



FILED ELECTRONICALLY

January 25, 2008

Robert A. Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1

Dear Mr. Morin:

**Re: Broadcasting Notice of Public Hearing CRTC 2007-10
Second Phase Comments (“Fee-for-carriage” and “Distant Signals”)**

1. Aboriginal Peoples Television Network Incorporated (“APTN”) filed comments in the first round of the Commission’s review of the regulatory framework for broadcasting distribution undertakings. This submission is limited to commenting on the additional issues subsequently identified by the Commission for comment, namely:
 - the possibility of implementing a “fee-for-carriage” system for over-the-air (“OTA”) television signals; and
 - issues related to distant signals.
2. The issue of a fee-for-carriage for OTA signals was addressed explicitly by the CRTC in the context of its review of the regulatory framework for OTA signals. APTN participated in that hearing. Our view at that time, which remains unchanged now, is that the Commission needs to examine that issue very carefully, in view of the impact that such a fundamental structural change to the manner in which the industry is regulated, could have on all elements of the broadcasting system.
3. In the OTA framework proceeding we identified the following factors as matters that the Commission would, presumably, wish to consider:
 - The opportunity cost of implementing a fee-for-carriage – which would support one element of the broadcasting system – on other elements of the broadcasting system. The concern here is that increasing the cost payable for basic services, for example, could impair the ability of BDUs to make other contributions to the system, such as contributions to independent production funds, or payment of

wholesale fees to other CRTC-mandated services, such as the so-called "9(1)(h) services".

- What is the rationale for compensating OTA broadcasters with a fee for carriage? Is the rationale to compensate those broadcasters for the multiplication of out-of-market signals within their local markets? If so, how do OTA broadcasters differ from other Canadian broadcasters who also face competition for viewers from those same out-of-market signals? Why does one type of broadcaster who faces out-of-market signals receive compensation whereas another type of broadcaster does not?
- If the rationale is to protect the integrity of local broadcast markets, would it be simpler and less disruptive to achieve this same objective through the direct restriction of access of distant signals to local markets, including through DTH undertakings?

APTN continues to believe that these fundamental questions remain open. A fee-for-carriage distribution model for OTA services has the potential to transform the economics of the distribution environment and have a cascading impact on many different players.

3. APTN has reviewed the Commission's determination in *Broadcasting Public Notice CRTC 2007-53*, in which the CRTC reviewed the case put forward by both sides of the debate for and against a fee-for-carriage. The Commission concluded as follows:

[T]he Commission is not convinced that the case has been made for the making of such a fundamental change to the revenue structure of the broadcasting system at this time, or that the proposal would ultimately further the objectives of the Act.

There are two points the Commission makes in this passage that we wish to emphasize.

- First, the Commission has correctly identified the proposal as a fundamental change to the revenue structure for the entire broadcasting system, and not just OTA broadcasters.
- Second, the Commission indicates that an analysis of the proposal should take into account furthering objectives under the *Broadcasting Act* overall. It is not simply a question of replacing revenue that may, or may not, be declining in one sector of the broadcasting industry.

4. APTN remains concerned that a fundamental change in one area of broadcasting policy may have a large impact on other areas – that are not fully appreciated. Moreover, in an environment in which it is argued that new media initiatives are having an impact on the conventional broadcasters' bottom line, does it make sense to increase the cost of those services to Canadians? Couldn't this be expected to increase the Canadian's dissatisfaction with the conventional broadcasting model and means of distribution?

5. APTN does not have the answer to these questions at this time, but we will be reviewing the record of this proceeding carefully to review the evidence submitted by the broadcasters and others that will be most affected by the proposed change. We believe that the onus lies with the OTA broadcasters to justify the imposition of a fee-for-carriage, and to address the potential impact on the broadcasting system overall.

6. APTN looks forward to addressing these points in more detail on the basis of a more complete record in the reply phases of this proceeding.

Yours truly,

A handwritten signature in black ink, appearing to read "Jean LaRose". The signature is fluid and cursive, with the first name "Jean" being more prominent than the last name "LaRose".

Jean LaRose
Chief Executive Officer