Truro) and about 20 employees that we know of. This is just over a half million and 3 employees per facility, which is rich by the standards of the independent community-maintained sector (in which budgets average \$150,000 and there are from none to 3 or 4 employees). While the independent sector is underfunded and shouldn't be used as a standard, we nonetheless feel that Eastlink could maintain an additional 2-3 facilities in the region (particularly if they partnered with local community centres or existing organizations), and should have been able to support the staff that were laid off last year at levels that are competitive in the community TV sector.

Another useful benchmark in assessing community channel performance is the volume of production. The experience of CACTUS working with organizations whose central mandate is to enable access production is that each employee can facilitate the production of about 5 hours of new programming per week. Therefore, even with a reduced staff of 20 in the province, one might expect approximately 100 new hours of production per week. While it's impossible to tell for sure from the single log provided for Bedford/Sackville (and the logs do not indicate whether a program is first-run or a

replay), but given the list of only 15 different programs province wide on Eastlink web site and Mr. Power's estimates of what is being produced at the studios with which he is familiar, we would be surprised if Eastlink is meeting 1/5 of this amount (20 hours per week) for the whole province. We'd be happy to be disproven, but that is our estimate.

The explanation for this low figure is the same as it is throughout other Canadian cable-run community channels, and that is that staff resources overwhelmingly tend to focus on licensee-produced programming, with multiple staff deployed on a single production, rather than deploying those staff throughout smaller communities to work with crews of volunteers. While we would never advocate volume minima for community television (we would like to encourage quality processes in the community with true grassroots involvement, not necessarily quantity), the current staff: programming hours ratio is nonetheless telling in our view.

We are of course, aware that Eastlink has been encountering financial difficulties in recent years, and that layoffs have occurred not only in its programming departments. However, this is an example of why fundamental community resources such as media centres should not be managed by private corporations, whose business decisions, strategies and commitment to local communities necessarily fluctuate over time. They need to be situated in and managed by community-based non-profits, or in association with enduring local institutions such as municipalities, community centres, and libraries.

### ***The Programming Log for Bedford/Sackville***

Eastlink claims that 54.4% of the programming on its Bedford/Sackville system are "local".

#### Local Content in Bedford/Sackville

- While the program *Fishing with Friends* is produced in Antigonish (the New Glasgow system), the promo for the program is claimed as local to Bedford/Sackville. Sponsor ads and station IDs that air within *Fishing with Friends* and within most other programs (e.g. *Welcome to My Kitchen*<sup>6</sup>, produced in Kentville, or *Quebec Junior League Hockey* produced in Sydney) are also claimed as "local" to Bedford/Sackville. Similarly, the disclaimers that precede programs (for example, *Path of Yoga*, produced in Halifax) are claimed as local. This in fact does reflect the centralized approach to programming taken by Eastlink. All promos, ads and even programming graphics and bumpers are produced in Bedford/Sackville, according to Mr. Power. Only program segments are produced in outlying production facilities, which calls into question whether any individual program can ever really be claimed as "access", since Eastlink staff drive the technical and artistic look of every program. According to Mr. Power, as Program Manager in Sydney, the only show that was

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<sup>6</sup> This same program *Welcome to My Kitchen*, was in production when Eastlink's Halifax and Sydney systems were audited by the CRTC in 2005. While it's possible that the show is an old favorite with viewers, we wonder whether its continued production (with only a handful of other programs across Nova Scotia), really reflects the Commission's goal that the community channel should encourage alternative points of view.

ever completely produced in Sydney was the local bingo. All other technical components, graphics, openings and closings were sent to him from Bedford/Sackville.

So, if it is legitimate for Eastlink to break up the regional programs that it airs on its central Bedford/Sackville channel into pieces and claim all promos, ads, and disclaimers as “local” in these logs for Bedford/Sackville, then we would question what Eastlink is claiming as local for the licence areas in which these programs are produced? According to Mr. Power, “*We were told to put down a program intro produced by Eastlink as an “A” (local, licensee-produced), regardless of where it came from.*” In other words, it seems likely that Eastlink is double-counting all these elements. We would request the Commission to ask for logs for those outlying systems for the same week to compare, particularly since Eastlink will be under even more pressure to claim these elements as “local” in smaller systems that are expected to meet the 60% local rule, versus Bedford/Sackville, which has been granted a condition of licence such that it must produce only 30% local content.

To take just one program as an example, although the core content segments of the 30-minute programming *Fishing with Friends* (which airs at 1 p.m. on March 12<sup>th</sup>) are classed as D (since it is produced within the New Glasgow system), 2.5 minutes or over 8% is claimed as local because of the promos, disclaimers, station Ids, and sponsorships within it. These programs are replayed many times per week.

Some of these inserts do not appear even to be ads for community programming. For example, the item called “VOD ID” we presume is an ad for Eastlink services, not local community programming.

- Both the episodes of *Podium TV* which aired on March 10<sup>th</sup> (and replayed several times during the week) on which Dr. Simon Sherry appears from St. Mary’s University in Halifax and the one called “Government House – Stephen Mostad” were taped in Halifax, yet are claimed as “local” (A) for the Bedford/Sackville system. These programs were replayed an average of 6 times per day (6 hours within the 24-hour programming schedule), and account for 25% of Eastlink’s program schedule.
- The *Eastlink Magazine* segments are claimed as local (A), yet they are produced all around the province.

According to Mr. Power, there used to be three different *Eastlink Magazine* programs (one for PEI, one for the southern shore, and one for the Halifax area) but the southern version was eliminated in Oct. Of 2009, and the PEI version was eliminated some time since then. Now there’s a single version for all of Nova Scotia and PEI, produced only once per week, and replayed all week. This represents 9 separate licence areas and more than 56 municipalities. The format of the program includes 5 short segments, meaning that on average, each licence area might expect a single short news segment to be produced about its events and residents in a two-week period. So, while the segments aren’t described except as “EL Mag NS” (presumably *Eastlink Magazine Nova Scotia*), they can’t all be local to

Bedford/Sackville. To be sure, we recommend that the Commission examine the video logs (if they exist) for other systems for the same week. We estimate that no more than 20% of these segments are likely to be local to Bedford/Sackville for the week in question.

The very fact that the company is approaching the production of “community news” from a bi-provincial perspective (one program for its Maritime subscribers) indicates that it is operating a provincial network, not a chain of independent channels.

We also note that the practice of showing the *Eastlink Magazine* around the province and claiming it as local in every licence area was recorded by the CRTC’s own auditors in 2004 for the Sydney licence area: “*Eastlink Magazine is recorded as A Local programming. They are the same episodes as seen as classified as local for Halifax. The program therefore cannot be classified as local for Sydney... there are no credits indicating which licensee produced the program.*”<sup>7</sup> It appears that Eastlink takes no notice nor action when CRTC auditors uncover both false claims and practices that specifically violate the company’s conditions of licence.

With regard to Eastlink’s local minimum, the 30-minute *Eastlink Magazine* is replayed an average of 8 times per day (8 x 30 minutes = 4), and therefore makes up 1/6<sup>th</sup> of Eastlink’s 24-hour programming schedule. This means that 16.6% of Eastlink’s overall programming claimed to be local to Bedford/Sackville is in fact mostly not local to this system.

