CRTC, no longer for sale?

Astral Media ruling reverses rising tide of ownership concentration

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For more than three decades, Canada's broadcasting regulator accepted hundreds of millions of dollars in corporate money injected into the country's media system in exchange for allowing ever-higher levels of ownership concentration. These "public benefits" payments were first mooted by the Canadian Radio-television and Telecommunications Commission (CRTC) in the late 1970s as a *quid pro quo* for approving broadcasting licence transfers. They began to be demanded by the regulator as a means of ensuring some benefit to the public from corporate trading in public frequencies that would otherwise have benefited only the buyers and sellers. Calculated as a percentage of the purchase price of any licenced broadcaster, benefits payments grew to hundreds of millions of dollars per transaction as multi-billion-dollar media takeovers reshaped Canadian media in the 21st century. Public benefits payments – also known as "tangible" or "significant" benefits – came to be seen by media companies as simply the price to be paid for increased corporate size and market power. From the perspective of consumers, however, they came to be seen as a payoff taken by the CRTC for turning a blind eye to rising levels of concentration of Canadian media ownership.

Under the public benefits program, funding was required to be devoted to worthwhile projects, usually programming, before the CRTC would approve a transfer of licence holder. The exact percentage required to be paid was undefined for the program's first two decades and came to be the source of considerable speculation by acquiring corporations, which were left to guess how much to offer the CRTC based on the circumstances (Dunbar & Leblanc, 2007). A licence transfer that increased ownership

concentration significantly or created other public policy issues could require a large benefits package to gain approval. Canwest Global Communications, for example, paid $692 million in 1998 for the Western International Communication (WIC) group of television stations that gave it two licences in each of Southern Ontario and Southwestern British Columbia. Multiple licences in a market were not usually allowed by the regulator, but Canwest gained CRTC approval for the “twin stick” arrangements by offering a benefits package of $84.3 million, or more than 12 percent of the purchase price (Edge, 2007).

At the opposite end of the spectrum, prospective buyers who failed to offer a large enough benefits package could be refused CTRC approval for a licence transfer, especially if the proposed acquisition increased ownership concentration significantly. That is what happened to Power Corporation in 1986 when it sought approval of its takeover of Télé-Métropole. The proposed purchase, which included the TVA network, would have cost Power $97.8 million. It raised concerns over concentration, however, as owner Paul Desmarais already controlled radio stations in Quebec and newspapers such as Montreal’s *La Presse*. Power proposed a benefits package totaling less than 4 percent of the purchase price, so the CRTC denied its application for a change in licence holder (CRTC, 1986).

Concentration of Canadian media ownership accelerated in the 21st century under the paradigm of “convergence,” or multimedia ownership, and began to approach a theoretical maximum, with a handful of giant corporations dominating. The role of public benefits payments in raising ownership concentration to among the world’s highest came to be questioned as a result. The self-serving nature of some benefits payments, which

arguably benefited acquiring corporations more than the public, became an issue. So did the role of academics who benefited from endowments made as a result of payments and advocated for CRTC approval of transactions. Media owners criticized the benefits program as a “tax” and argued for its abolition (Edge, 2013).

The proposed $3.4 billion purchase of Montreal-based Astral Media by Bell Canada Enterprises (BCE) in 2012, however, proved to be a watershed moment in the history of the public benefits program. It saw the CRTC bow to protests and finally put the public interest ahead of financial inducements. Numerous interveners demanded that the CRTC deny the acquisition because of the elevated level of ownership concentration that would have resulted. BCE offered a benefits package worth $241.3 million, which would have been the largest ever. The CRTC denied the application, however, citing concerns over concentration, competition, and vertical integration that were not outweighed by the proposed benefits package (CRTC, 2012a). This article assesses the significance of the BCE-Astral Media case by placing it in the historical context of the CRTC’s public benefits program. Origins of the requirement are explored, notable cases are examined, and criticisms and justifications of the program are weighed.

Benefits origins

The CRTC’s benefits test date to 1977, when the regulator denied an application by Maclean Hunter Cable TV Limited to acquire Western Cablevision Limited. The transfer of control of a licensed broadcasting unit, the CRTC ruled, could result in “additional financial obligations being imposed,” adding that it must be satisfied the transfer would benefit the communities concerned and be “in the public interest” (quoted in CRTC, 1992). Later that year, the CRTC also turned down an application by Western

Broadcasting Company Ltd., which owned radio and television stations in British Columbia, to take over Vancouver-based Premier Cablevision Limited, which was then the country's largest cable television company. Its ruling established that not only did a transaction have to be in the public interest, it also had to demonstrably benefit the public.

