



Broadcasting Decision CRTC 2014-170

PDF version

Route reference: 2013-529

Ottawa, 9 April 2014

Bell Media Inc.
Across Canada

Application 2013-0389-1, received 8 February 2013

Proposed amendments to the requirements regarding the measurement of local programming applicable to conventional television stations

*The Commission **denies** an application by Bell Media Inc. to amend the standard conditions of licence applicable to conventional television stations to allow licensees of such stations to average their weekly local programming obligations quarterly throughout the broadcast year.*

In Broadcasting Decision 2014-169, also issued today, the Commission denied a similar application by the Canadian Broadcasting Corporation to amend the condition of licence applicable to its English-language conventional television network and stations.

Background

1. In Broadcasting Regulatory Policy 2009-406, the Commission standardized its approach to local programming by harmonizing the obligations relating to local programming for English-language metropolitan and non-metropolitan markets at seven and fourteen hours per broadcast week, respectively.
2. Prior to the release of that policy, licensees of conventional television stations generally only made commitments regarding local programming and had the ability to average these commitments over the broadcast year. During its last licence renewal proceeding, Bell Media Inc. (Bell) requested that the Commission allow it to average its local programming requirements over the broadcast year rather than over the broadcast week, arguing that such an amendment would provide its stations with the flexibility needed to temporarily reduce the amount of local programming broadcast during the holiday periods or to cover special events. The Commission denied Bell's request in Broadcasting Decision 2011-441.

Application

3. As set out in Broadcasting Notice of Consultation 2013-529, Bell filed an application to amend the standard conditions of licence applicable to conventional television

stations to allow licensees of such stations to average their weekly local programming obligations quarterly throughout the broadcast year.

4. To this end, Bell requested that conditions of licence 11 and 12, set out in the appendix to Broadcasting Regulatory Policy 2011-442, be amended to read as follows:
 11. If the licensee operates in a metropolitan television market, the licensee shall broadcast no less than 14 hours of Canadian local programming in each broadcast week, averaged quarterly throughout the broadcast year.
 12. If the licensee operates in a non-metropolitan television market, the licensee shall broadcast no less than seven hours of Canadian local programming in each broadcast week, averaged quarterly throughout the broadcast year. The licensee will not be eligible to receive funding from the Local Programming Improvement Fund if it is not in compliance with this condition of licence.
5. In justification of its proposed amendment, Bell submitted that the Commission's decision to deny its previous request was based primarily on the eligibility requirements to access the Local Programming Improvement Fund (LPIF) and that the LPIF will no longer be a factor for the Commission in assessing local programming compliance, given that it will be eliminated on 1 September 2014. Bell also stated that if the Commission were to approve this application, it would not seek to eliminate local programming from the programming schedule for weeks at a time and then try to make it up at the end of the broadcast year.

Interventions

6. The Commission received comments from several individuals as well as from the Coalition of Small Market Independent Television Stations (the Coalition), the Canadian Broadcasting Corporation (CBC), Rogers Broadcasting Limited (Rogers), the Public Interest Advocacy Centre (PIAC), the Conseil provincial du secteur des communications (CPSC), Unifor, as well as from the president of Unifor Local 830M. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.

Comments in support of the application

7. The Coalition strongly supported this application and contended that smaller broadcasters cannot afford additional programming staff, which would make it more difficult to create local content and to deal with staffing and scheduling issues. However, it recommended that Bell's proposed wording of "quarterly throughout the broadcast year" be replaced by "across a broadcast quarter." The Coalition argued that "broadcast quarter" should be defined as the period beginning with the first whole broadcast week in a quarter and concluding with the end of the broadcast week containing the last day in that quarter. It further submitted that this wording would ensure accurate averaging using complete weeks and would ensure that every day is included in the measurement.

8. The CBC and Rogers also supported this application and stated that the added flexibility would allow broadcasters to better manage their resources, thereby resulting in better programming.

Comments in opposition to the application

9. PIAC submitted that Bell did not provide sufficient rationale for its proposal. It argued that broadcasters have the ability to schedule ahead of time different types of local programming during the holidays and may continue to request that the Commission grant them temporary relief from their local programming obligations as they relate to special events. PIAC also stated that local programming is important to consumers and central to the policy objectives of the broadcasting system. It added that the Commission has repeatedly noted a decline in the quality and quantity of local programming over the last decade.
10. Moreover, PIAC stated that the Commission has previously determined that weekly measurements reflect the public interest in and the importance of local programming to Canadian communities and that the LPIF was not the only reason why the Commission denied Bell's similar request in Broadcasting Decision 2011-441. Conversely, if the Commission were to approve Bell's request, PIAC proposed that the Commission implement:
 - a much shorter time interval than quarterly;
 - the option to return to a weekly measurement of local programming if non-compliance occurs; and
 - a condition requiring broadcasters to file regular reports on the amount and quality of local programming broadcast, trends in the viewership of local programming and consumer complaints about the amount and quality of local programming.
11. Further, PIAC advised the Commission to render its decision only after it has concluded the "Let's Talk TV – A Conversation with Canadians" proceeding.
12. The president of Unifor Local 830M argued that Bell did not explain how this amendment would benefit Canadians and that this type of request should be part of a more public and accountable process, such as a licence renewal proceeding.
13. Unifor stated that Bell's proposal is deficient because it did not demonstrate:
 - that the Commission's current approach of temporarily suspending conditions of licence does not work;
 - a commitment to maintain its current levels of local programming, and
 - any economic need or provide other evidence to support this proposal and how Canadian communities would benefit from this amendment.

