



Broadcasting Decision CRTC 2008-19

Ottawa, 30 January 2008

C.M.E.S. Community Media Education Society

Victoria, Nanaimo, Prince George, Terrace, Vernon, Penticton and Vancouver (including Lower Mainland and Fraser Valley), British Columbia, and Calgary, Edmonton, Fort McMurray, Red Deer, Grande Prairie, Lethbridge and Medicine Hat, Alberta

Application 2005-1028-1, received 31 August 2005

Public Hearing at Kelowna, British Columbia

30 October 2007

Community programming undertaking – British Columbia and Alberta

*The Commission **denies** the application by C.M.E.S. Community Media Education Society for a broadcasting licence to operate an English-language community programming undertaking to serve the above-noted locations in British Columbia and Alberta.*

Introduction

1. The Commission received an application by C.M.E.S. Community Media Education Society (CMES) for a broadcasting licence to operate an English-language community programming undertaking to serve Victoria, Nanaimo, Prince George, Terrace, Vernon, Penticton and Vancouver (including Lower Mainland and Fraser Valley), British Columbia, and Calgary, Edmonton, Fort McMurray, Red Deer, Grande Prairie, Lethbridge and Medicine Hat, Alberta. The proposed service would be distributed on TELUS Communications Inc.'s (Telus's) terrestrial broadcasting distribution undertakings (BDUs), which are licensed to serve the above-noted locations.
2. The applicant proposed that the programming would originate initially from Vancouver for the communities in British Columbia, and from Calgary for those in Alberta. Once Telus has 6,000 subscribers in a given community, programming from that community would be added. More specifically, regional offices in communities with 6,000 subscribers or more would produce a news magazine and interview program for those communities.
3. The Commission received numerous interventions in support of this application, an opposing intervention from Telus, and a comment from Shaw Communications Inc. A number of the parties also made oral presentations at the public hearing. The public record of this proceeding, including the interventions for this application, is available on the Commission's Web site at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

4. After reviewing the application and interventions, the Commission is of the view that the three primary issues to be considered in its evaluation of this application are the following:

- Does the structure of the applicant organization provide for membership, management, operation and programming primarily by members of the communities it proposes to serve?
- Does the applicant have sufficient resources to adequately serve the proposed communities?
- Would the applicant provide community programming in accordance with the objectives of the Community-based media policy?

Does the structure of the applicant organization provide for membership, management, operation and programming primarily by members of the communities it proposes to serve?

5. In Broadcasting Public Notice 2002-61 (the Community-based media policy), the Commission sets out the following objectives for the Community-based media policy:

- to ensure the creation and exhibition of more locally-produced, locally-reflective community programming; and
- to foster a greater diversity of voices and alternative choices by facilitating the entrance of new participants at the local level.
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6. Furthermore, the licensees of community programming undertakings must be not-for-profit organizations, the structures of which provide for membership, management, operation and programming primarily by members of the community at large.

7. CMES submitted that it was incorporated in 1997 as a not-for-profit organization to promote and produce independent, participatory public access television programming. Its constitution and bylaws emphasize membership, management, operation and programming primarily by members of the community at large.

8. CMES indicated that it has 200 members throughout British Columbia and Alberta, and that members from all areas would be involved not only in the production of programming, but also in the management and operations of the undertaking. Members would also be included on its board of directors. The applicant added that persons contributing programming for broadcast on its service would not have to be members of CMES.

9. CMES explained that due to its limited budget, it would rely on part-time paid staff working one day a week or volunteers in the various communities to recruit volunteers and train them on how to produce community programming.
10. The Commission is satisfied that CMES is structured for community input into its management, operations and programming, but given that the applicant proposes to serve some 14 centres throughout British Columbia and Alberta, the Commission is not convinced that it can be achieved on a practical basis.

Does the applicant have sufficient resources to adequately serve the proposed communities?

11. In accordance with the Community-based media policy and section 29 of the *Broadcasting Distribution Regulations* (the Regulations), a licensed community programming undertaking is entitled, in each broadcast year, to receive the applicable percentage of a BDU's gross revenues allocated for local expression, had the BDU elected not to provide a community channel.
12. In the proceeding that led to Broadcasting Decision 2003-407, Telus indicated that it would not distribute community programming or any other form of local expression, and opted to allocate the applicable percentage of revenues to Canadian programming, as set out in the Regulations.
13. In its application, CMES provided two sets of financial projections – one based on Telus revenue estimates and one based on slower than projected revenue growth. While CMES's business plan indicated that the applicant's ongoing financial stability is largely predicated on the expansion of the BDU subscriber base, both sets of financial projections indicated that a considerable proportion of first- and second-year revenues is composed of other revenue sources such as government and non-government funding. Under the slower revenue growth model, this funding represents approximately 44% and 28% of year 1 and year 2 revenues, respectively. The applicant confirmed, at the public hearing, that these sources of revenue have not yet been secured.
14. The applicant also stated that it would not distribute sponsorship advertising.
15. Based on the foregoing, the Commission is not convinced that the applicant would be able to provide service if actual revenues met or fell short of the slower than projected revenue growth. Given the uncertainty as to the availability of government and non-government funding, the Commission also questions the reliability of the applicant's financial projections.
16. Accordingly, the Commission is not satisfied that CMES has sufficient resources to ensure long-term financial stability, to fulfil its regulatory obligations, and to provide an adequate level of service to the proposed communities, particularly in light of the large geographic area that it proposes to serve.

Would the applicant provide community programming in accordance with the objectives of the Community-based media policy?

17. In the Community-based media policy, the Commission highlighted the importance of locally-produced programming by establishing minimum quantitative requirements for community programming undertakings of 60% local programming and 30% access programming in a broadcast week. Local community programming is defined as programs that are produced by the licensee or by members of the community in the licensed service area. Access programming is defined as programs that are produced by individuals or groups residing in the licensed area.
18. Furthermore, the Community-based media policy sets out that under any regional licensing model, the original licensed areas will generally be retained for regulatory purposes. Linking the definition of local community television programming to the original licensed areas as a subset of a regional licence ensures that the smaller localities will continue to be served with distinct community channels, even if a cable company obtains approval for a regional licence.
19. Although CMES committed to fulfil the minimum required levels of local and access programming, it proposed that such programming be defined on the basis of a regional licence, such that a program produced by a resident anywhere in its proposed licence area could be considered to be both local and access programming. In the case of the CMES application, such an interpretation would allow a program produced by a resident of Terrace, British Columbia, for example, to qualify as local and access programming in Lethbridge, Alberta.
20. The Commission has given flexibility to some cable operators by allowing programming produced within a zone or region to be considered as local programming throughout that zone or region. However, given the vast geographic areas involved in this application – 14 locations throughout British Columbia and Alberta – the Commission does not consider CMES’s programming proposal to be in keeping with the objectives of the Community-based media policy.

Conclusion

21. In light of the concerns set out above, the Commission **denies** the application by C.M.E.S. Community Media Education Society for a broadcasting licence to operate an English-language community programming undertaking to serve Victoria, Nanaimo, Prince George, Terrace, Vernon, Penticton and Vancouver (including Lower Mainland and Fraser Valley), British Columbia, and Calgary, Edmonton, Fort McMurray, Red Deer, Grande Prairie, Lethbridge and Medicine Hat, Alberta.

Secretary General

Related documents

- *Regional broadcasting distribution undertakings in Alberta and British Columbia*, Broadcasting Decision CRTC 2003-407, 20 August 2003
- *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002

This decision is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>