> In cases of transfers of ownership and control, particularly one of such significance, the onus is on the applicants to demonstrate that approval of the transfers would be in the interest of the public, the communities served by the licensees, including listeners, viewers and cable television subscribers, and the Canadian broadcasting system. In transactions of this magnitude, there must be significant and unequivocal benefits demonstrated to advance the public interest (quoted in CRTC, 1992).

The CRTC cited the 1968 Broadcasting Act's requirement that the public should be exposed to differing views and to a wide range of programming that reflected Canadian attitudes and opinions, ideas, values and artistic creativity. "The Commission has therefore consistently weighed proposed benefits against the potential for concentration of ownership and concerns regarding any reduction in the diversity of expression available in a market" (quoted in CRTC, 1992). In a series of subsequent decisions, the CRTC encouraged acquiring companies to make their best possible proposal for benefits in a non-negotiable offer for transfer of licensee. Proposed packages were expected to be commensurate with the size and nature of the transaction, and the purchaser was expected to offer benefits comparable to what might have been offered in a competitive licensing process. Yet in its first decade of existence, the benefits requirement was unclear for would-be acquisitors, according to a 2007 review of Canadian broadcasting regulation. "In those early days, because the Commission's benefits policy was evolving on a case-by-case basis, it was not always clear to would-be purchasers of broadcasting

undertakings exactly what the Commission expected of them" (Dunbar & Leblanc, 2007).

> The Commission was loath to suggest that there was a minimum percentage of the overall value of the transaction that would have to be committed by the purchaser toward clear and incremental benefits in order to obtain Commission approval for a proposed transfer. The Commission stressed repeatedly that its expectations in respect of benefits on transfers did not comprise a form of transfer tax or levy, and insisted that it would assess each proposed transfer of control on its own merits (Dunbar & Leblanc, 2007).

Even though it denied Power Corporation's bid to take over Télé-Métropole in 1986 due to its unconvincing benefits package, the CRTC made an important distinction between ownership concentration and diversity. Its ruling suggested that increased ownership concentration would not be an obstacle for acquisitors prepared to offer a large enough benefits package. "Concentration of ownership within the broadcasting system is not itself necessarily of concern to the Commission, provided that there continues to be an effective degree of diversity of ownership and of programming sources" (CRTC, 1986). On the contrary, the CRTC explicitly stated that it realized there were advantages to the Canadian broadcasting system of size and scale.

> Today's highly competitive communications environment in every market as well as the high costs and risks involved dictate that the ownership structure must undoubtedly be composed of broadcasting holdings of various sizes, including larger entities with larger pools of resources, which are strong enough to compete with foreign competition and have the capacity to produce Canadian programming of competitive quality (CRTC, 1986).

Following the Télé-Métropole ruling, the Canadian Association of Broadcasters (CAB) conducted a study of CRTC licence transfer decisions and the rationale for the benefits test in an attempt to give its members guidance on the requirement (Dunbar & Leblanc, 2007). The $600 million takeover of Selkirk Communications by Maclean Hunter in

1988 went to the CRTC with a proposed package of $74 million in public benefits, or 12.3 percent of the purchase price. The magazine publisher's acquisition of Selkirk's cable systems, radio stations, and television stations was then the largest in Canadian broadcasting history. Maclean Hunter proposed to sell half of Selkirk's assets to three other companies – Rogers Communications, WIC, and the Blackburn Group – for $310 million, which the *Globe and Mail* described as "licence trafficking" (Partridge, 1989). The CRTC disapproved some of the proposed payments as part of the companies' regular costs of doing business, but it allowed the transaction (CRTC, 1989).

The CRTC issued a review of its benefits program in 1992 that counted $317 million made in benefits payments since 1985, for a "reasonable" 14.8 percent of transactions worth $2.135 billion. Benefits payments in radio had totaled $58.3 million, averaged 14 percent, ranged from 0-23.3 percent of the purchase price, and had lowered the industry's operating profit margins in 1991 from 6.45 percent to 5.88 percent. Payments had also affected operating margins in television and cable that year only slightly. (See Table 1) In television, more than 70 percent of benefits were devoted to programming, mainly news and drama, while about two-thirds of benefits in cable involved capital expenditures to upgrade or consolidate systems. In radio, benefits were more evenly distributed between improved technical facilities, enhanced programming, and talent development (CRTC, 1992).

