Analysis of Corporate Consolidation in the Canadian Media Sector

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1 Introduction

- Over the last several months, the Canadian media sector has experienced a wave of consolidation – particularly in the broadcasting segment – which is dramatically reshaping the corporate landscape.
    - CTVglobemedia has received approval from the Canadian Radio-television and Telecommunications Commission (CRTC) for its acquisition of CHUM Limited ("CHUM"), and has subsequently divested the Citytv stations to Rogers Media Inc. ("Rogers Media"). Rogers Media's acquisition of the Citytv stations is pending CRTC approval.
    - CanWest MediaWorks Inc. ("CanWest") is part of a consortium that has entered into an agreement to purchase the broadcasting assets of Alliance Atlantis Communications Inc. ("Alliance Atlantis").
    - Astral Media Inc. ("Astral Media") has entered into an agreement to purchase Standard Radio Inc. ("Standard Radio").
    - Rogers Media has announced that it will purchase Channel M – Vancouver's multi-ethnic station.
- In general, corporate consolidation runs the risk of lessening competition in a market by either reducing the number of sellers, or reducing the number of buyers. When the market in question is the media market, the concerns are heightened: Media outlets are the vital channels for the distribution of information within Western societies. When corporate consolidation reduces the number of media outlets in a market, there is an added risk that there will be a reduction in the diversity of voices available to citizens.
- In the following report, Nordicity Group Ltd. ("Nordicity") provides a quantitative analysis of the impact of corporate consolidation on the diversity of voices in the Canadian media market in terms of the supply of independent Canadian programming (English-language), and the number and ownership of Canadian media outlets.
- For the first part of the analysis (Section 2), Nordicity assesses the risk of monopsony power in the Canadian independent production market. In the second part of the analysis (Section 3), Nordicity assesses ownership concentration and cross-media ownership in seven Canadian media markets. In Section 4, Nordicity summarizes the key findings from its analysis.

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2 Monopsony Power in the Canadian Program Acquisition Market

2.1 Background

- Whenever industry consolidation occurs, there is a risk of a lessening of competition and the exercise of market power by the post-consolidation firms. This market power may manifest itself in the output market whereby firms are able to maintain prices above competitive levels for a significant period of time.[1] When this occurs, the industry is said to be characterized by monopoly power.
- Following industry consolidation, firms may also exercise market power in input markets; this is referred to as monopsony power and is analogous to monopoly power in an output market. Where monopsony power is present, input buyers are able to obtain inputs at prices below competitive levels for a significant period of time. Where monopsony power exists, downstream buyers can dictate prices, and the terms and conditions related to the purchased inputs.[2] In monopsony situations, input suppliers "may be forced to accept terms that under compensate them or force them to bear extra risk."[3] Ultimately, monopsony can lead to the "production of fewer or inferior products for sale downstream."[4]
- In this analysis, Nordicity assesses the degree to which announced transactions in the Canadian broadcasting sector could contribute to monopsony power in the market for English-language independently produced Canadian programming.
- In the independent programming market, monopsony power can manifest itself in a number of ways. It can lead to lower program licence fees paid to independent producers. Broadcasters may also insist on holding equity positions in the television projects that they license from independent producers.
- Broadcasters could also use their monopsony power to expand the rights they hold in licensed independent television programs. In such situations, licence fees may not necessarily fall; however the value of the acquired input would rise, even while the effective price of programming remain unchanged. Broadcasters could demand longer licensing periods or rights to other windows or platforms.[5] When broadcasters exercise such behaviour, it erodes the ability of the producer to make up for an inadequate licence fee provided by the broadcaster.[6]
- As broadcasters with monopsony power drive down program licence fees or expand their rights in independent programming, they reduce the returns to independent producers. The logical result: less independent production. Either fewer independent producers would be in a position to economically make independent programming or the

[1] U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines,* revised April 8, 1997, section 0.1, <http://www.usdoj.gov/atr/public/guidelines/hmg.htm#15>.
[2] Mark Cooper, *The Impact of the Vertically Integrated, Television-Movie Studio Oligopoly on Source Diversity and Independent Production*, prepared with the assistance of the Independent Film and Television Alliance, 2006, p. 19.
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid,* p. 58.
[6] *Ibid.*

existing group of independent producers would only find it economical to make a lower level of television programming.