14. Unifor also submitted that Bell's proposal is deficient because a reduction in local programming would also reduce local television employment. It added that most local newscasts already include national and international news and that the absence of a requirement for original local programming would allow broadcasters to include repeat broadcasts of local programs in their weekly local programming requirements.
15. Finally, the CPSC questioned how this application would benefit consumers and the broadcasting industry as a whole, arguing that the arguments made therein are essentially the same as those made in Bell's previous request, which the Commission denied. It also indicated that local news programming is important to consumers at all times, regardless of when it is broadcast throughout the year. An irregular programming schedule for weeks at a time would result in a reduction in local news programming for Canadians and would have a negative impact on viewership loyalty. The CPSC further submitted that if the Commission were to approve this application, broadcasters would have the ability to sacrifice local programming in favour of special events or more popular programming.

Commission's analysis and decision

16. One of the objectives of the broadcasting policy for Canada, as set out in section 3(1)(i)(ii) of the *Broadcasting Act* (the Act), is to ensure that programming provided by the Canadian broadcasting system be drawn from local, regional, national and international sources. As the primary licensed providers of local programming to local communities, conventional television stations play an essential role in fulfilling this objective of the Act.
17. In recent years, the Commission has received several requests to amend requirements regarding the measurement of local programming obligations. As noted above, Bell made a similar request to that effect during its last licence renewal proceeding, proposing that the obligations be measured on an annual rather than a weekly basis. The Commission denied its request in Broadcasting Decision 2011-441 and stated that:

“Measuring local programming over the broadcast week permits periodic monitoring and evaluation to verify compliance with local programming obligations, whereas measurements done annually can only be verified at the end of the broadcast year. The Commission further notes that broadcasters can plan ahead for holiday periods and special events, and schedule types of local programming other than live news. Finally, the Commission's decision to measure local programming over the broadcast week is a reflection of the importance of local programming to Canadian communities. Accordingly, the Commission determines that it is appropriate to continue requiring that local programming obligations be measured over the broadcast week for the immediate future.”
18. The Commission notes that during its last licence renewal proceeding, the CBC also requested an exception with respect to the calculation of levels of local programming

for special events or statutory holidays. In Broadcasting Decision 2013-263 and Broadcasting Orders 2013-264 and 2013-265, the Commission denied its request, stating that the CBC failed to provide sufficient rationale to justify such a departure for most of its local television stations. However, the Commission granted an exception to the CBC's French-language television stations located in English-language markets, given the difficulties and costs associated with the broadcast of local programming in and the reflection of official language minority communities.

19. In that decision, the Commission also indicated that broadcasters can request an amendment to their conditions of licence to be temporarily relieved from local programming requirements or other requirements for special events or statutory holidays, as has been done in the past for events such as the London Olympics in 2012. It stated that a case-by-case approach such as that used previously would be more appropriate for the CBC's proposed exception.
20. The Commission considers that its past statements regarding these denials remain relevant and appropriate in the context of this application, particularly as they emphasize the important role played by local programming in the communities served by television stations. It agrees with the comments submitted by the interveners that local programming is an important aspect of the broadcasting system at all times of the year. The Commission considers that approval of this application would invariably result in a reduction in local programming for certain periods of the year. The Commission also notes that Bell did not specifically define what periods of the year would be affected.
21. With respect to Bell's argument regarding staffing issues during holiday periods, the Commission notes that broadcasters can plan ahead to continue to provide local programming during these periods, regardless of whether this programming consists of local newscasts or other types of local programming. Licensees may also request temporary exceptions to be relieved of their local programming obligations for specific periods or for special events.

Conclusion

22. In light of all of the above, the Commission **denies** the application by Bell Media Inc. to amend the standard conditions of licence applicable to conventional television programming undertakings to allow licensees of such undertakings to average their weekly local programming obligations quarterly throughout the broadcast year. The Commission notes that in Broadcasting Decision 2014-169, also issued today, it has denied a similar application by the Canadian Broadcasting Corporation to amend the condition of licence applicable to its English-language conventional television network and stations.

Secretary General

Related documents

- *Proposed amendment to the requirement regarding the measurement of local programming applicable to the Canadian Broadcasting Corporation's English-language conventional television network and stations*, Broadcasting Decision CRTC 2014-169, 9 April 2014
- *Call for comments on proposed changes to the measurement of local programming requirements for conventional television stations*, Broadcasting Notice of Consultation CRTC 2013-529, 1 October 2013
- *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, 28 May 2013
- *Review of the Local Programming Improvement Fund*, Broadcasting Regulatory Policy CRTC 2012-385, 18 July 2012
- *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011
- *Group-based licence renewals for English-language television groups – Introductory decision*, Broadcasting Decision CRTC 2011-441, 27 July 2011
- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009