



Broadcasting Decision CRTC 2010-685

PDF version

Route reference: 2010-346

Ottawa, 15 September 2010

Bell ExpressVu Inc. (the general partner), and Bell Canada and Bell ExpressVu Inc., partners in BCE Holdings G.P. (the limited partner), carrying on business as Bell ExpressVu Limited Partnership
Across Canada

Application 2010-0660-2, received 19 April 2010

Licence amendment

*The Commission **approves** the application to amend the broadcasting licence for the licensee's direct-to-home service by adding a condition of licence relieving it from program deletion requirements.*

The application

1. The Commission received an application by Bell ExpressVu Inc. (the general partner), and Bell Canada and Bell ExpressVu Inc., partners in BCE Holdings G.P. (the limited partner), carrying on business as Bell ExpressVu Limited Partnership (Bell), to amend the broadcasting licence for its direct-to-home (DTH) satellite distribution undertaking by adding the following condition of licence relieving it from program deletion requirements:

The application of sections 42(1)(b) and 43(1) of the *Broadcasting Distribution Regulations* (the Regulations) is suspended, for each broadcaster, until the earlier of a) the date by which a negotiated agreement with that broadcaster is put into effect; or b) the date of expiry of its DTH licence; or c) the effective date of the revisions to the Regulations that will put the announced consent regime for distant signals and compensation regime for local signals into effect, so long as the licensee:

- (a) fulfils all of the measures set out in the Schedule that is appended to the conditions of licence set out in Broadcasting Decision 2004-129; and
- (b) contributes an amount not less than 0.4% of its gross revenues from broadcasting activities to the independently administered fund to assist small market, independently owned broadcasters in meeting their commitments to local programming as set out in Broadcasting Public Notice 2003-38.

Interventions and applicant's reply

2. The Commission received a joint intervention in support of the application on behalf of a number of licensees of small-market, independently owned television stations, as well as a comment by the Canadian Broadcasting Corporation (CBC). The Commission also received an opposing intervention from an individual that did not directly relate to the application. The interventions and the applicant's reply can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. The CBC submitted that Bell's proposed wording could lead to disputes over the interpretation of its obligations as they apply to the CBC. Specifically, the CBC submitted that the proposed wording appeared to make its rights to program deletion contingent on the implementation of the compensation regime for local signals from which it has expressly been excluded. The CBC proposed alternate wording that provided an exception for the CBC and a deadline for the expiry of the condition that more specifically addressed its particular circumstances.
4. Bell stated that it did not object to the CBC's alternate wording.

Commission's analysis and determinations

5. The Commission notes that except for the CBC, no party objected to the proposed amendment. Moreover, the Commission notes that the applicant did not object to the wording changes proposed by the CBC. The Commission considers that in order to provide the industry with certainty and to avoid potential disputes over requests for program deletion, it would be appropriate to approve the proposed licence amendment, as modified by the CBC.
6. Accordingly, the Commission **approves** the application by Bell ExpressVu Inc. (the general partner), and Bell Canada and Bell ExpressVu Inc., partners in BCE Holdings G.P. (the limited partner), carrying on business as Bell ExpressVu Limited Partnership, to amend the broadcasting licence for its DTH satellite distribution undertaking. The Commission imposes the following **condition of licence**:

The application of sections 42(1)(b) and 43(1) of the *Broadcasting Distribution Regulations* (the Regulations) is suspended, for each broadcaster except the Canadian Broadcasting Corporation (CBC), until the earlier of a) the date by which a negotiated agreement with each broadcaster is put into effect; or b) the date of expiry of its direct-to-home licence; or c) the effective date of the revisions to the Regulations that will put into effect the announced consent regime for distant signals and, subject to the outcome of the referral to the Federal Court of Appeal,¹ of the compensation regime for local signals, so long as the licensee:

¹ Pursuant to *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the Commission has referred the matter of the compensation regime for local signals to the Federal Court of Appeal.

- (a) fulfils all of the measures set out in the Schedule that is appended to the conditions of licence set out in *ExpressVu – Licence renewal*, Broadcasting Decision CRTC 2004-129, 31 March 2004; and
- (b) contributes an amount not less than 0.4% of its gross revenues from broadcasting activities to the independently administered fund to assist small market, independently owned broadcasters in meeting their commitments to local programming as set out in *Contributions to Canadian programming by broadcasting distribution undertakings*, Broadcasting Public Notice CRTC 2003-38, 16 July 2003.

In regard to the CBC, the application of sections 42(1)(b) and 43(1) of the Regulations is suspended until the effective date of the revisions to the Regulations that will put the announced consent regime for distant signals into effect.

Secretary General

Related documents

- *ExpressVu – Licence renewal*, Broadcasting Decision CRTC 2004-129, 31 March 2004
- *Contributions to Canadian programming by broadcasting distribution undertakings*, Broadcasting Public Notice CRTC 2003-38, 16 July 2003

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