- The contraction in the number of independent production companies can also have a detrimental impact on professional development within the independent production community and the future quality of independent production. As independent production companies disappear and the number of independently produced projects drops, there are fewer opportunities for future generations of producers, directors and writers to learn the trade and develop their skills.[7]
- Ultimately, the resulting contraction in the supply of independent Canadian programming can lead to a reduction in the diversity of Canadian programming available to Canadian television audiences.
- The Herfindahl-Hirschman Index ("HHI") is a "commonly accepted measure" used by economists to measure market concentration – and thereby assess the risk of anti-competitive behaviour in a particular market.[8] The HHI is equal to the sum of the squares of the individual market shares of each firm operating in a market.

$$HHI = (share_1)^2 + (share_2)^2 + \ldots + (share_n)^2$$

- Many competition-policy authorities around the world use the HHI as one of the tools for assessing whether a merger transaction is likely to lead to a lessening of competition in the relevant output or input market.
- For example, the United States Department of Justice (DOJ) has established strict thresholds in its merger review guidelines. The DOJ considers a market with an HHI below 1,000 to be unconcentrated.[9] It views a market with an HHI between 1,000 and 1,800 to be moderately concentrated, and a market with an HHI above 1,800 to be highly concentrated.[10]
- When evaluating horizontal mergers, the DOJ considers the post-merger HHI and the increase in the HHI triggered by the transactions. Where the HHI increases by more than 100 points in a market with a post-merger HHI above 1,800, there is a significant risk of anti-competitive behaviour.[11]

> "Where the post-merger HHI exceeds 1800, it will be presumed that mergers producing an increase in the HHI of more than 100 points are likely to create or enhance market power or facilitate its exercise."[12]

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[7] Cooper, p. 12.

[8] U.S. Department of Justice, "The Herfindahl-Hirschman Index," *U.S. Department of Justice*, <http://www.usdoj.gov/atr/public/testimony/hhi.htm>.

[9] U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines,* revised April 8, 1997, section 1.5, <http://www.usdoj.gov/atr/public/guidelines/hmg.htm#15>.

[10] *Ibid.*

[11] U.S. Department of Justice and Federal Trade Commission, section 1.5

[12] *Ibid.*

2.2 Analysis of the Market Concentration: Market for English-Language Canadian Program Acquisition

- The market concentration resulting from the announced mergers in the Canadian broadcasting industry – including the approved sale of CHUM – should raise serious concerns regarding monopsony power in the input market for independently produced Canadian programming in English.
- Nordicity's analysis (based on data from the 2004/05 fiscal year) indicates that before the announced transactions, the input market displayed an HHI of 1,670 (moderately concentrated). If one were to exclude the public broadcaster, CBC, and confine the analysis to the private broadcasters, the HHI was 1,694.
- The "After Transactions" scenario reflects the market shares that would prevail in the input market after the completion of the following three transactions:
  1) CTVglobemedia's purchase of the assets of CHUM, excluding the Citytv stations
  2) Rogers Media's purchase of the Citytv stations
  3) CanWest's purchase of the broadcasting operations of Alliance Atlantis
- After the transactions, the HHI rises by 439 points to 2,109. The post-merger HHI is well above 1,800 and therefore indicates a highly concentrated market. What is more, the HHI increase exceeds 100 points.
- If one excludes the CBC from the analysis, the HHI increases by 853 points to 2,548.

Expenditures by Canadian Television Broadcasters on Licence Fees for Independently Produced Original Programming, English-Language Production, All Genres

Before Transactions

	$M	Share	HHI
CBC English TV[1]	80	28%	798
Alliance Atlantis[2]	48	17%	287
Corus Entertainment[3]	41	14%	209
CTVglobemedia[4]	34	12%	144
CanWest[5]	29	10%	105
CHUM Limited[6]	25	9%	78
Astral Media[7]	18	6%	40
Rogers Media[8]	8	3%	8
Total	**283**	**100%**	**1,670**
Total (excl. CBC)	**203**	**100%**	**1,694**

After Transactions

	$M	Share	HHI
CBC English TV[1]	80	28%	798
CanWest[9]	77	27%	738
CTVglobemedia[10]	47	16%	269
Corus Entertainment[3]	41	14%	209
Rogers Media[11]	21	7%	54
Astral Media[7]	18	6%	40
--	--	--	--
--	--	--	--
Total	**283**	**100%**	**2,109**
Total (excl. CBC)	**203**	**100%**	**2,548**

Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office (CAVCO); CRTC, *Individual Pay, PPV, VOD and Specialty Services: Statistical and Financial Summaries*, 2001-2005; Nordicity Group Ltd., *Analysis of Canadian Broadcaster Financial Performance and Programming Expenditures*, prepared for CFTPA, September 2006 (Section 7).

