



## Broadcasting Decision CRTC 2023-382

PDF version

Reference: Part 1 licence renewal application posted on 2 February 2023

Ottawa, 20 November 2023

**Access Communications Co-operative Limited**  
Regina, Saskatchewan

*Public record: 2022-0756-3*

### **On-demand service serving Regina – Licence renewal and licence amendment**

#### **Summary**

The Commission **renews** the broadcasting licence for the English-language on-demand service serving Regina, Saskatchewan, from 1 January 2024 to 31 August 2028.

In addition, the Commission **approves** the licensee's request to amend a standard condition and expectation related to closed captioning.

#### **Application**

1. The Commission has the authority, pursuant to subsections 9(1), 9.1(1) and 11.1(2) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*, and to make orders respecting expenditures.
2. Access Communications Co-operative Limited (Access) filed an application to renew the broadcasting licence for its English-language on-demand service serving Regina, Saskatchewan, which expires 31 December 2023.<sup>1</sup> The Commission did not receive any interventions in regard to this application.
3. In its application, Access requested to amend standard condition of licence 21 and standard expectation 3, which relate to closed captioning, set out in the appendix to Broadcasting Regulatory Policy 2017-138.<sup>2</sup>

---

<sup>1</sup> The original licence expiry date for the service was 31 August 2023. The licence was administratively renewed until 31 December 2023 as a result of Broadcasting Decision 2023-299.

<sup>2</sup> Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, conditions of licence that existed prior to the date of royal assent of that Act are now deemed to be conditions of service.

## Issues

4. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must examine the following issues:
  - the licensee's apparent non-compliance with the following:
    - the standard condition of licence for on-demand services relating to the broadcast of Canadian feature films; and
    - the standard condition of licence for on-demand services relating to closed captioning of licensee-produced community programming; and
  - the licensee's request to amend standard condition of licence 21 and standard expectation 3 relating to closed captioning of licensee-produced community programming.

## Apparent non-compliances

### Feature films – Canadian programming

5. Pursuant to subsection 9(1) of the old *Broadcasting Act*, the Commission had the authority to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deemed appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of that Act.
6. Paragraph 3(1)(e) of the *Broadcasting Act* declares that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming. The old *Broadcasting Act* also provided that private networks and programming undertakings should, to an extent consistent with the financial resources available to them, contribute significantly to the creation and presentation of Canadian programming (subparagraph 3(1)(s)(i) of the old *Broadcasting Act*).
7. Pursuant to the authority granted in subsection 9(1) of the old *Broadcasting Act*, and consistent with the provisions set out in paragraph 3(1)(e) and former subparagraph 3(1)(s)(i), in the appendix to Broadcasting Regulatory Policy 2017-138, the Commission imposed the following condition on on-demand services, including on Access's service:<sup>3</sup>
  7. If feature films are offered, the licensee shall ensure that not less than 5% of the English-language feature films and not less than 8% of French-language feature films available to subscribers in each broadcast year are Canadian.

---

<sup>3</sup> The requirement for Access to adhere to the requirements set out in Broadcasting Regulatory Policy 2017-138 is set out in Broadcasting Decision 2018-481.

8. According to Commission records, for the 2020-2021 broadcast year, 1.5% of the English-language feature films broadcast on Access's on-demand service were Canadian.
9. The licensee stated that the numbers submitted to the Commission were incorrect and submitted revised data.
10. The Commission notes that the revised data indicates that the licensee is in compliance with its exhibition requirements.
11. In light of the above, the Commission finds Access in compliance with condition of service 7 set out in the appendix to Broadcasting Regulatory Policy 2017-138 for the 2020-2021 broadcast year. The Commission reminds the licensee of the importance of filing accurate data when requested to submit information to the Commission.

