



17 September 2012

Mr. John Traversy
Secretary General
CRTC
Ottawa, Ontario
K1A 0N2

Filed electronically

Dear Mr. Traversy:

Re: Broadcasting Regulatory Policy CRTC 2012-385: *Review of the Local Programming Improvement Fund (LPIF) – Report to the Commission*

Introduction

1. Shaw Communications Inc. (Shaw), on behalf of Shaw Cablesystems (Shaw Cable) and Shaw Direct, provides this report to the Commission pursuant to Broadcasting Regulatory Policy CRTC 2012-385 (BRP 2012-385).

2. In BRP 2012-385, the Commission concluded that:

... it would be inappropriate to maintain the LPIF in the long term. However, to mitigate the effects of eliminating this source of funding for local stations, the Commission will phase out the fund over the next two broadcast years.

3. Specifically, the Commission will:

- reduce the contribution rate from 1.5% to 1% for the 2012-2013 broadcast year;
- reduce the contribution rate to 0.5% for the 2013-2014 broadcast year; and
- discontinue the LPIF as of 1 September 2014.

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4. The Commission further directed all licensed broadcasting distribution undertakings (BDUs) to report to the Commission by September 17, 2012:
 - to describe the measures they have taken or will take, commencing 1 September 2012, to reduce subscriber bills by amounts corresponding to the progressively reduced contribution levels described in BRP 2012-385, including evidence that they have notified subscribers concerning these reductions; or
 - to submit evidence that subscribers have never paid contributions associated with the LPIF.

Shaw Cable

5. Shaw Cable subscribers have never paid the LPIF contributions. This was confirmed by evidence submitted by Shaw on April 25, 2012 in response to an undertaking received from the Commission on April 18, 2012, pursuant to Broadcasting Notice of Consultation CRTC 2011-788 – *Review of the Local Programming Improvement Fund* (BNC 2011-788).
6. In our response to the undertaking, Shaw provided:
 - (a) A list of each of the rate increases since 2009 that the BDU has implemented;
 - (b) The associated information that was provided to subscribers in relation to the price increases; and
 - (c) The information that was provided to Customer Service Representatives (CSRs) to respond to customer calls and enquiries related to these price increases.
7. This evidence, which is already part of the public record, demonstrates that we explained to our customers that Shaw's rate increases support regular and ongoing infrastructure investment, the addition of new services, wholesale fee increases, innovation and the introduction of new features as part of Shaw's commitment to delivering advanced technology, services and products. LPIF was not provided as a reason for rate increases.
8. Further evidence that Shaw Cable has absorbed LPIF as a cost is provided in financial reports, which include the following statements:

2011 Annual Report

Consolidated operating income before amortization was up 14.3% over the comparable period to \$1.76 billion. The improvement was due to the revenue related growth, partially offset by higher employee related and other costs associated with the increased subscriber base including marketing and sales activities, as well as the impact of the new LPIF fees.¹

¹ Shaw Communications Inc., Annual Report 2011 at page 48.
http://www.shaw.ca/uploadedFiles/Corporate/Investors/Financial_Reports/COR_Investors_FinRep_AnnualReport_2011.pdf

October 23, 2009

On July 6, 2009 the CRTC set the level of contribution by a BDU to fund the new Local Programming Improvement Fund (“LPIF”) at 1.5%. The approved level of contribution to the LPIF will increase Shaw’s costs.²

January 14, 2010

Cable service revenue for the quarter of \$708.5 million was up 12.6% over the same period last year. Customer growth, including acquisitions, and rate increases accounted for the improvement. Service operating income before amortization of \$381.1 million increased 25.5% over the comparable three month period. The increase was due to a one-time Part II fee recovery and the revenue driven improvements, **partially offset by higher employee related and other costs associated with growth including marketing and sales activities as well as the impact of the LPIF fees.**

Excluding the impact of the Part II fee recovery, the improvement was 9.5%. Service revenue was up \$26.0 million or 3.8% over the fourth quarter of fiscal 2009 primarily due to rate increases and the acquisition of the Hamilton cable system. Service operating income before amortization improved \$52.7 million over this same period primarily due to the Part II fee recovery and **revenue related growth, partially reduced by increased employee related expenses, marketing costs, and the impact of the LPIF fees.**

...

Service operating income before amortization for the quarter of \$93.9 million compared to \$64.6 million for the same period last year. In addition to the one-time Part II fee recovery, the improvement was mainly due to the **revenue related growth partially offset by higher marketing, employee related, and LPIF costs.**³ [emphasis added]

June 30, 2010

Service operating income before amortization improved 3.0% and 16.0% over the comparable three and nine month periods, respectively, to \$72.0 million and \$235.3 million. The improvement in both periods was due to revenue related growth partially offset by LPIF costs.⁴

² News Release, *Shaw announces fourth quarter and full year results and preliminary fiscal 2010 guidance*, Calgary, Alberta (October 23, 2009), at page 16.

http://www.shaw.ca/uploadedFiles/Corporate/Media/Press_Releases/4thQtr09.pdf

³ News Release, *Shaw announces first quarter results*, Calgary, Alberta (January 14, 2010), at pages 9 and 11,

http://www.shaw.ca/uploadedFiles/Corporate/Investors/Financial_Reports/1stQtr10.pdf.

