



**CAB | ACR**

# **Review of Regulatory Frameworks for BDUs and Discretionary Programming Services**

## **Reply Comments**

**Submission to the CRTC  
by the Canadian Association of Broadcasters**

**Broadcasting Notice of Public Hearing CRTC 2007-10  
February 22, 2008**

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**CAB Vision: The goal of the CAB is to represent and advance the interests of Canada's private broadcasters in the social, cultural and economic fabric of the country.**

## Appendix 1

### CAB Comments re Shaw's Phase 1 Research Studies

- 1) The most extreme position flowing from the alleged competitive imperatives in the BDU marketplace is Shaw's argument that the *Broadcasting Distribution Regulations* should be eliminated and replaced with three rules – the provision of a basic service, a simplistic preponderance requirement, and an undue preference provision. To all intents and purposes, this would represent an end to any meaningful regulation of BDUs, founded on the apparent assumption that BDUs need total flexibility to serve customers and that market forces alone should be the only check on their behaviour.
- 2) Shaw doesn't address the potential consequences of adopting such a radical proposal. It doesn't deny, for example, that in the absence of access rules it would significantly reduce the number of Canadian services it offers to Canadian consumers.
- 3) Instead, Shaw's Phase 1 submission offered research, specifically an Ipsos Reid public opinion survey and an economic analysis of the existing regulatory frameworks prepared by Professor Steven Globerman, to justify its proposal for complete deregulation of the BDU sector.
- 4) The CAB submits that the Ipsos Reid survey is too general in its approach to the issues to be a trustworthy reflection of Canadians' attitudes towards the broadcasting system. While it purports to demonstrate public support for a complete deregulation of the Canadian broadcasting system, it produces an incomplete picture, because of the general and leading nature of the questions put to respondents.
- 5) At no time were respondents asked to consider the impact or cost of the proposed changes. For example, while there is nothing surprising in the fact that a majority of Canadians enjoy foreign television channels, at no time were respondents asked to consider whether they would like increased access to foreign channels (such as HBO, ESPN, USA Network) if it meant that services such as The Movie Network, TSN, or Mystery could be damaged as a result of their inability to secure Canadian rights to popular US movies, sports and TV programming, or that, in some cases, this could result in the disappearance of the service.
- 6) Nor can we determine from this survey if Canadians would welcome increased non-Canadian channels if it meant a sharp increase in their monthly bills, given the fact that Canadian services generally retail for much less than the corresponding US services cited in this survey.
- 7) Likewise, Professor Globerman's report focuses on basic economic principles at the highest-possible level, such that, in the CAB's view, it falls outside the context of this proceeding. The CAB doesn't take issue with the economic principles that Professor Globerman describes. They are well known to economic students everywhere.

- 8) We further acknowledge that some of these principles are not always at the core of Canada's broadcasting policy. But the very intention of the Act is to intervene in the marketplace, to ensure a place for Canadian content and Canadian voices within the Canadian broadcasting system.
- 9) The recommendations that flow from Professor Globerman's analysis amount to a radical departure from the Act (e.g. an end to Canadian content rules, and to the carriage rules they justify). However, this isn't a proceeding to rewrite the Act. It's a proceeding to examine specific regulations that support the objectives of the Act.