- It’s difficult to classify where *Doc Talk* is “from”. It appears to be taped in the Bedford/Sackville studio, but John Gillis, the show’s host, works in Halifax as a physician, and bases the content of his program on that work and experience.
- Similarly *Inclusion Revolution* is hosted and produce by a woman whose work is based in Halifax, although the program may be taped in the Bedford/Sackville studio. On the Eastlink web site, the program is described as “regional”.

While it is impossible for CACTUS to make an exact estimate of the local programming produced in Bedford/Sackville, given the impossibility of telling where given segments of *Eastlink TV* come from, if we subtract the misreported numbers by Eastlink for the given week (assuming that no more than 20% of Eastlink TV is likely to be local), we arrive at the following:

<b>Bedford/Sackville</b>
54.4% (claimed by Eastlink) minus:
- 25% Podium TV
- 16.6% Eastlink TV
<b>Net Local Content: 12.8%</b>

<sup>7</sup> These audits were obtained under an Access to Informatino request conducted by CACTUS in 2010. We presume the CRTC retains copies of the originals, but can supply them on request. They are also posted on our web site.

We estimate that at most 12.8% of the programming in the week audited was created specifically in or about Bedford/Sackville (if we allow *Doc Talk* and *Inclusion Revolution*, whose relationship to Halifax are at least as strong if not stronger than to Bedford/Sackville), well short of the already reduced 30% minimum under Eastlink's licence.

We note that cable companies are authorized to count productions from other licence areas that belong to the same municipality as "local" and that this situation applies in Halifax and Bedford/Sackville. However, as we noted earlier in this document with respect to Pickering and Oshawa, the onus is on the cable company to demonstrate that 2% of the revenues collected within each area (or possibly 5% in Bedford/Sackville if there are fewer than 20,000 subscribers) are spent on programming specific to that area. Our analysis of the Bedford/Sackville system is that the overwhelming majority of the programming is about the people and events of the much larger licence area of Halifax, even though some of it is likely taped in the Bedford/Sackville studio. We doubt that 5% of the revenues of Bedford/Sackville are spent on Bedford/Sackville-specific programming.

We note in its cover letter that Eastlink admits that it plays the identical programming schedule throughout both systems:

*"Because the Bedford/Sackville system shares a very strong community of interest with the neighbouring Dartmouth and Halifax systems, 100% of the programming distributed on the Bedford/Sackville community channel is also distributed on the Halifax and Dartmouth channels. However, all three systems produce their own local and access programming."*

#### Access Content in Bedford/Sackville:

- Not only is the episode of *Podium TV* produced on March 10<sup>th</sup> classed as local to Bedford/Sackville when it was actually taped in Halifax, all episodes and replays of this program throughout the week audited are claimed as "access", giving the speaker's name as the "producer". Mr. Power states that the program was conceived as he was an employee by Eastlink staff, and that he himself came up with the name and graphics. The Eastlink web site confirms that current Rogers staff are in charge of production. The program's "show producers" are stated as being Brett Smith and Nancy Vidito, who work for Eastlink.

Mr. Power explains the misclassification: *"Every half-hour program I ever produced, we were told to put the show host as the producer. Even if they just came in, were handed a list of questions, and sat down, we were told to give it a 'B' for access instead of an 'A'."*

Since *Podium TV* is replayed an average of 6 times per day (6 hours in a 24-hour schedule), this is 25% of the program schedule that is claimed as “access” when in fact it is licensee-produced.

- Although Mr. Power acknowledges that the ideas for *Inclusion Revolution* and *Doc Talk* may have come from the person listed as its producer (Tova Sherman and John Gillis respectively), we question to what extent any member of the public throughout Eastlink’s systems really can be said to control the content of the “access” programming attributed to them. As Mr. Power stated above, *“The intro, bridges, closing, everything was produced in Bedford. Eastlink controls overall look and content of these shows, the colour of the background, font, everything. It’s 100% controlled by Eastlink. We rarely produced a complete show in Sydney as staff, let alone a volunteer. We just produced our own graphics on bingo. They even picked out the intro music for us.”*

If we subtract *Podium TV* from the 35% access claimed by Eastlink, only 10% remains for the programs *Doc Talk* and *Inclusion Revolution*. We note that Eastlink also failed to meet its access minimum for Halifax when it was audited in 2004 by the CRTC. The auditor noted that “0% (no access programming or promotion of access” occurred in Halifax at that time. Also, although 71% was local classified at the time by Eastlink as “local”, the auditor noted “*There is no distinction between Eastlink programming i.e. local vs regional*”. It appears therefore that there has been little improvement in this licence area, despite the Commission’s reduced programming requirements in the conditions of licence.

### Access Discrimination on Eastlink

Not only does Eastlink fail to reach the overall access minima that is a condition of its licence, according to Mr. Power, the company does not exercise a free and open access policy toward various segments of the community, including seniors, those who cannot recruit financial support for their program ideas, and city council, as follows:

- Mr. Power:

*“We were told that since males between 18 and 49 were the ones who purchased cable, that was the demographic that would be targeted in all programming on EastLink. Senior citizens were shut out and there are even cases where stories had to be re-shot to put younger people in them. Even the background footage couldn’t show seniors, unless there was an overwhelming counterbalance of younger people in the video clips. With the exception of PSAs, all War Amps programming was removed from their stations. At one time, we used to have the entire Remembrance Day devoted to the wonderful War Amps programming.*

- Mr. Power:

*“In early 2010 we were told that no new local programming idea would be considered unless the community member could bring with it substantial advertising and sponsorship. For example, community channel resources were used to produce the series Ghost Cases for sale to a Korean network. It was shot throughout the Maritimes and the UK according to a Rogers’ pressrelease<sup>8</sup>, and played throughout Eastlink’s systems. It wouldn’t have counted as local to any one system, yet it was produced with community channel resources.”*

We note that the 1992-39 (Community Channel Standards) which are still in force state:

*“Access shall not depend on the availability of a sponsor or on any other form of outside financial support. “*

- Also according to Mr. Power, Eastlink Television has required the Cape Breton Regional Municipality’s government to pay \$100 per month since September of 2009 for camera operators to cover council meetings.

Clearly, Eastlink is operating its community channels in Nova Scotia as a province-wide network and according to the imperatives of its cable business. We believe this is a far cry from the Commission’s intent that they be stable, community-based resources that cater to all members of the community without discrimination.

### **Sudbury**

Eastlink states that 93% of the programming aired in the audited programming week is local and that 40% is access.

Eastlink’s Sudbury programming consists of a mix of traditional 30- and 60-minute ‘programs’ such as *OHL Hockey* and municipal council meetings, interspersed with a rotation of short repeating segments.

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<sup>8</sup> October 29, 2009, and found at: <http://www.eastlink.ca/About/PressReleases.aspx?NewsId=225>

“From the Maritimes to the UK, Holly and Paul use an assortment of tools in their search to capture evidence including infrared cameras and digital recorders that may capture voices from beyond.

“We are very excited to have this program in our fall line-up,” says Director of EastLink TV, Michael Smith. ...**Ghost Cases** is a joint project between EastLink TV, Clerisy Entertainment and Redstar Films Limited.”