⁴ News Release, *Shaw announces third quarter financial and operating results*, Calgary, Alberta (June 30, 2010), at page 11, http://www.shaw.ca/uploadedFiles/Corporate/Investors/Financial_Reports/3rdQtr10.pdf.

9. As a public company, Shaw is required to ensure that these documents do not contain misrepresentations.

Shaw Direct

10. Since April 2011, Shaw Direct customers have paid for LPIF. However, in our final reply comments in response to BNC 2011-788, Shaw confirmed that “if the Commission decides to eliminate the LPIF in its entirety, Shaw has committed to communicate the change in cost structure to our customers who have LPIF charges separately identified on their bills. As Peter Bissonnette, President of Shaw Communications, explained during the oral hearing:

We’ll tell you that your bill will go down by 1.5 percent. In the future there may be increases that go up, but they would go up in accordance with whatever the costs and whatever the market makes available to ourselves, but our customers would know that LPIF no longer exists and it’s not a component of our cost structure.”⁵

11. Consistent with these commitments and the Commission’s instructions in BRP 2012-385, LPIF will be eliminated in accordance with the Commission’s two-year phase out. Shaw is informing customers on the Shaw Direct website:

The screenshot shows a web browser window displaying the Shaw Direct website. The browser's address bar shows the URL <http://www.shawdirect.ca/english/customer-care/lpif.asp>. The website layout includes a left-hand navigation menu with sections such as 'Get Connected with Shaw Direct On Demand', 'Self Serve [Login]', 'Tech Central', 'Communications', 'What's New', 'Billing', 'FAQs', 'Moving?', and 'Parental Locks'. The main content area is titled 'WHAT IS LPIF?' and 'The Local Programming Improvement Fund'. It contains text explaining the fund's origin and its phase-out, along with a schedule of contribution decreases. A prominent green box highlights the announcement: 'Effective September 1, 2012, Shaw Direct will reduce the LPIF fee on your monthly bill from 1.5% to 1%.' To the right, there are promotional banners for 'GO GREEN AND SAVE!' and 'Over 3000 Movies and TV Shows on Your TV'.

⁵ Shaw Final Written Comments in response to BNC 2011-788, May 2, 2012, at para. 38

12. The text of the online notice is reproduced below:

In September 2009, the Canadian Radio-television and Telecommunications Commission (CRTC) created the Local Programming Improvement Fund (LPIF). The CRTC stipulated that 1.5% of cable and satellite gross broadcasting revenues be contributed to the fund, which is intended to subsidize the production of local TV programming.

Following a public hearing held April 16-20, 2012, the CRTC has decided that the LPIF has fulfilled its purpose and will be phased out by August 31, 2014.

How is the LPIF being phased out?

Cable and satellite contributions will decrease according to the following schedule:

- September 1, 2012. Contributions will decrease from 1.5% of gross broadcasting revenue to 1%.
- September 1, 2013. Contributions will decrease from 1% of gross broadcasting revenue to 0.5%.
- September 1, 2014. The fund will be discontinued.

Effective September 1, 2012, Shaw Direct will reduce the LPIF fee on your monthly bill from 1.5% to 1%.

13. On invoices, Shaw has already adjusted the LPIF charge to 1.0%. Shaw is informing customers on invoices, as in the sample below:

YOUR SHAW DIRECT SATELLITE INVOICE

SUMMARY OF YOUR ACCOUNT

Previous Charges and Payments

Amount of Previous Invoice

Balance Carried Forward

Current Charges (25-Aug-12 to 24-Sep-12) - see following pages for details

Changes Since Your Previous Invoice
Current Monthly Services
GST (Registration 838635290)
CRTC 1.0% Local Program Fund
Total Current Charges due 15-Sep-12

Please note that effective September 1st, 2012, Shaw Direct's contribution to the Local Programming Improvement Fund will be reduced from 1.5% to 1% in accordance with the schedule set by the CRTC. For more information please visit SHAWDIRECT.CA/LPIF.

14. In all our contact with customers, we will explain that LPIF will be phased-out in accordance with the CRTC schedule.

Conclusion

15. Shaw appreciates the Commission's focus on the consumer impact of LPIF and we would be pleased to provide any necessary clarifications of the above.

Sincerely,

A handwritten signature in black ink that reads "Jean Brazeau". The signature is written in a cursive style with a prominent loop at the end of the last name.

Jean Brazeau
Senior Vice President, Regulatory Affairs

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