Table 1
Public benefits payments 1985-92

	Radio	TV	Cable	Total
Applications	90	18	48	156
Approved	79	14	48	141

Licences	191	125	278	594
Total Cost (millions)	410	882.5	842.5	2,135
Payments (millions)	58	162	98	318
Percentage of Cost	14.0%	18.4%	11.6%	14.8%
Range	0-23.3%	7.3-49.9%	2.4-37.1%	0-49.9%
1991 Margin before	6.45%	12.5%	39.0%	N/A
1991 Margin after	5.88%	11.0%	38.6%	N/A

Source: CRTC decision 1992-42

The following year, the CRTC deciding to forego benefits payments for licence transfers of unprofitable radio stations due to reduced earnings in that industry (CRTC, 1993). In 1994, the *Globe and Mail* obtained under access to information legislation a heavily censored copy of a confidential report done for the CRTC in its review of the benefits program two years earlier.

> The largest payouts have generally come from the big players in the industry and "this is true even when the properties they were acquiring were small," the document said. "Evidently, ability to pay is a key consideration." (McKenna, 1994, p. B1)

The modern era of Canadian media takeovers began in 1994, when Rogers bought Maclean Hunter for $3.1 billion, which was more than five times the 1988 record purchase price of Selkirk. Most of Maclean Hunter's operations were in publishing and thus were not subject to CTRC regulation, but it did own an estimated $933 million in broadcasting and cable assets. They included 35 Ontario cable companies serving 9 percent of the national market, 21 radio stations in Ontario and the Maritimes, two television stations in Alberta, and 14.3 percent of CTV shares. Adding Maclean Hunter's national market share in cable to the 24 percent Rogers already controlled would give it one in every three Canadian cable subscribers, noted Ian Morrison of the advocacy group Friends of Canadian Broadcasting. "In effect, Rogers would be in a position to privatize

public policy and to play the role the public expects the CRTC to play of determining which channels get on the airwaves" (Enchin, 1994, p. B1).

Rogers proposed a benefits package of $94 million, or just over 10 percent of the purchase price, but journalists pointed out that $54 million of that was earmarked for upgrading its cable infrastructure, which was an expenditure that would likely have been made anyway (Austen, 1994; Enchin, 1994). Critics also pointed to the degree of cross-media ownership the deal would give Rogers, including *Maclean's* magazine, the Sun Media newspaper chain, and the *Financial Post* newspaper, on top of radio, television, and cable holdings. Morrison characterized the benefits process as nothing less than bribery.

> It's a very bad way to conduct public policy – to set up a system where applicants are encouraged to bribe the CRTC so they can make more money, especially when they are using cable subscribers' money to make the bribe (Enchin, 1994, p. B1).

The CRTC required Rogers to sell the two Alberta television stations and the CTV shares, which were valued at $72 million, or 7.7 percent of the regulated assets. It required a strict separation of management and newsgathering functions between the newspapers and Rogers broadcast outlets. It also banned Rogers executives from sitting on the editorial boards of the newspapers. It ruled, however, that the benefits pledged "outweigh the concerns of interveners regarding the increased concentration of ownership and media cross-ownership" (CRTC, 1994). Also included in the benefits package submitted by Rogers was $3 million directed toward educational institutions, payments that the CRTC noted had generally been rejected under its guidelines issued earlier that year. The commission directed Rogers to make the payments, however (CRTC, 1994). A

2001 study of journalism education noted that corporate takeover money had increasingly found its way into Canadian universities under the public benefits program.

> A number of endowed professorships have resulted. Examples of this so-called “greenmail” are chairs at Ryerson, King’s College, and Regina that were funded by Maclean Hunter in 1988; one at Western [Ontario] established by Rogers Communications in 1995; and chairs endowed in 2000 by the largest private television network, CTV, at Laval and Carleton (Johansen, Weaver, & Dornan, 2001, p. 476).

Two major changes in the benefits system were instituted by the CRTC in the late 1990s. In 1996, it exempted cable companies from making benefits payments because of the competition they were beginning to face from direct-to-home (DTH) satellite television distributors (CRTC, 1996). And while it had long balked at placing a percentage figure on benefits payments, insisting that it considered each case individually, the CRTC finally did so in 1998. In deciding how much to lower required payments in the radio industry because of its reduced profits and expected cost of digital upgrades, the CRTC calculated the value of all previous benefits payments. It noted that they had generally represented about 10 percent of the value of a transaction, which established that as a benchmark in television. The CRTC set the required level of benefits payments in radio at 6 percent (CTRC, 1998). The 10 percent requirement in television was codified the following year in the CRTC’s policy framework for Canadian television (CRTC, 1999).