## Access Content in Sudbury

- The 60-minute program “Q92” is claimed as local and access every weekday morning, and accounts for 9.6% of the programming schedule. In fact Q92 is owned by Rogers Communications. The “Producer” listed in the log is Al Campagnola, who was (as of 2008) the “Product Manager for Rogers Radio Ontario North”, according to the article we found at <http://www.northernlife.ca/News/Lifestyle/2008/01-18-08-q92.aspx>. We do not see that content produced and owned by another BDU could be considered as “access” programming. It should be classed as “D” not “B”.
- The City of Greater Sudbury Council meeting for the week audited is claimed as access programming, which we had understood was not allowed under community channel policy. The three-hour meeting accounts for 5.8% of the programming schedule for the week.
- Four-minute segments that are repeated as many as 28 times per day and entitled *About Town* are claimed as access, even though the producer given each day changes and is actually the subject of the segment. The practice of claiming that the subject of interviews on a professionally produced news magazine format can also be its producer has been discredited. These segments account for 10.1% percent of the programming week.
- The live program *Wolvescam OHL Hockey* is claimed as access. The producer given in the log is Blaine Smith, Head Coach of the Sudbury Wolves. According to Eastlink’s web site, this series includes both home games of the Sudbury Wolves (32) as well as away games (16). Eastlink acknowledges that the away games (for example Sudbury in Mississauga on March 6<sup>th</sup>) is produced by Rogers and that therefore the two cable companies co-produce the OHL series as a whole. It seems highly implausible that the Sudbury Wolves Head Coach would produce the home games (which are live) or exercise creative control. Similarly, he does not appear in a “predominant” portion of the program. The “home” games claimed as “access” account for 4.8% of the program schedule.

If we subtract these numbers from the 40% access content claimed for the week:

<b>Sudbury</b>
40% (claimed by Eastlink) minus:
- 9.6% Q92
- 5.8% Sudbury city council
- 10.1% About Town
- 4.8% OHL home games
<b>Net Access Content: 9.7%</b>

The net access content is 9.7%, well below the 30% threshold.

Additional Comments: Sudbury

When we examined the logs, we found only 52 programmed hours of moving video in the week. Other than the radio morning show, programming doesn't begin most days until 4 or 5 in the afternoon. Considering Sudbury's population of approximately 157,000, we would estimate the community channel budget available at just under \$600,000, which would be plenty to stimulate a full roster of community production if community resources and creativity (i.e. volunteers) were really being used.

## COGECO

After examining the logs submitted by Cogeco for Hamilton and Drummondville, we conclude that the licensee:

- *Fails to meet the access minimum for Hamilton.*
- *Fails to meet both its local and access minima for Drummondville.*
- *Appears to be producing no content in Grimsby and St. Catherine's (zoned with Niagara), despite the company's claims to the contrary*
- *Appears to be producing no content in or for Leamington, which has been zoned with Windsor.*

The company also:

- Appears to exercise restrictive access policies in Hamilton.
- Relies heavily on network templates for production, even claiming that some local versions are "access".
- Relies heavily on commercial content and formats (radio replays, reviews of commercial products)

### Cogeco's Cover Letter

In its letter of July 13, 2011, Cogeco responds to our observation that in late January of 2010, more than 50% of the program schedules of a number of communities appeared to be identical (when in fact the regulatory minimum is that they should be 60% unique). We stand by our assertions that in January of 2010 when we compared schedules for the communities listed in section "A" of Cogeco's response, that the programming schedules for many of these communities' were virtually identical. We note that Cogeco has program descriptions available now that support the company's assertions that there are regional versions of programs having the same name (such as The Source). While nothing in current community channel policy precludes cable companies from having regional versions of the same programs, we reiterate that it demonstrates a network and top-down approach to programming that is inconsistent with the hyperlocal and community-reflective mandates advocated by the Commission. The latter emphasizes the importance of alternatives approaches, and community-reflective content. Do regional or province-wide community-advisory committees have input to these network formats within which they are expected to produce programming at the community level?

Nonetheless, a casual comparison of these schedules in Nov. 2011, as we write, suggests that Cogeco may be meeting the 60% minimum for these communities now.

It does, however, continue to be true that most of these communities see community bulletin boards until late in the afternoon. Without reviewing the logs (which were not requested as part of this audit process by the CRTC), it's difficult for us to come to any conclusions about likely proportions of access content.

Regarding section C of Cogeco's reponse, without logs and based on the programming schedule currently posted for the Niagara system, we can comment on paragraph 14 in which Cogeco states, "TVCogeco serves the region, which is highly integrated in political, organizational, and social aspects, but also ensures that Grimsby and St. Catharine's are served through content specific to those communities". If we examine the posted online schedule for Niagara this week (Nov. 19-26), we find the following programs: *Port Colbourne Council*, *Fort Erie Racetrack*, *Behind the Ballot*: (featuring the Niagara Falls riding), *Taking Niagara by Storm*, *Paranormal Niagara*, the *Comic book Syndicate* (from Windsor), *OHL: Ice Dogs* (Niagara vs. Barrie Colts), *Info Health* (no contact info), *Classroom Crayons* (no contact name provided, nor info about where it's from), *Life with Balance* (Niagara). None of the programs have contact information for producers. *The Source* is described as "events and issues affecting residents of Niagara". We could not find any content that appeared to be specific to either Grimsby or St. Catharine's and would surmise that since those licence areas were zoned with Niagara, their subscribers have lost any meaningful community channel service.

We do not agree (as quoted by Cogeco in Decision 2007-263) that "The proximity of the municipalities in several of Cogeco's proposed zones would ... allow residents to be better informed of the activities and events taking place in their community." The reverse appears to be true and is logical. We would ask, was there a community advisory committee in Grimsby and St. Catharine's that requested that their communities be part of a zone? Do Cogeco's cable subscribers from Grimsby and St. Catharine's currently sit on a community advisory committee for the Niagara zone so that they might monitor and give feedback about the amount of relevant programming produced for Grimsby and St. Catharine's compared to what used to be produced prior to the zoning decision? We would recommend that such a committee be invited to Cogeco's next licence renewal hearing for comment. These decisions are being made by cable companies according to business imperatives, without input from the communities and cable subscribers affected by their decisions.

We likewise note that when we examine the programming schedule for this week online (Nov. 19-25, 2011) for Windsor, which has been zoned with Leamington, we cannot identify a single program that appears to deal with topics specific to Leamington: OHL games feature the Niagara Ice Dogs and the Windsor Spitfires (is Cogeco claiming this game as "local" to both licence areas?), *Comic Book Syndicate* appears to be taped in Windsor (and reviews comics produced primarily outside of Canada) University of Windsor sports, *Mediaplex* is produced by students at St. Clair College in Windsor, Windsor City Council, *Today's Windsor*, *Sports Den's* host lives in Windsor and commentates on Windsor sports teams, the host of *Let's Talk* (a children's/youth program) lives in Windsor, and the show is presumably taped there since Cogeco maintains no production facility in Leamington, and so on. While the ethnic programs *Panorama Italiano* and *Passatempo* do appear to have their roots in Leamington, both appear to be taped by independent organizations with no assistance from Cogeco in Windsor. The web site for *Panorama Italiano* says the program has been on the air since 1984. It therefore would appear that the Cogeco production facility in Windsor gives almost no identifiable support to coverage designed for its cable subscribers in Leamington.