Note: Some totals may not add due to rounding. Statistics exclude expenditures made by joint-venture specialty television services. See additional notes below.

Notes:

1. The CAVCO data do not provide a breakdown of CBC's programming expenditures by language. To apportion CBC/SRC's $122 million of annual expenditures, Nordicity used the ratio of operating expenditures between CBC's English and French television operations found in the CBC Annual Report, 2004/05. The former was $774 million in 2004/05; the latter was $390 million. This is a ratio of 2:1, English to French.
2. Data for Alliance Atlantis from Nordicity, 2006; data include estimates for suppressed statistics.
3. Data for Corus Entertainment from Nordicity, 2006.
4. Data for CTVglobemedia from Nordicity, 2006; data include estimates for suppressed statistics.
5. Data for CanWest from Nordicity, 2006; data include estimates for suppressed statistics.
6. Nordicity had no way to accurately apportion the Canadian programming expenditures of CHUM. Nordicity apportioned 50% of CHUM's expenditures to CTVglobemedia and 50% to Rogers Media. This approach generated the most conservative result in the calculation of the HHI. If the actual distribution were different from 50%/50%, then the HHI would be higher.
7. To estimate the amount of licence fees for Astral Media English-language services, Nordicity used CRTC statistics for the acquisition of rights for Canadian programming by TMN and The Family Channel during the 2005 broadcasting year.
8. Nordicity did not have data for Rogers Media's expenditures on Canadian television programming. CAVCO data indicated that ethnic broadcasters in Canada made expenditures of $11 million on Canadian programming in 2004/05. Nordicity assumed that 75% of this amount could be attributed to Rogers Media.
9. Equals the sum of CanWest and Alliance Atlantis.
10. Equals the sum of CTVglobemedia and 50% of CHUM.
11. Equals the sum of Rogers Media and 50% of CHUM.

3 Analysis of Media Diversity in Selected Canadian Markets

3.1 Background and Notes

- In 2006, the Government of Australia introduced a points system for assessing media concentration in geographic markets. Australia's points system offers a transparent system for assessing media concentration.[13]
- The points system measures concentration in terms of the number of *associated newspapers*, commercial television operations, and commercial radio operations in a geographic market (defined by the radio licence area). An *associated newspaper* refers to a newspaper controlled by a person who also controls a commercial television or commercial radio operation within the geographic market, where 50% of the newspaper's circulation is within the radio licence area of the television or radio operation. The newspaper's circulation must also be equal to at least 2% of the licence area population.
- Under the points system, each media operation (associated newspaper, commercial television operation, commercial radio operation) is worth one point.
- When two or more media operations are controlled by a single entity, then the combination is referred to as a "media group." A media group is only worth a single point.
- When a metropolitan area displays fewer than <u>five</u> points then it is considered to have an "unacceptable media diversity situation." Outside of metropolitan areas (regional areas) the point threshold is <u>four</u>.
- When a person controls a television operation, a radio operation, and an associated newspaper within a radio licence area, then the licence area has an "unacceptable three-way control situation."
- In this section, Nordicity has taken the Australian points system and applied it to various media markets in Canada. Nordicity has tabulated the number of media-diversity points before and after completion of the following transactions:
    1) The CTVglobemedia acquisition of CHUM (approved by CRTC) and divestiture of assets to Rogers Media (subject to approval by CRTC)
    2) Astral Media's acquisition of Standard Radio (proposed and subject to review by the CRTC)
    3) CanWest's acquisition of Alliance Atlantis' broadcasting operations (proposed and subject to review by the CRTC)
- The markets included in the analysis are: Halifax, Montreal (English), Montreal (French), Ottawa (English), Toronto, Calgary, and Vancouver. These markets comprise several of the largest media markets in Canada and offer linguistic and regional representation.

[13] Nordicity is not aware of any other countries where such a points system is used to assess media concentration.