**Closed captioning of licensee-produced (non-access) community programming**

12. Paragraph 3(1)(p) of the *Broadcasting Act* declares that programming accessible by persons with disabilities should be provided within the Canadian broadcasting system.
13. Pursuant to the authority granted by subsection 9(1) of the old *Broadcasting Act*, and consistent with the provision set out in paragraph 3(1)(p), in the appendix to Broadcasting Regulatory Policy 2017-138, the Commission imposed the following condition on on-demand services, including on Access's service:
  21. The licensee shall caption 100% of the English- and French-language programs in its inventory, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007, with the exception of community access television programming.
14. In its application, Access admitted that the service did not close caption 100% of the programming offered on its service as the licensee-produced community programming offered on its on-demand service was not closed captioned as required under the condition. The licensee notes that the amount of programming that was not closed captioned amounted to less than 10% of the total number of programs offered on the service.
15. Access stated that, as a community-owned, not-for-profit co-operative, it has limited revenues to invest in closed captioning. It added that the cost of close captioning all the community programming offered on its service immediately would be prohibitive and could result in the licensee removing local expression from its on-demand service.
16. The licensee further stated that it is looking into maximizing the amount of community programming provided with described video. Access noted its commitment to ensuring that its on-demand service is as accessible to as many Canadians as possible.

17. In light of the above, the Commission finds Access in non-compliance with the standard condition of service relating to closed captioning of licensee-produced community programming.
18. The Commission notes that the licensee has acknowledged its non-compliance and has proposed transitional measures, outlined below, to help ensure compliance going forward. In the circumstances, the Commission considers that the licensee's proposed amendments represents a reasonable measure to be imposed as a result of the non-compliance, as explained further below.

**Requested amendments to a standard condition and expectation relating to closed captioning**

19. In regard to the above-noted standard condition relating to closed captioning, the licensee proposed the following amendment as a transitional measure to operate the service in full compliance during the next licence term:

The licensee shall caption:

(a) 100% of the English- and French-language programs in its inventory, consistent with the approach set out in *A news policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007, with the exception of original licensee-produced community programming and access programming; and

(b) 100% of original licensee-produced community programming produced by the licensee's Regina, Saskatchewan, community channel by 31 August 2025.

20. Access is also subject to standard expectation 3 set out in the appendix to Broadcasting Regulatory Policy 2017-138 which stipulates that the licensee must ensure that 100% of original community access television programming is closed captioned. The licensee also proposed to replace that standard expectation with the following expectation:

The Commission expects the licensee to ensure that 100% of original community access television programming distributed by the licensee's Regina, Saskatchewan, community channel is captioned by 31 August 2025.

21. Access currently offers community programming on demand and on the linear community channel operated by its related licensed broadcasting distribution undertaking (BDU). Access submitted that the requirement to caption community programming set out in Appendix 1 to Broadcasting Decision 2018-270 for its related BDU is not harmonized with the closed captioning requirement for its on-demand service. That requirement indicates:

The licensee shall close caption 100% of original licensee-produced English- and French-language programming aired on its community channel or an on-demand service on which the licensee distributes programming that

qualifies as local expression **by the end of the licence term**. (emphasis added)

