



**FILED ELECTRONICALLY**

June 11, 2008

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

Dear Mr. Morin:

**Re: *Broadcasting Public Notice CRTC 2008-44*  
Scope of a Future Proceeding on Canadian Broadcasting in New Media**

1. Aboriginal Peoples Television Network Incorporated ("APTN") is pleased to file these comments in anticipation of a future proceeding on Canadian broadcasting in new media.

**Brief Summary of Comments**

2. APTN supports the Commission's intention to hold a public proceeding to examine new media broadcasting. APTN has the following suggestions regarding the appropriate scope of the proceeding:
  - The Commission should seek broad comment on which broadcasting policy objectives are best suited to new media broadcasting, and whether regulation would assist in achieving these objectives.
  - Having regard to what the objectives should be for new media broadcasting (within the framework of the *Broadcasting Act*), the Commission should ask how these objectives can best be furthered using which (existing or new) regulatory tools (or whether regulation would assist at all).
  - The definition or scope of new media broadcasting is potentially large. APTN believes that it is best to look at the question of the scope of new media broadcasting from the vantage point of what we hope to achieve. Once we have determined objectives, it will be simpler to propose a framework for action (including appropriate definitions) that is attuned to these objectives.
  - Access to new media broadcasting is an important issue. The Commission should request information from the communications providers that control bottleneck facilities to evaluate capacity constraints and any other identified limits to granting access.

- In evaluating the question of access, the CRTC should consider access at the user end of the network. Are Canadians across the country, including Canadians in remote and underserved areas, able to access and contribute new media broadcasting content? Such access has been a pre-occupation in the context of traditional broadcasting, and we believe it should be a concern in new media broadcasting.
- Lastly, APTN supports a broad examination of all broadcasting policy objectives that may be relevant to new media broadcasting. APTN is particular concerned that new media broadcasting, and the opportunities it entails, fully reflect and provide fair opportunities for participation to Aboriginal Peoples.

## Discussion

3. APTN fully supports the Commission's intention to hold a public proceeding to examine the new media broadcasting environment. Moreover, the Commission has identified in its public notice the fundamental question which requires examination at this time:

Fundamentally, it is necessary to determine if the new media broadcasting environment is contributing sufficiently to the achievement of broadcasting policy objectives of the Act and if it will continue to do so.

The Commission has also identified the correct response if the Commission determines that the broadcasting policy objectives are not being advanced sufficiently in the new media environment. Namely, the Commission noted that it would seek ways to support Canadian digital (i.e. new media) content "with tools that embrace the innovation and creativity of the new landscape."

4. APTN believes that the Commission has shown a clear understanding of the fundamental question to be considered in relation to the Commission's jurisdiction under the *Broadcasting Act*, and the need that the response, if a response is desirable to achieve broadcasting policy objectives, be tailored to reflect the nature of the new media environment itself.
5. It is imperative that the CRTC approach these issues directly, and without pre-conceptions from any particular vantage point. For example, it has often been said that the Internet and the new media environment is "beyond" regulatory control. APTN believes that this is an incorrect statement, which is frequently put forward by the largest "new media" companies in their own self interest. APTN submits that the Internet and new media are just as susceptible to appropriate regulation and to appropriate public policy objectives in the public interest as any other form of media. The challenge lies, of course, in determining what is appropriate for this comparatively new technology, and whether regulation would assist in achieving any identified objectives.

## What is the Scope of New Media Broadcasting?

6. Accordingly, with respect to the first general area of questions that the Commission has identified for discussion ("What is the Scope of New Media Broadcasting"), the Commission should, APTN believes, examine all of the areas identified by the CRTC in its public notice. APTN suggests that the CRTC give particular attention to the fundamental issue: is new media broadcasting contributing sufficiently to broadcasting policy objectives?
7. The objectives for the broadcasting system set out in the *Broadcasting Act* are numerous, but they are also tailored to different public policy outcomes. In APTN's case, we are concerned that broadcasting policy be implemented to ensure that Aboriginal Peoples participate, and be reflected fully, in all elements of the broadcasting system, and that the system reflect the special place of Aboriginal Peoples in Canada's society. The new media element of the broadcasting system is no different as far as these objectives are concerned.
8. Accordingly, APTN believes that the Commission should use this opportunity to evaluate which specific broadcasting policy objectives are particularly relevant and can be furthered through new media broadcasting (i.e. what should new media do for us as Canadians?). Once this determination is made, the particular tools to achieve these more focused objectives will be more apparent. It will also be simpler to address the even more vexing question of whether regulation will actually assist to achieve these objectives. Moreover, some of the definitional questions that the CRTC has identified can best be answered once the objectives that we have for new media broadcasting are identified.
9. The point is, simply, that no one has any interest whatsoever in regulation for its own sake, or for "definitions" made without context. The only regulation or definitions that will make sense will be those that are framed with specific public policy objectives in mind. The first step for the CRTC and others, we believe, is to examine the question of which specific broadcasting policy objectives new media broadcasting is best suited to fulfill. Once that question is addressed, the scope of desirable regulatory engagement with new media, if any – and the relevant definitions – will be more apparent.