Convergence and controversy

The year 2000 saw a series of multimedia mergers and acquisitions in Canada that accelerated concentration of media ownership under the paradigm of convergence, according to which cross-ownership of media was the way of the future. Canwest Global acquired the historic Southam newspaper chain, Canada’s oldest and largest, for $3.2 billion. As newspapers in Canada were unregulated, CRTC approval was not required for

that purchase, but the corporate convergence it brought would become an issue at Canwest Global's television licence renewal hearings the following year. Two other mega-media takeovers that year did require prior CRTC approval. BCE bought the CTV network for $2.3 billion and later in 2000 merged it with the *Globe and Mail* national newspaper to form CTVglobemedia. Under the CRTC's new 10-percent benchmark, BCE was required to propose a public benefits payments package of $230 million to gain approval of its CTV purchase. Of that, $2.5 million went to fund an endowed chair in convergence at Ryerson Polytechnic University (Sekeres, 2000). BCE pledged another $3.5 million to fund a Canadian Media Research Consortium (CMRC) planned by several universities, including Ryerson, the University of British Columbia, York University, and Université de Laval. The CMRC's stated mandate was to "focus on the development of Canadian data for use in media planning" (BCE Inc., 2000).

The largest media takeover of 2000, however, was Quebecor's $5.4-billion purchase in late 2000 of Groupe Videotron Ltée, which owned the largest cable provider in Québec and the provincial television network TVA. Together with its French-language newspapers in Quebec and recently-acquired Sun Media chain of English-language newspapers, the purchase gave Quebecor an unprecedented level of multimedia convergence. The CRTC required Quebecor to divest the TQS network it had bought in 1997 and also to pledge strict separation between its newspaper and television newsgathering operations, as had been a condition of its TQS licence (Edge, 2011). BCE and Canwest Global, however, refused the CRTC's demand for such a "firewall" of separation between their television and newspaper newsrooms. The issue became a point of contention at their licence renewal hearings the following spring. Principals of the new

Canadian Media Research Consortium, which had been funded as part of BCE's public benefit package, testified that such a requirement was unnecessary and even ill-advised.

Fred Fletcher of York University, the first chair of the CMRC, told the hearings that convergence provided "the potential for greater journalistic competition in the Canadian media system as a whole through collaboration in investigative reporting and foreign coverage" (CRTC, 2001, line 10440). The type of editorial separation code the CRTC was seeking to impose on CTVglobemedia and Canwest Global, he testified, was "unnecessary, and possibly undesirable" (CRTC, 2001, line 10443). CMRC director Donna Logan, who headed the Sing Tao School of Journalism at UBC, testified that if the CRTC imposed a code of separation on CTV and Canwest Global "the consequences for those companies and for journalism in this country will be dire" (CRTC, 2001, line 10295). According to Logan, if the CRTC blocked convergence, it would "leave Canadian media companies at a competitive disadvantage in the international race for audiences" (CRTC, 2001, line 10296). She told the hearings that would prevent Canadian journalists from "using new storytelling techniques" and prevent "genuine new voices from developing as a result of a convergence" (CRTC, 2001, line 10297-8). Neither Fletcher nor Logan disclosed on the record at the CRTC hearings their positions with the CMRC, nor that it was funded by the parent corporation of a network at whose licence renewal hearings they testified (CRTC, 2001).

The CTV and Global Television licenses were subsequently extended by the CRTC for a seven-year term without the "firewall" of newsroom separation the regulator had sought. The networks agreed only to a separation of management structures, not newsgathering operations, of their newspaper and television media. Two months after the

hearings concluded, Canwest Global announced it was making a $500,000 endowment to fund a visiting professorship at the UBC School of Journalism. CEO Leonard Asper announced that his company would be making more than thirty similar gifts to post-secondary institutions over the next five years "to assist media studies in Canada" (Luba, 2001). The UBC endowment was part of the public benefits package Canwest had tabled the previous year following its purchase of WIC's television stations, including provincial superstation BCTV (Edge, 2007). A month after the CTV and Global Television licence renewal hearings, the *National Post* revealed that executives of the Canadian Journalism Foundation (CJF), an industry group that was also initially a member of the CMRC, had written to the CRTC the previous year to support BCE's takeover of CTV. The newspaper described the CMRC as "a hitherto unknown group founded for the sole purpose of skimming a graft off the CTV takeover." The CMRC's funding, it pointed out, served to recycle public benefits payments back to the benefit of private corporate interests. "If the major corporations . . . want research into the media, then surely they can spend their own money up front rather than cash extorted . . . via a regulator." It urged the CJF to "leave the academics to wallow in their own petty corruptions" and drop out of the CMRC. The CJF then quit the CMRC "to make sure that everything is on the up and up and to make sure that there is not even a possibility of a perception of conflict of interest" (Whyte, 2001).