The clear pattern that has been demonstrated in Pickering-Oshawa, Leamington-Windsor, and Tilsonburg-Woodstock is that when zoning occurs that permits regional production facilities to close (or if no such zoning occurs but the facilities are closed anyway), those communities lose all meaningful access to “a community channel”. They instead gain access to a regional service that may have little to no content produced for the immediate community. We note that when Cogeco’s Grimsby licence area was audited by the CRTC in 2003 (prior to being subsumed in a zone with Niagara), the auditor noted that the licence area had “**100% local**” programming.

### **Hamilton**

We were, however, able to examine the log for Hamilton, which Cogeco’s *Log Categories Summary* document states is 39.1% access, and 91.6% local.

We noted:

- In the week in September in which we examined Cogeco’s web site for its Hamilton community channel, the latest schedule posted was for July 18-24, and out of date.
- Each segment of the program *Hamilton Life* is claimed as category B, “assisted access”, yet the log shows a different “Producer” and “Community Organization” for each segment, strongly implying that they are actually the subjects of the segments, not producers of the program, and cannot possibly appear in “predominant” roles through the whole program. The producer listed for the first segment, (also claimed as “B” or “access”) is Linda Rourke, a Cogeco staff person. Linda is identified as the program’s actual producer on the company’s web site. This 30-minute program was replayed at least 15 times per day (more than 100 times total) during the audited week and accounts for 26% of the programming schedule.
- Games of *GOJHL* (the Greater Ontario Junior Hockey League) are claimed as category “B” in the log. The “Community Organization” listed is the Stoney Creek Warriors (Hamilton’s for-profit team, owned by Ron van Kleef). The “Producer” given in the log is Ric Nattress, the team’s General Manager and Head Coach. Since these games are broadcast live, it’s hard to imagine that the Head Coach is really the producer in any meaningful sense, that he hosts the program, or that he is exercising personal self-expression by airing this program. We note that no sporting programs are listed among the “Cable 14 Community-Access” programs on the Hamilton channel’s web site. This two-hour program is played 7 times during the audited week and accounts for 8% of the program schedule.
- Segments of the *FTR Show* (described as current affairs) is classed sometimes as “A” (licencee-produced) and sometimes as “B” (access). Even the same segment repeated at different times during the week may be classified sometimes as “A” and other times as “B”. In all cases, the Producer listed is Mike Cameron, a Cogeco employee and the “Community Organization” listed is Cable 14, like the other “A” (licencee-produced programs). For example, the segment beginning at 14:30 p.m.

on March 7<sup>th</sup> is listed as “B”. Such misclassified segments account for 0.4% of the programming schedule.

- A segment named *Feature: Christian Corbet* (Christian Corbet is an artist) is listed as produced by Cogeco staffer Mike Cameron, and the “Community Organization” lists Cable 14, yet the segment is claimed as “B” or “access”. This segment accounts for 0.1% of the program schedule.

Our estimate for access content on this channel is therefore:

<b>Hamilton</b>
39.1% (claimed by Eastlink) minus:
- 26% Hamilton Life
- 8% GOJHL hockey
- 0.4% FTR Show
- 0.1% Feature: Christian Corbet
<b>Estimated Net Access Content: 4.6%</b>

We note that not one single program falls into category “C” or unassisted access. The company’s web site notes that Cogeco has 150,000 subscribers in its service area, which translates into an access programming budget of over 2 million dollars, one of the largest community programming budgets in Canada. Given how easy it is for individuals to shoot and edit content with today’s equipment unassisted, we find it telling that not a single individual in a city the size of Hamilton has come forward to Cable 14 with a program for playback. Our conclusion is that the channel’s access mandate is not being advertised.

#### Access Discrimination in Hamilton

In fact, we noted several irregularities in the way the access opportunities are presented on the channel’s web site. In the section on “How to Volunteer”, the web site states:

- *“To submit a proposal, please include an outline of the program along with information on how this would benefit the community and what you as the “community producer” would be able to provide in terms of promotions, sponsorship.”*

CRTC 1992-39 (the Community Channel Standards still in force) state that “Access shall not depend on the availability of a sponsor or on any other form of outside financial support. “

- *“On-air volunteer opportunities are limited, but if you'd like to host or be a panelist for a current program or suggest a new opportunity please submit a demo tape or a letter outlining your qualifications and hosting experience to the address below.”*

It would appear that opportunities for being seen or heard on Cogeco's Hamilton channel are limited to those with prior television experience, not the general public and average cable subscriber who funds the channel.

### Additional Comments: Hamilton

Finally, for a city of this size, there simply isn't much new content in a week: little more than repeats of *Hamilton Life* (which likely consumes most of the staff resources as a news magazine), hockey, the current affairs program *FTR Show*, and a segment that appears to be genuine access entitled *What's Up Hamilton* which is stated in the log as being produced from Humber College. Virtually the same programming (with multiple repeats) is presented every day.

### **Drummondville**

Cogeco states in its Response document that it produces 59.38% local programming (slightly under its regulatory minimum of 60%) and 33% access content in its Drummondville licence area.

### Local Content in Drummondville

- More than twenty station IDs and promos per day which are acknowledged in the log as originating with Cogeco's Trois-Rivières undertaking are nonetheless categorized as "A", local in Drummondville. They account for 0.6% of the programming schedule for the audited week.
- *Les-Rendez Vous Sportif*, played on Friday in the audited week, is acknowledged in the log as originating in Cogeco's Trois-Rivieres licence area, yet is also categorized as "A", local in Drummondville. It accounts for 2% of the programming schedule in the audited week.
- Despite Cogeco's claim in its Response document that the program *Autrement Vu* is a local version of a network template, Cogeco's press release at the launch of TVCogeco's 2010-2011 programming season (during which the audit was undertaken) described the program as a Quebec-wide production with only inserts by local journalists: "*Animée par Claude Bergeron, **Le Québec autrement vu**, est une émission d'information présentée en collaboration avec les différents journalistes de TVCOGECO à travers la province afin que vous soyez toujours à l'affut de l'actualité.*" It therefore cannot be considered local only to the Drummondville licence area. The full press release can be found at <http://bravo-magazine.ca/tag/tv-cogeco/>. This 14-minute program is played 31 times in the audited week and accounts for 6.8% of the programming schedule.
- Another version of this program, with the full title *Quebec Autrement Vu* (28 minutes long) is played on Thursday of the audited week. It is noted as originating from

Cogeco’s Alma undertaking, yet is categorized as “A” access. This accounts for an additional 0.5% of the programming schedule

The following table is therefore our estimate of TVCogeco’s Drummondville content for the audited week:

<b>Drummondville</b>
59.38% (claimed by Cogeco) minus:
- 0.6% promos/lds produced in Trois Rivieres
- 2% Les Rendez-vous Sportif
- 7.3% Autrement Vu
<b>Estimated Net Local Content: 49.5%</b>

Access Content in Drummondville

- While it may be true, as stated by Cogeco in its response document—that episodes of *Tel Quel* and *Connecté* are locally produced versions of Cogeco network templates (and that they therefore should qualify as category “A” productions that contribute to the 60% local requirement), we do not agree that the company can simultaneously claim that a network template could possibly be category “B” or “access”, since community members clearly did not come up with the concept, even though they may appear on the programs as subjects.