## Incentives and Regulatory Measures to Promote Canadian New Media Broadcasting Content

10. As noted above, we believe that the first step should be to determine which broadcasting policy objectives can be furthered through new media broadcasting. The Commission's enquiry into whether incentives or regulatory measures would be desirable should follow naturally from the answer to that question. Similarly, the measurement and benchmarking of new media activities will follow from an assessment of what activities are relevant and to be protected or encouraged.

11. The best approach, we believe, would be for the Commission to evaluate the question from the following perspective:

Having regard to the broadcasting policy objectives that new media broadcasting (in its various iterations) is best suited to fulfill, what regulatory incentives and other mechanisms are desirable to achieve these objectives?

The focus needs to be, we believe, on the objectives that we wish to achieve, and the tools, of all varieties, that we are able to use to achieve those objectives.

12. APTN recognizes that our approach to the questions posed by the CRTC is general in nature. However, we believe that it is possible to determine what mechanisms should be used only after we have answered what it is that we want to achieve. Similarly, we won't be in the position to measure elements of new media broadcasting unless we know what it is we are trying to determine and why.
13. It is equally important to frame specific objectives in order to counterbalance the point of view, that has been expressed repeatedly by some larger media companies, that new media broadcasting is somehow "above" regulatory oversight and should simply be left to market forces. Our broadcasting system is focused on cultural objectives and, therefore, the fundamental question to ask is how can new media broadcasting help us to meet those objectives? This is the question that should be put at the forefront. It may be that traditional regulatory intervention will not help achieve these objectives. But, this will be known only after we have identified those objectives.

### **Barriers to Accessing New Media Broadcasting Content**

14. APTN suspects that the question of access to, and for, providers of new media broadcasting content will figure prominently in this proceeding. Questions of access in the this environment are often comparable to similar issues arising in the "traditional" media broadcasting environment. This is hardly surprising since the key players in Canada are frequently the same integrated media companies that control bottleneck communications facilities.
15. APTN supports the Commission's stated intention to examine whether there are practices that affect access to new media broadcasting in general and on mobile devices. Specifically, it will be important for the CRTC in examining questions of access to have before it an adequate evidentiary record of what the capacity constraints are within the new media distribution environment, and how the "bottlenecks" are controlled. Participants that control distribution networks should be asked, therefore, to provide specific information on network capacity and constraints with respect to new media broadcasting. This will allow the CRTC as well as content providers, such as APTN, to evaluate claims that may be made regarding network capacity constraints.
16. The question of access to new media broadcasting content should also involve, we believe, an evaluation of whether new media broadcasting content is now, or can be

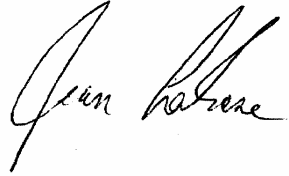
expected to be, made available throughout Canada. In the broadcasting context, the CRTC and other government policy makers have given particular attention to the diversity of broadcasting sources available in Canada's remote and underserved communities. The Commission should, we believe, undertake a similar examination of the availability of new media broadcasting content in all areas of Canada, including in remote and underserved areas. If the answer is "no", and we believe it is important that all Canadians do have such access, then the follow-up question should be, "What policies can be implemented to provide such access?"

### **Other Broadcasting Policy Objectives**

17. It is APTN's view that the CRTC should, with the assistance of participants in this proceeding, evaluate which particular broadcasting policy objectives are relevant to new media broadcasting. All of those objectives are potentially applicable, but it is question of seeking input on which particular objective are the most relevant to, and best fulfilled by, new media broadcasting.
18. For example, as noted above, APTN believes that one of the key objectives in the *Broadcasting Act* is the objective set out in section 3(1)(d)(iii). Specifically, in that section it is stated that the Canadian broadcasting system should, through its programming and employment opportunities, serve the needs, interests and aspirations of Canadian men, women and children, and reflect the multicultural and multiracial nature of Canadian society and the special place of Aboriginal Peoples in that society. This policy objective is, APTN submits, no less relevant in the new media broadcasting context than it is to traditional broadcasting.
19. It would be appropriate, therefore, for the Commission to ask whether new media broadcasting is meeting, or has the potential to meet, this objective. As far as Aboriginal Peoples are concerned, it would be appropriate for the CRTC to question whether Aboriginal Peoples are as invisible within the new media broadcasting environment as they have been in the past in traditional broadcasting. The Commission would then be well placed to consider whether forms of regulation could assist address that issue.
20. APTN believes that this proceeding represents an opportunity for the Commission, and the Canadian public, to begin to develop some stated objectives for new media broadcasting. Until we set out what these objectives are, as we have discussed above, it will be very difficult to frame a regulatory response (or, for that matter, to decide that no response is necessary). All broadcasting policy objectives are, potentially, on the table. This proceeding should be put forward as an opportunity for all Canadians to express their views – without pre-conceptions – on how new media broadcasting can contribute to our society.

21. APTN is pleased to have had this opportunity to contribute to framing the agenda for this important proceeding. We look forward to participating fully in the future.

Yours truly,

A handwritten signature in black ink, appearing to read "Jean LaRose". The signature is written in a cursive style with a large initial "J" and "L".

Jean LaRose  
Chief Executive Officer