Wither public benefits

The CRTC's public benefits program came under much criticism during its first three decades. Broadcasters questioned its fairness and relevance and characterized it as a tax. Scholars were also critical of the program. Murray criticized it as "unwieldy, secret, and

subject to the whim of the private broadcasters' largesse," and pointed out that "there are no systems to monitor the performance of the public benefits" (Murray, 2001, p. 48, *fn*. 12). Townley found it "anti-competitive" and "costly to the Canadian economy" (Townley, 2003, p. 75) because broadcasters were able to pass the cost of benefits payments along to advertisers through their acquired market power. Advertisers, the economist noted, in turn passed the cost along to consumers in the form of higher prices. "As Canadians ultimately bear the burden of this levy in a variety of markets, an obvious alternative to the CRTC's arrangement would be to use general tax revenues to fund the same objectives and not to allow the acquisition of market power" (Townley, 2003, pp. 75-76). Greater efficiency would be created, Townley concluded, through the increased competition allowed by preventing ownership concentration. "A better policy prescription would be to remove the reason for the CRTC to levy its tax and to leave competition matters to the Competition Bureau" (Townley, 2003, p. 76). A pair of communication lawyers retained by the CRTC to review its regulatory framework in 2007 found the benefits program to be "uneven in its scope and application" and noted that it produced "somewhat quixotic results" (Dunbar & Leblanc, 2007).

As a result of falling profits in small markets, the CRTC decided in 2007 to eliminate benefits payments for the transfer of television licences for stations with less than $10 million in annual revenues (CRTC, 2007). The regulator decided as part of its "Diversity of Voices" review the following year, however, to continue the benefits program in the public interest, stating: "The benefits policy makes it possible for the market to govern changes in effective control of broadcasting licences while simultaneously ensuring that the public interest is still served" (CRTC, 2008). In its

annual monitoring report for 2010, the CRTC calculated the value of benefits payments in radio between 1998 and 2009 at $205.3 million, and in television at $860 million from 1999 to 2009, for a total of $1.065 billion (CRTC, 2010a). In its 2012 three-year plan, the CRTC identified streamlining its benefits policy as a priority for 2012-13 (CRTC, 2012b).

Canwest Global Communications was forced to declare bankruptcy in 2009 after revenues reduced by the recession left it unable to service the estimated $4 billion debt load remaining from its 2000 acquisition of Southam and its 2007 acquisition of cable TV channels from Alliance Atlantis. As part of the lattter purchase, Canwest had been required to make public benefits payments of $151 million. Its television and newspaper divisions were sold off separately out of bankruptcy starting in 2010, beginning a process of “de-convergence” a decade after convergence had reshaped Canadian media (Edge, 2010). Its Global Television network was bought by Calgary-based cable company Shaw Communications, which the CRTC allowed to pay a discounted rate of 5 percent in public benefits on some Global assets Shaw argued were in financial distress (CRTC, 2010b). Later that year, BCE bought the 85 percent of CTV it did not then own and dissolved that network’s partnership with the *Globe and Mail.* BCE argued it should not have to make any benefits payments on that purchase because it had already done so as part of its original acquisition of CTV in 2000 before selling most of CTVglobemedia in 2005. The CRTC rejected that argument and a subsequent one that BCE be allowed to pay a discounted benefits rate on of some of CTV’s assets, as Shaw had for Global, due to their financial distress. The regulator found that the CTV assets were not distressed

and required BCE to pay benefits at the regular rates of 6 percent in radio and 10 percent in television (CRTC, 2011).