In the case of *Tel Quel*, we note that the “Réalisateur” provided for the program in the log is Robert Guay, an employee who is also listed as the Réalisateur for “A” category content originating from the Drummonville studio. On the “Accès” tab in Cogeco’s Excel log, the party provided access is given as “services des sports du Collège de Drummondville”. However, when we view a clip of the program on the company’s web site here <http://www.tvcogeco.com/drummondville/galerie/emissions-2011/3657-tel-quel>, the graphic opening implies that the program offers coverage not just of “Sports”, but also “Des Spectacles”, “Les Festivals”, “Les Événements”, and “Votre Région”. The particular clip being played on Nov. 29, 2011 is shot in a bowling alley, and doesn’t appear to have anything to do with the Collège de Drummondville. The sports department may sometimes be featured in the “Sports” subsection of the program, but is unlikely to be producing the program as a whole.

We therefore believe that *Tel Quel* has been misclassified as a “B” production and should be “A” (local, but not access). This 14-minute program is replayed 18 times in the audited week and accounts for 3.5% of the programming schedule for the week audited.

We would similarly question whether three other Cogeco programs are really “access” programs:

- *Folklorhythme* may feature bands and be shot at Village Québécois d'Antan in Drummondville, but it is in its fifth year of production, which is a Herculean effort and

extremely unusual for genuine volunteer producers to sustain. We note that clips from episode 6 are posted online at [http://wn.com/Bernard\\_Longpr%C3%A9](http://wn.com/Bernard_Longpr%C3%A9) and state that the “Equipe de Production” included Danny Gamelin as the cameraman and Pier-Olivier Bernatchez, both employees of Cogeco (Dany is listed on the company’s web site as an employee of Cogeco in Drummonville, and Pier-Olivier is given as the producer for *Quand On Aime Le Monde*, so we presume he is a past employee). No other community member is listed as having any technical or creative input to the program. This interpretation is consistent with how Cogeco describes the production on its web site. The company says the show is “dedicated” to local musicians, taped at the Village Québécois d’Antan, and hosted by Michel Morin. Nowhere does it say the Village or Michel produce or initiated the idea for the program; nor is there any mention of the program on the web site for the Village, which one might expect if it was a Village-led project.

Finally, the log states that Pierre Desroberts is the producer for the program. According to Cogeco’s web site Pierre Desroberts in fact the “Technicien production” at Cogeco’s Magog production facility, not even within the Drummondville licence area. This raises the question whether the *Folklorhythme* series (acknowledged by Cogeco in its Response document as being played across several licence areas) is really a regional, not a local production, and given the fact that it showcases musicians from across Quebec. This half-hour program is replayed 5 times and accounts for 2.4% of the production schedule.

- The hosts of both *Quand on Aime Le Monde* and *Zone 20-55* are professional journalists. Séline Prevost, who works for NRG92 (owned by Astral Media) and Jean-Pierre Boisvert, who works for l’Express (owned by Transcontinental Medias) host the two programs respectively. Their status as professional journalists is used to advertise the programs in company press releases and on their web site. We would therefore be interested to know whether they are being paid by Cogeco. If so, these programs cannot be classified as “B” access.

We further note that in both cases, these programs are described as being hosted by these individuals, not produced by them. The producer given in the log for *Quand on Aime Le Monde* is Pierre-Olivier Bernatchez (the same presumed Cogeco employee who did sound on *Folklorhythme*) and the producer given in the log for *Zone 20—55* is Robert Guay, the same Cogeco employee who produces *Tel Quel*. While one could make an argument that the professional journalists who host these programs are volunteering their time to get television experience (if they are not paid) and might be more than just hosts, it’s a stretch, and we would still question whether they are really “access” productions. Members of the general public are not being given opportunities for self-expression. Both programs are examples of the professional media keeping opportunities in house.

We would therefore estimate that the true access content produced in Drummondville would be closer to the following:

<b>Drummondville</b>
33% (claimed by Cogeco) minus:
- 3.5% <i>Tel Quel</i>
- 2.4% <i>Folklorhythme</i>
- 1.1% <i>Quand On Aime Le Monde</i>
- 3.3% 20-55
<b>Estimated Net Access Content: 22.7%</b>

Additional Comments: Drummondville

As a final observation, we found it interesting that Cogeco included a column that identified whether a program is new (“1er diffusion”) or a replay (“reprise”). We note that virtually the entire schedule is replays. Of the few first-run programs, approximately half originate outside the licence area or belong to the “C” category: church masses produced without Cogeco’s assistance. The only new programming for the week produced or assisted by staff included:

- two 14-minute programs on Tuesday (*Tel Quel* and *Connecté sur Drummondville*)
- two 14-minutes programs on Wednesday (another *Connecté* and an *Autrement Vu*)
- two 14-minutes programs on Thursday (another *Connecté* and *Zone 20-55*)
- and another 14-minute *Connecté* on each of Friday and Saturday.

In total, the 6 staff of Cogeco’s Drummondville facility (according to the company’s web site) produce just under two hours of new production per week. With a population of roughly 70,000, we would estimate that Cogeco has fewer than 20,000 subscribers, retains 5% of its revenues for community programming, and has a community programming budget of somewhere in the neighbourhood of \$665,000. This is generous by world standards. Using a true access model in which scarce staff resources genuinely facilitate voluntary production by community members, we might expect at 20-30 hours of original production per week.

As we have commented elsewhere, attempting to deploy a predominantly professional model of production (70% for the audited year versus 30% access production) is an inefficient use of the scarce resources that are supposed to be allocated for communities’ self-expression.

## VIDEOTRON

Videotron was not included in our January, 2010, on-line comparison of cable community TV channel program schedules. We restricted our attention to channels in English Canada since Quebec community producing groups are well-represented by the Fédération des télévision communautaires autonomes du Quebec, which had prepared its own submission to 2009-661.

However, we had heard anecdotally that Videotron, like cable companies outside Quebec, is offering what amounts to a province-wide service under the Vox brand, with only occasional local insertions.

After examining this licensee's logs, we therefore made inquiries with members and associates inside Quebec and are of the view that Videotron:

- Does not meet the terms of its exemption orders in Cowansville, Waterloo, and Coaticook
- Does not meet the 30% and 60% access and local minima in Granby or Saguenay
- Does not meet the 30% access minimum in Sherbrooke

The company also:

- Uses network models for programming across the province, sometimes even claiming local versions as "access" productions.
- Gives priority time slots to network programming from Montreal. Local and access productions are relegated primarily to non prime-time.

### **Granby-Waterloo**

We note that Videotron in its letter presents Granby, Waterloo and Cowansville as if they are part of the same licence area. In fact, it is our understanding that they are three different licence areas, and each belongs to a separate municipality with its own municipal council. Our understanding is therefore that Videotron is expected to:

- Generate 60% content that is unique to Granby in the Granby licence area.
- Spend 5% of the revenues collected in the Waterloo licence area (which qualified under exemption order 2010-87) on community programming specific to the Waterloo licence area.
- Spend 5% of the revenues collected in the Cowansville licence area (which also qualified under exemption order 2010-87) on community programming specific to the Cowansville licence area.

## **Cowansville**

We could not see that any programming on the schedule for the week in question was produced in Cowansville, and therefore conclude that Videotron is not meeting the terms of its exemption order, unless it maintains a separate head end or programming line-up in that community, of which we are unaware.