- **Associated Newspaper –** For the analysis, Nordicity assumed that Canada's two national daily newspapers – The *Globe & Mail* and *National Post* – met the criteria for associated newspapers. Both newspapers are controlled by media companies that also control television broadcasting operations in most major Canadian cities. While no single geographic market accounted for 50% of either newspaper's total circulation, there is practically a 100% correspondence between the newspapers' circulation and the coverage of broadcasting operations. As such, CTVglobemedia and CanWest automatically had an associated newspaper in each English-language market included in the analysis.
- **Commercial TV Operations –**Nordicity included private conventional television broadcasters in the analysis. Nordicity followed the CRTC's approach to television-market definition with respect to private conventional television operations.
- Nordicity also included the corporate groups with significant ownership interests (i.e., controlling interests) in <u>three or more</u> analog specialty television services. Nordicity excluded ownership in pay television services and digital television services because the subscriber levels to these services are significantly lower than for analog specialty television services.
- Based on this approach, the English market included (based on pre-transaction holdings) CTVglobemedia, Alliance Atlantis, CHUM, and Corus Entertainment. The French-language market included Quebecor, and Astral Media. Joint venture television services were excluded from the analysis, since control of these stations is shared among the investing parties.
- **Commercial Radio Operations –** Nordicity only included radio broadcasting operations with a market share above 5%, as reported by BBM for the first three months of the 2007 calendar year.[14] Nordicity selected the 5% threshold in order to only include radio stations with a significant market presence in each radio market.

[14] BBM data sourced from BBM, *BBM Canada: Top-line Radio Statistics S1 2007 (January 8-March 4, 2007).*

3.2 Analysis

Halifax

- CTVglobemedia acquires CHUM's 50% interest in CKUL-FM and its 100% interest in CIOO-FM.
- CanWest holds an FM radio licence (CHAL-FM), but it is not yet operational. If this station does gain market share, then another unacceptable three-way control situation may develop in the Halifax market.

Before Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
CHUM	--	1	1	1
Canwest	1	1		1
Alliance Atlantis	--	1	--	1
Corus	--	1	--	1
Rogers	--	--	1	1
Newcap	--	--	1	1
Maritime Broadcasting	--	--	1	1
Evanov	--	--	1	1
Total points				**9**

After Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	1	1*
Canwest	1	1	--	1
Rogers	--	--	1	1
Corus	--	1	--	1
Newcap	--	--	1	1
Maritime Broadcasting	--	--	1	1
Evanov	--	--	1	1
--	--	--	--	--
--	--	--	--	--
Total points				**7**

Source: Nordicity research based on data from BBM
* Unacceptable three-way control situation

Montreal (English)

- CanWest holds the major local English paper, *The Gazette*.
- Standard Radio controls three of the four commercial radio stations with shares above 5%.
- After the transactions, Montreal's English-language market will dip below the five-point threshold.

Before Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
Canwest	1	1	--	1
Alliance Atlantis	--	1	--	1
CHUM	--	1	--	1
Standard Radio	--	--	1	1
Corus	--	1	1	1
Total points				**6**

After Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
Canwest	1	1	--	1
Astral Media	--	--	1	1
Corus	--	1	1	1
--	--	--	--	--
--	--	--	--	--
Total points				**4**

Source: Nordicity research based on data from BBM

Montreal (French)

- Montreal's French-language market is already below the five-point threshold. The two transactions have no impact on media diversity in the market.

Before Transactions

	News-paper	TV	Radio	Total
Quebecor	1	1	--	1
Cogeco	--	1	1	1
Astral Media	--	1	1	1
Corus	--	--	1	1
Total points				**4**

Source: Nordicity research based on data from BBM

After Transactions

	News-paper	TV	Radio	Total
Quebecor	1	1	--	1
Cogeco	--	1	1	1
Astral Media	--	1	1	1
Corus	--	--	1	1
Total points				**4**

Ottawa (English)

- Following the transactions, the Ottawa (English) market will still be above the five-point threshold; however, it will have an unacceptable three-way control situation, as a result of the CTVglobemedia-CHUM-Rogers transaction.

Before Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
CHUM	--	1	1	1
Alliance Atlantis	--	1	--	1
Canwest	1	1	--	1
Rogers	--	--	1	1
Corus	--	1	--	1
Standard Radio	--	--	1	1
Newcap	--	--	1	1
Evanov	--	--	1	1
Total points				**9**

Source: Nordicity research based on data from BBM
* Unacceptable three-way control situation

After Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	1	1*
Canwest	1	1	--	1
Rogers	--	--	1	1
Astral Media	--	--	1	1
Corus	--	1	--	1
Newcap	--	--	1	1
Evanov	--	--	1	1
--	--	--	--	--
--	--	--	--	--
Total points				**7**

Toronto

- Following the transactions, the Toronto market will still be above the five-point threshold; however, it will have an unacceptable three-way control situation, as a result of the CTVglobemedia-CHUM-Rogers transaction.