Astral about-face

The financial shocks brought by the 2008-09 recession caused an upheaval in Canadian media ownership. Canwest Global and CTVglobemedia, which saw their advertising revenues plunge with the economy, campaigned for regulatory relief from the CRTC. The networks argued that unregulated cable and satellite companies, which made much higher profits despite the economic downturn because the bulk of their revenues came from more stable subscription fees, should be forced to pay them a "fee for carriage." The common carriers had always transmitted the broadcast network signals for free in exchange for favorable placement in their channel lineups. In the emerging 500-channel universe, however, the subscription business model of cable and satellite providers proved much more profitable than free-to-air broadcasting, which relied solely on advertising. CTVglobemedia and Canwest Global threatened to close money-losing stations in small markets if the CRTC did not grant them a portion of the cable revenues. For their part, the cable companies promised to pass the cost of any ordered carriage fees along to their subscribers. The networks launched a "Save Local TV" advertising campaign on their television stations and in their affiliated newspapers. The cable companies responded with ads of their own urging Canadians to "Stop the TV tax" (Edge, 2011).

The CRTC rejected the carriage fee proposal, as it had twice previously, until political pressure brought by the networks' advertising campaign prompted Parliamentary hearings that ordered the regulator to revisit the issue. Scrutiny of network finances,

however, showed they were not losing money and were instead making double-digit profits, although they were not as profitable as they had been before the recession (Toughill, 2009; Winseck, 2010; Edge, 2011). The CRTC held hearings and in 2010 ruled that the networks and common carriers could negotiate carriage fees. By then, however, the networks had been or were about to be taken over by the common carriers, which were well-positioned to take advantage of the buying opportunities created by the recession. Canwest's Global Television division was bought by Shaw for $2.05 billion in 2010, and later that year BCE reacquired CTV for $2.68 billion.

BCE's play for CTV created a media monolith, as in 2007 the network had acquired CHUM Ltd. and its thirty-three radio stations, twelve television stations, and twenty-one cable television channels for $1.7 billion. That purchase had prompted protests that led the CRTC to hold its "Diversity of Voices" hearings the following year. They resulted in a belated limit on convergence that prohibited any owner from controlling outlets in radio, television, and newspapers. That meant BCE could not own newspapers if it owned both radio and television stations, but it soon bid to become the country's dominant owner in broadcast media with its proposed purchase of Astral Media. Under the CRTC's guidelines, it required a public benefits package of $200 million, but BCE added more than 20 percent to that in offering a package worth $241.3 million (BCE, 2012).

BCE relied on a time-tested formula in arguing that the multimedia size and scale it would gain from acquiring Astral was necessary for it to compete on an international level, especially with emerging unlicensed online video services. The CRTC denied BCE's application for transfer of Astral's broadcasting licences, however, citing concerns expressed by many of the more than 9,700 interveners over ownership concentration,

competition, and vertical integration. "A transaction of this magnitude would adversely affect competition and diversity in the Canadian broadcasting system," its ruling stated (CRTC, 2012, para 63). But the regulator rejected BCE's argument that increased corporate size was necessary for it to compete internationally and refused to approve the transfer of licences.

> While the Commission is generally supportive of consolidation and scale, BCE already holds a significant position in the Canadian broadcasting system. Further, BCE did not demonstrate that it needs to be bigger to compete with foreign services. The Commission does not consider that there is compelling evidence on the record to demonstrate that foreign, unlicensed competitors are having a significant impact on negotiations for program rights by Canadian broadcasters (CRTC, 2012, para 62).

The CRTC also ruled that the benefits package proposed by BCE included some initiatives that fell outside of its guidelines and offered others that would have primarily benefited BCE and not third parties. Interveners generally agreed, the CRTC noted, that the public benefits program was an appropriate regulatory mechanism to ensure that benefits flow to the broadcasting system. "They submitted that benefits must be incremental and must flow to third parties. Multiple interveners submitted that the percentage of benefits flowing to on-screen production must be maximized and that benefits should never be self-serving" (CRTC, 2012, para 45).

Conclusions

The CRTC's refusal to approve the transfer of licences in the Astral Media purchase was not unexpected, given the extent of public protest over the proposed takeover. It was a departure, however, from the pattern of previous rulings that had almost invariably allowed increased media ownership concentration in exchange for financial contributions to the broadcasting system. In that regard, the CRTC finally signaled that concentration

had reached such a high level in Canada that even generous public benefit payments could not compensate for the probable detriment to consumers. Significantly, it also rejected the argument that ever-increasing corporate size was required for Canadian media companies to compete internationally. As such, the CRTC showed that it was not necessarily beholden to corporate interests and that it could serve, as intended, as a custodian of the public interest. The CRTC, in other words, finally showed that it was no longer for sale.

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