## **Waterloo**

While we do not have access to Videotron's revenues and subscriber numbers for Waterloo, if we estimate the number of subscribers at 3500 (correct in 2007) and an average cable subscription of \$792/year, the revenues for the Waterloo (exempted) licence area might be in the order of \$2,772,000. Five percent of this number is \$138,600. Since all programming playing on this regional Granby-Waterloo-Cowansville service that originates in Waterloo appears to be supplied by the Télévision Communautaire de Waterloo (as acknowledged by Videotron), we checked with TVCW and were told that TVCW receives \$47,000 per year from Videotron. It would therefore appear that Videotron is spending just over a third of the revenues it is obligated to spend in order to exempt the Waterloo licence under 2010-287.

## **Granby**

When we remove the programming produced by TVCW in the Waterloo licence area (roughly 32% of the programming week) from the "local" and "access" figures provided in the Granby log, we are left with only about 14% access production for the week in question and about 47% local production, both well below the 30% and 60% required as a standard condition of Granby's licence.

Videotron in response to question 1 in its document entitled *Renseignements Pour VOX Granby* states, "VOX opère le secteur de Granby en collaboration avec Télévision Communautaire de Waterloo". When we asked TVCW whether the channel is operated "in collaboration", TVCW staff told us [we paraphrase from French], "They administer the channel and make all the decisions. We used to have meetings with them and complain about the hours we were given for the playback of our programs, and were always told that scheduling decisions were made in Montreal. Finally, we presented them with a complaint regarding the fact that our programs aren't played nearly as often as Vox-produced programs in prime time. Here's what we recorded from the 24<sup>th</sup> of January to 17<sup>th</sup> of April, 2011":

	Vox Network Programming (half hours)	Vox Granby Programming (half hours)	TVCW Programming (half hours)
Midnight – 9 a.m.	1	58	61
Noon – 7 p.m.	37	45	17
7 p.m. – 11 p.m.	36	5	1

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The TVCW's programs were played back predominantly overnight, and the preponderance of prime-time slots went to Vox programming from outside the region. We don't believe this is in keeping with the updated community TV policy, which makes it clear that access productions are to be treated on an equal footing with licensee-produced programming in prime time.

The fact that TVCW is producing almost a third of the programming produced throughout this three-community system also begs comment. The TVCW receives just over one third the 5% community programming budget that Videotron is meant to be spending in Waterloo to qualify the Waterloo area (roughly 3500 subscribers) for exemption. If it were even allowed to use the TVCW's programming to make up the lion share of its Granby (not to mention Cowansville's) access programming in addition, (32% out of the 46% claimed), we would expect TVCW to be receiving the lion's share of the access programming expenditure in Granby, but this is not the case. The \$47,000 TVCW receives is the total the TVCW receives, despite the fact that it is our understanding that Granby has more than 20,000 subscribers (which translates into over \$15 million in annual revenue, and a programming budget of \$304,000, and an access budget of \$91,400). There is no further allocation that might recognize the TVCW's contribution to the "access" claims for Granby.

If we turn now to the logs to examine the remaining "local" and "access" programming claimed by Videotron in Granby, we find that the remaining roughly 14% of 'access' content can be attributed to just two programs: *Adrenaline* (a 30-minute sport magazine) played an incredible 33 times in one programming week, and a half-hour church mass played 5 times. We frankly fail to see how Vox in Granby could spend \$91,400 (the entire access budget) on one series and church masses.

We believe it's relative to comment that just like Eastlink, Vox approaches 'community programming' in the province of Quebec in network-like fashion. We were informed by various community producers in Quebec that the local program (one of the very few, and replayed 20 times in the week in question) entitled *Mise à Jour* plays across the province using a network format designed in Montreal. Regional Vox channels are told to find a local host and to fill it with local stories. Regional episodes are then rated by Vox network employees in Montreal, applying a province-wide standard. While there's nothing in community channel policy that forbids licencees from producing programming on a network model (as part of the licensee-produced portion of content), we nonetheless believe this is a far cry from the individualized and community-reflective ideal that the CRTC intended with its policies.

At least one other program seen on Vox channels (*Lezarts*, an artistic and cultural review program) appears also to be produced along a network model.

## **Sherbrooke**

### Local Content in Sherbrooke

Videotron states in its *Renseignements* document that programming from Sherbrooke is distributed throughout not only the Sherbrooke licence area, but also Coaticook, Lennoxville and Fleurimont. The company notes that each community receives programming specific to the community, according to revenues collected in each community.

Videotron was granted an exemption under 2010-287 for Coaticook, meaning that it is required to spend 5% of the revenues collected in the Coaticook licence area on programming specific to the licence area, even if distributed on a regional service.

We note that Lennoxville and Fleurimont do not appear to have been exempted, but they're part of the municipality of Sherbrooke. While this allows Videotron to classify programming produced in any of the three as "local" in the logs for Sherbrooke (in order to meet the 60% requirement), we have twice verified with CRTC staff that Videotron must nonetheless demonstrate that the revenues collected in the Fleurimont and Lennoxville licence areas are indeed deployed on programming specific to those licence areas, as is acknowledged by Videotron. Based on population statistics, we assume that Videotron has fewer than 20,000 subscribers in these two burroughs, and retains a full 5% of revenues on Canadian production on the provision of community programming for these communities.

When we examine the Sherbrooke log, however, we found it difficult to determine whether programs were produced in Lennoxville, Fleurimont or Sherbrooke, because they're close together geographically and the logs don't provide this information. e.g. an episode of *Mise à Jour* described as dealing with the topic "L'offre de Ski a Sherbrooke" may deal with skiing opportunities in Fleurimont and Lennoxville as well, as they're part of a single unbroken urban area. Videotron does not offer this information in its *Renseignements* document either. It simply states that it produces "65.16% produit uniquement pour la communauté en question" (presumably Sherbrooke, the subject of the audit). We would suggest that the CRTC ask for the breakdown for the four licence areas.

However, we can say that we could find no evidence of programming produced in the audited week for Coaticook, which is 31 kilometers away from Sherbrooke, not part of the same municipality, and not part of the Sherbrooke greater urban area. It would appear that Videotron may be in violation of its exemption order for Coaticook, unless it maintains a separate head end there, or distributes a different cable channel line-up, or just happened to have nothing produced in or about Coaticook for the week in question. We note that Coaticook's population is roughly 13% that of Sherbrooke and the licence area is expected to devote the full 5% of revenues to programming compared to 2% in Sherbrooke, so we might have expected that 1 in every 4 or 5 programs would deal with Coaticook. This is not apparent in the log in question.

## Access Content in Sherbrooke

It's easier to assess Videotron's logs with respect to access content:

- *A Coeur Ouvert*, is stated to be Walter Trudeau, who also produces *Mise à Jour* and *Lezarts*, the local versions of two of Vox' network series. We therefore presume that he is a staff member. When you click "Equipe" for this program (the crew), it says the "Animatrice" is Martine Pelletier, but when you click the envelope to send her a program idea, it goes to [sherbrooke@voxtv.ca](mailto:sherbrooke@voxtv.ca). While it's possible that Vox redirects mail to the real community producers, it introduces a delay in communications that would be unworkable if these individuals were really the show producers and wanted to incorporate feedback from viewers or story ideas into upcoming programs. The party listed in the "Soumis par" column in the log is cut off. This half-hour program is replayed 11 times during the week and accounts for 3.3% of the programming schedule.
- *L'Entrepreneuriat* is said to be produced by Roger Pelletier, also a staffer. Two "Animatrices" and three "Chroniqueurs" (hosts and commentators respectively) are listed as part of the production crew, but when you click the envelope to contact any of them, you are taken again to [sherbrooke@voxtv.ca](mailto:sherbrooke@voxtv.ca). In the log, the "Soumis par" column gives the two "animatrices" as the submitters. It's not clear whether we are supposed to think these are the "parties provided access", as referred to in the regulations. As with *A Coeur Ouvert*, we presume that this program is really driven by Roger Pelletier, the staff person responsible for the show. This program is played 22 times during the audited week and accounts for 6.5% of the programming week.