Before Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
CHUM	--	1	1	1
Canwest	1	1	--	1
Alliance Atlantis	--	1	--	1
Quebecor (Sun)	1	1	--	1
Rogers	--	--	1	1
Standard Radio	--	--	1	1
Corus	--	1	1	1
Evanov	--	--	1	1
Total points				**9**

After Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	1	1*
Canwest	1	1	--	1
Quebecor (Sun)	1	1	--	1
Rogers	--	1	1	1
Astral Media	--	--	1	1
Corus	--	1	1	1
Evanov	--	--	1	1
--	--	--	--	--
--	--	--	--	--
Total points				**7**

Source: Nordicity research based on data from BBM
* Unacceptable three-way control situation

Calgary

- In the 'after transactions' scenario, the Calgary market displays five points, putting it very close to an unacceptable media diversity situation.
- CTVglobemedia acquires CHUM's new Calgary radio licence, CKCE-FM, which became operational in March 2007. If this station achieves significant listener share, then an unacceptable three-way control situation will develop in the Calgary market.
- Quebecor holds the Calgary Sun, but it is not an associated newspaper.

Before Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
CHUM	--	1	--	1
Canwest	1	1	--	1
Alliance Atlantis	--	1	--	1
Rogers	--	--	1	1
Corus	--	1	1	1
Standard Radio	--	--	1	1
Total points				**7**

After Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
Canwest	1	1	--	1
Rogers	--	1	1	1
Corus	--	1	1	1
Astral Media	--	--	1	1
--	--	--	--	--
--	--	--	--	--
Total points				**5**

Source: Nordicity research based on data from BBM

Vancouver

- CTVglobemedia acquires CHUM's radio assets.
- Following the transactions, the Vancouver market is above the five-point threshold; however, it has an unacceptable three-way control situation.

Before Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	--	1
CHUM	--	1	1	1
Canwest	1	1	--	1
Alliance Atlantis	--	1	--	1
Rogers	--	1	1	1
Corus	--	1	1	1
Standard Radio	--	--	1	1
Jim Pattison Group	--	--	1	1
Total points				**8**

After Transactions

	News-paper	TV	Radio	Total
CTVglobemedia	1	1	1	1*
Canwest	1	1	--	1
Rogers	--	1	1	1
Corus	--	1	1	1
Astral Media	--	--	1	1
Jim Pattison Group	--	--	1	1
--	--	--	--	--
--	--	--	--	--
Total points				**6**

Source: Nordicity research based on data from BBM
* Unacceptable three-way control situation

4 Key Findings

Monopsony Power in the Canadian Program Acquisition Market

- Nordicity's analysis shows that the approved and proposed mergers will raise the HHI in the Canadian English-language programming acquisition market from 1,670 (moderately concentrated) to 2,109 (highly concentrated). If one excludes the CBC from the analysis, the HHI score rises from 1,694 to 2,548.
- The market concentration resulting from the announced mergers in the Canadian broadcasting industry – including the approved sale of CHUM – should raise serious concerns regarding monopsony power in the input market for independently produced Canadian television programming in English. Monopsony power in this market has serious implications for the diversity of voices available to Canadian television audiences, as it could ultimately lead to fewer independent producers in Canada and less independently produced programming.

Analysis of Media Diversity in Selected Canadian Markets

- The application of Australia's points system to seven Canadian media markets shows that the approved and proposed merger transactions should raise serious concerns about cross-media ownership and media diversity. Based on the Australian system, the merger transactions will cause four Canadian media markets to have "unacceptable three-way control situations" where a single entity controls print, television and radio outlets in a single market.
- The analysis also shows that some Canadian media markets have precarious media-diversity situations. On the basis of the Australian points system, Montreal's French-language market already displays an "unacceptable media diversity situation" independent of the approved and proposed merger transactions. Following the approved and proposed transactions, Montreal's English-language market will also display an "unacceptable media diversity situation".
- The analysis also shows that the approved and proposed merger transactions will leave Calgary with five points (based on the Australian points system), thus putting Calgary dangerously close to an "unacceptable media diversity situation."