22. Access noted that, in Broadcasting Decision 2020-211, the Commission approved a similar request by Bragg Communications Incorporated, operating as Eastlink, which, like Access, offered community programming on both its BDU's linear community channel and on demand.
23. The end of the licence term of Access's related BDU is 31 August 2025. Accordingly, granting its proposed amendment would align the closed captioning requirements of the on-demand service with those of the related BDU.
24. The Commission's general practice is to not grant amendments to regulatory requirements when a licensee is in non-compliance with those requirements. However, in the specific circumstances, the Commission finds that a departure from its general practice is warranted in this case. Access is a smaller, regional, independent undertaking, operating as a co-operative. It is seeking to harmonize the regulatory obligations of its related undertakings and has committed to a plan that would see it come into compliance in the short term. The Commission considers that this proposal appropriately balances the commercial realities of the licensee with the policy objectives of the *Broadcasting Act* and, in particular, those relating to the accessibility of programming for persons with disabilities.
25. In light of the above, the Commission **approves** the licensee's request to amend standard condition of service 21 and standard expectation 3 set out in the appendix to Broadcasting Regulatory Policy 2017-138.
26. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Access Communications Co-operative Limited, by **condition of service**, to caption 100% of the English- and French-language programs in its inventory, with the exception of original licensee-produced community programming and access programming, and to caption 100% of original licensee-produced community programming by 31 August 2025. The specifics of this condition of service are set out in the appendix to this decision.
27. With respect to the condition of service imposed above, given that this renewal application was filed and published prior to the coming into force of the new *Broadcasting Act*, and that interested parties had an opportunity to comment on the proposed amendments to the standard condition of service and expectation relating to closed captioning as part of that process, the Commission considers the public Part 1 proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act* in this case.

## **Conclusion**

28. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language on-demand service serving Regina from 1 January 2024 to 31 August 2028.

29. Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*, or subsection 11.1(2) in case of expenditure requirements. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee, except to the extent that they have been amended by this decision.
30. For ease of reference and in light of paragraph 26 of this decision, the Commission has set out **conditions of service** for this licensee in the appendix to this decision. Further, the formal the broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Secretary General

### **Related documents**

- *Various conventional and educational television programming undertakings, community programming services, discretionary services, on-demand services and terrestrial broadcasting distribution undertakings – Administrative renewals*, Broadcasting Decision CRTC 2023-299, 29 August 2023
- *Bragg Communications Incorporated, operating as Eastlink – Licence renewal*, Broadcasting Decision CRTC 2020-211, 2 July 2020
- *On-demand service – Licence renewal*, Broadcasting Decision CRTC 2018-481, 18 December 2018
- *Various terrestrial broadcasting distribution undertakings – Licence renewals and imposition of requirements relating to set-top box audience measurement system*, Broadcasting Decision CRTC 2018-270, 2 August 2018
- *Standard requirements for on-demand services*, Broadcasting Regulatory Policy CRTC 2017-138, 10 May 2017

*This decision is to be appended to the licence.*

## Appendix to Broadcasting Decision CRTC 2023-382

### Terms, conditions of service, expectations and encouragements for the English-language on-demand service serving Regina, Saskatchewan

#### Terms

The licence will expire 31 August 2028.

#### Conditions of service

1. The licensee shall adhere to the conditions of service set out in the appendix to *Standard requirements for on-demand services*, Broadcasting Regulatory Policy CRTC 2017-138, 10 May 2017, with the exception of condition 21, which is replaced by the following:

The licensee shall caption:

(a) 100% of the English- and French-language programs in its inventory, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007, with the exception of original licensee-produced community programming and access programming; and

(b) 100% of original licensee-produced community programming produced by the licensee's Regina, Saskatchewan, community channel by 31 August 2025.

Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.

2. The licensee shall adhere to all applicable requirements set out in the *Discretionary Services Regulations*, and referred to in the conditions of service set out in the appendix to *Standard requirements for on-demand services*, Broadcasting Regulatory Policy CRTC 2017-138, 10 May 2017, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.<sup>4</sup>

#### Expectations

##### Standard expectations

The standard expectations applicable to this licensee are set out in *Standard requirements for on-demand services*, Broadcasting Regulatory Policy CRTC 2017-138, 10 May 2017, with the exception of expectation 3, which is replaced by the following:

---

<sup>4</sup> Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

The Commission expects the licensee to ensure that 100% of original community access television programming distributed by the licensee's Regina, Saskatchewan, community channel is captioned by 31 August 2025.

**Cultural diversity**

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

**Encouragements**

The standard encouragements applicable to this licensee are set out in *Standard requirements for on-demand services*, Broadcasting Regulatory Policy CRTC 2017-138, 10 May 2017.