If we subtract the figures for these two programs from the 34.84% of the programming schedule that Videotron claims to be "access", we are left with 25.04%, well below the expected access threshold.

The only other programs claimed as access in the audited week include daily church masses, and *Qui Décide*, produced by students at the University of Quebec. It's disappointing that within four licence areas, so few programs have direct contributions from the public (fewer than one per licence area!) Like Cogeco in Hamilton, there isn't a single "C" category program in the schedule (produced unassisted by the licensee), which would be surprising if Vox were really publicizing the access mandate of its channels.

## Additional Comments: Sherbrooke

We can also validate TVCW's claims from the Granby-Waterloo area that scheduling decisions appear to be made in Montreal, in that Vox Montreal programming is scheduled predominantly in prime time (5 nights out of 7), while local programs (access or licensee-produced) tend to be relegated to late time, mornings, and afternoons.

## **Saguenay**

Videotron's *Renseignements* document states that the company produces 60.4% content local to the Saguenay, of which 40.9% is "access".

### Local Content: Saguenay

- Five hours of programming originating from Vox in the Lac St. Jean/St. Felicien zone are claimed as "C" (access unassisted by the licensee) and account for 3.3% of the program schedule. If we subtract this 3.3% from the 60.4% local percentage claimed by Videotron, the company no longer meets the 60% minimum.

<b>Saguenay</b>
60.1% (claimed by Videotron) minus:
- 3.3% Vox Lac St. Jean
<b>Net Local Content: 56.8%</b>

### Access Content: Saguenay

Aside from the Vox Lac St. Jean/St. Felicien productions claimed above as both local and access which we believe are neither, in addition the following programs are claimed as access which we believe are misclassified:

- A number of production stated as coming from "Dery", "Dery Productions" or "Video Dery" are stated to be "C", access productions (unassisted by the licensee). Yet when we investigate Video Dery, it is the production arm of Dery Telecom, the BDU operating in Ville de la Baie. Therefore, its productions should be classed as "D" (or possibly "A", since Ville de la Baie is part of the Saguenay municipality), but not "C". Such productions fill 30.5 hours of programming in the audited week and account for 10.1% of the program schedule in the audited week.
- The one-hour program *L'Heure des Quilles* is claimed as "C" (access unassisted) yet the originating undertaking is acknowledged to be Cogeco (in Alma, a different licence area). The program is replayed three times and accounts for 2% of the programming schedule in the audited week.
- The program *Place au Maire*, which is hosted by Saguenay's mayor, is described as access unassisted by the licensee ("C"). If you click "Equipe", the mayor's name is given as the host. When you click the button to the right of the name to contact him, as in Sherbrooke, you are given an e-mail address that is generic for the channel (saguenay@vox.ca). When we spoke to Suzanne Larouche, the individual listed as the "Réalisateur" of the program in Videotron's log (an employee of city, given as a "conseiller de communication" on the web site), she said she didn't know anything about the program, and that an assistant would get back to us. No one did. We therefore question whether this program is really an "access" program on a couple of counts and suggest that the Commission may wish to investigate further.

- The version of Lezarts (presumably unique from the ones on the Videotron logs in the other licence areas) aired in the Saguenay licence area is classed as “B”, or access assisted by the licensee. Since this is a Vox-company initiated program with a centralized format, we don’t see how a community member can be meaningfully driving its content. This program was replayed 23 times during the programming week and accounts for 7.6% of the schedule.
- The program *Fondation Place du Royaume* is given as “B” (access assisted by the licensee), but when we click the “Equipe” button on Vox’ web site to find out about the production team, it just says “Vox Saguenay”, not “Fondation Place du Royaume”. We note that the “Réalisateur” given in the log appears to be a staff member, Réjean Potvin (he also produces the program *Question de Répondre* and *Viactive Activités physiques* according to the company’s web site).

If we subtract the access percentages claimed for the programs we are pretty sure aren’t really access (Video Dery, Vox Lac St. Jean, L’Heure des Quilles, and Lezarts), the access total remaining is 14.8%. We leave question marks regarding *La Place au Maire* and *Fondation Place du Royaume*.

<b>Saguenay</b>
40.9% (claimed by Videotron) minus:
- 10.1% Video Dery
- 3.3% Vox Lac St. Jean
- 2% L’Heure des Quilles
- 7.6% Lezarts
<b>Net Access Content: 14.8%</b>

Additional Comments: Saguenay

As in Sherbrooke and Granby-Waterloo, prime time is predominantly used to replay Vox-Montreal programming, rather than either access or local programming.

We note that the issue of accessing prime-time slots was raised as an issue not just in the Waterloo-Granby area by the TVCW, but also by the TVLDM-9, the TVC operating in Dolbeau-Mistassini (the licence area to the northwest of Saguenay, with whom Videotron appears to be sharing programming extensively). TVLDM in Dolbeau-Mistassini had complained to Videotron in 2006 about accessing a live feed in prime time. As the Commission is aware, live feeds are central to the interactivity and immediacy that characterizes true community media.

According to the TVLDM, Videotron at that time produced almost nothing in the Dolbeau-Mistassini licence area, but were instead exporting programming from nearby St. Felicien into the area (just as they are using Lac St. Jean programming and calling it local to the Saguenay-Chicoutimi licence area in this audit). When the TVLDM

threatened to apply under the 60% rule for their own cable community programming licence so that they could go live in prime time at will (and which would have qualified them for 5% of Videotron's revenues in the Dolbeau-Mistassini licence area), Videotron responded by applying to the CRTC to zone St. Felicien and Dolbeau-Mistassini together, so that individualized programming for Dolbeau-Mistassini would no longer be a condition of licence.

We raise this to provide the Commission with a full picture of how the gradual and inexorable regionalization of community channel content has been occurring in the Saguenay-Lac St. Jean region.

## CONCLUSIONS

Based on these findings, we do not see that across the country as a whole there have been improvements in either the accessibility of cable community channels by citizens, or in the localism of the content since the new policy 2010-622 was introduced, nor since the series of audits conducted by the CRTC between 2002-2005. Our complaints about both these issues stand. Specifically:

- More often than not, cable companies are not meeting the 60% local criteria, particularly where studios have been closed and the licence area is expected to be served by a production facility in another licence area. Instead, we see network versions of programs being played over a wide area, or localized versions of network concepts.
- Most cable companies are not meeting the 30% access criteria for the 2010-2011 programming year. There is widespread misreporting of content as “B” (access, assisted by the licensee) when there is little to no evidence that individuals or organizations in the community drive the content. Many such programs are long-running series that are clearly staff-directed, where hosts may change from year to year, and the subjects of individual segments are claimed as the parties provided with access, a practice that was discredited in the CRTC’s previous round of audits in 2002 through 2005. We therefore conclude that cable companies are unreliable as far as reporting on their own performance and ability to meet community channel regulations, goals, and policies. We question whether the proposed “Access Code of Best Practices” is likely to be effective to govern licensee relationships with members of the public, if licensees can’t be relied upon to report accurately to the federal regulator.
- There are very few “C” productions (access, unassisted by the licensee), when we might reasonably expect this category of content to be exploding. Anyone can produce a TV program with a camcorder and home editing system. So where are these programs? What communities need are training and support to produce them, and a distribution outlet. We believe the extremely low numbers of such programs are evidence that cable companies are not promoting the access opportunities available on their channels.
- While not specifically precluded by regulation, there is widespread collaboration among commercial media enterprises. Cable community channels either televise local commercial radio content in their entirety, or recruit media personalities from other platforms to host their ‘community programs’. Programs that review commercial and entertain products that originate outside the licence area and Canada are also common (e.g. cars, video games, movies). This is just one of many indicators that cable community channels see themselves as part of the professional and commercial media universe where volunteer input is barely tolerated in order to meet regulatory requirements. Company web sites generally describe staff as “producers” not as “facilitators”. Many employ professional journalists directly to host, anchor and produce their core programs.

- Among the five licencees' web sites, we did not see a single reference to a community advisory committee, or a way in which the public could directly collaborate or give input to community channel administration, the overall program schedule, or budgetary decision-making.

Not only do we see no improvement since the implementation of the new community channel policy, we see evidence that Canada's community channel system as administered by cable companies continues to deteriorate and will continue to deteriorate. Over the past decade, the main threat to the maintenance of hyperlocal facilities in communities across Canada (of which there were almost 300 in the 1980s and 1990s) was the practice of allowing BDUs to "zone" channels. This is a euphemism for permitting BDUs to close channels in smaller communities and to instead consolidate resources at a regional centre. The CRTC's list of cable licence areas provided prior to the community TV review in 2010 contained just over 1/3<sup>rd</sup> the number of community channels that had existed a decade previously, and the list itself did not indicate which licence areas actually had a local production facility; it was only a list of licence areas that—according to policy—should still have been enjoying a unique programming service.

The newest threat to the remaining cable-administered community channels is the administrative approval process, by which cable companies can effectively "zone" (eliminate) the regulatory requirement to offer a unique community service in an area ***with no public process whatsoever.*** Rogers took advantage of this system in September of this year to eliminate its regulatory requirement to offer a unique programming service in Pickering. We cannot stress enough ***that every BDU request to change a licence boundary implies a policy issue, since a community channel will be affected.***

### Hope for the Future

As we have pointed out on previous occasions, it is actually cheaper now to operate community TV channels than ever before, because production equipment is orders of magnitude less expensive and much easier to operate. Cable revenues since the 1980s have also steadily grown. BDUs can afford to maintain hyperlocal community facilities, even if head ends close and are no longer needed due to cable technical interconnection.

The fact that cable companies do not wish to maintain such hyperlocal facilities and have repeatedly argued at licence renewals for "zoning" (permission to close outlying studios) is the clearest indication that the one-time pairing between cable companies and community television facilities is no longer either effective or appropriate.

Such facilities must be maintained by communities to ensure:

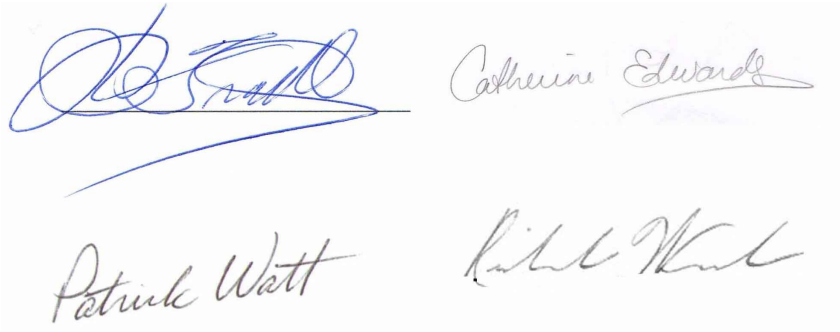
- i) Their long-term stability and viability, so they can't be closed or moved when a BDU's business or technology changes. Communities can maintain community media facilities much more efficiently than BDUs, by collocating them with existing community resources.
- ii) Their availability on all video distribution platforms, not just cable. Cable penetration has dropped from over 80% in the 1980s to about 60%, so cable-only channels cannot function as an effective digital townhall for communities. The output of these channels need to be made available on non-branded platforms, and across all platforms, so that regardless of platform, Canadians can participate together in a single digital townhall if they so wish.
- iii) They serve the community's agenda. Philosophically and legally, "community media" cannot be administered by the private sector, whose goals may have nothing whatever to do with the aspirations of communities themselves. The point of community media is that people learn to use communication tools to build better and stronger communities for themselves. It's more than just community members' occasional access to a camera, or right to hold a microphone. Community media centres are more about collaboratively applying a creative resource to tackle challenges facing the community and to express the community's aspirations than about "producing programs".

By leveraging existing community resources and the creative energies of the whole community (rather than a few cable employees), communities themselves can supply much more efficiently what cable companies (and other BDUs who have proposed regional approaches to "community programming") cannot: on-the-ground, hyperlocal access to training, equipment, and distribution on multiple platforms.

It is our sincerest wish to help both the Commission and Canada's BDUs see their way forward to help us establish a robust, 21<sup>st</sup> century solution to the continuing problem of the "community sector" in our broadcasting system. Rather than dividing up resources among competing BDUs all attempting to offer competitive "community programming" services on one branded and limited platform or another, we need to pool scarce resources in stable community-based organizations that will endure, and make best use of those resources. The result will be creative, hyperlocal programming that can be shared on all platforms, and an enlightened, media-literate population that can participate fully in Canada's digital economy.

We look forward to discussing these findings with all parties affected by them: communities, the CRTC, and industry stakeholders.

Sincerely,



The image shows four handwritten signatures arranged in two rows. The top row features a large, stylized blue signature on the left and the name 'Catherine Edwards' in black ink on the right. The bottom row features the name 'Patrick Watt' in black ink on the left and the name 'Bill Watt' in black ink on the right.

(The Board of)  
Canadian Association of Community Television Users and Stations  
[cactus.independentmedia.ca](http://cactus.independentmedia.ca)  
(819) 772-2862

## Appendix A – Analysis of Programming in Shaw’s New Westminster Log

### **Summary Totals by Production Location      Total program time**

Abbotsford	01:36:12	0.96%
BC	10:11:52	6.08%
Burnaby	04:38:58	2.77%
Calgary	05:37:15	3.35%
Chilliwack	00:06:00	0.06%
Coquitlam	06:58:21	4.16%
Edmonton	00:42:40	0.42%
Kelowna	00:29:20	0.29%
Langley	00:22:30	0.22%
Mission	01:01:06	0.61%
North Van	01:37:18	0.97%
Not relevant – advertising	03:33:37	2.12%
Port Moody	00:37:00	0.37%
Richmond	01:10:36	0.70%
Surrey	01:15:24	0.75%
Unknown	00:42:47	0.43%
Vancouver	126:32:35	75.49%
Victoria	00:00:56	0.01%
Whistler	00:08:00	0.08%
White Rock	00:15:00	0.15%
<b>Total</b>	<b>167:37:27</b>	<b>100%</b>

**Notes: No programming originates in New Westminster**

Information drawn from Shaw Program Logs;  
Detailed analysis available on request