



Broadcasting Decision CRTC 2014-169

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Route reference: Part 1 application posted on 14 November 2013

Ottawa, 9 April 2014

Canadian Broadcasting Corporation
Across Canada

Application 2013-1475-7

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

*The Commission **denies** an application by the Canadian Broadcasting Corporation to amend the condition of licence applicable to its English-language conventional television network and stations to allow it to average its weekly local programming requirements quarterly throughout the broadcast year.*

In Broadcasting Decision 2014-170, also issued today, the Commission denied a similar application by Bell Media Inc. to amend the standard conditions of licence applicable to conventional television stations.

Application

1. In Broadcasting Notice of Consultation 2013-529, the Commission called for comments on Bell Media Inc.'s (Bell) application to amend the standard conditions of licence applicable to conventional television stations, as set out in Broadcasting Regulatory Policy 2011-442, to allow licensees of such stations to average their weekly local programming obligations quarterly throughout the broadcast year.
2. Subsequently, the CBC filed an application to amend the condition of licence applicable to its English-language conventional television network and stations to allow it to average its weekly local programming obligations quarterly throughout the broadcast year.
3. To this end, the CBC requested that condition of licence 21, set out in Appendix 3 to Broadcasting Decision 2013-263 and Broadcasting Orders 2013-264 and 2013-265, be amended to read as follows:

21. If the licensee operates in a:

- a) metropolitan market as defined in *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory Policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008 (Broadcasting Public Notice 2008-100), the licensee shall broadcast at least fourteen hours of Canadian local programming per week, averaged quarterly throughout the broadcast year. Of these 14 hours, at least 1 hour per week shall consist of non-news local programming.
 - b) non-metropolitan market as defined in Broadcasting Public Notice 2008-100, the licensee shall broadcast at least seven hours of Canadian local programming per week, averaged quarterly throughout the broadcast year.
4. In justification of its proposed amendment, the CBC stated that it filed its application to correspond with Bell's aforementioned proposal. It also stated that approval of both applications would create symmetry for English-language broadcasters. The CBC further indicated that both private and public conventional television stations face the same challenges in meeting local programming levels that are calculated on a weekly basis. In addition, the CBC indicated that its conventional stations would benefit from the flexibility to provide high quality local programming that serves the needs of local audiences. Finally, it specified that the proposal would not result in a reduction in the amount of local programming hours that conventional television stations are required to broadcast.

Interventions

5. The Commission received interventions in opposition to the application from the Public Interest Advocacy Centre (PIAC) and Forum for Research and Policy in Communications, to which the applicant replied. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
6. The interveners highlighted the importance of local programming to Canadian consumers, especially as regards regularly scheduled local programming. They also submitted that the application is deficient since the CBC did not provide sufficient rationale to support its proposal. They cited in particular the lack of information provided by the CBC regarding the impact of an approval of this application, most notably on local programming levels and on the communities affected by the proposed amendment, and the absence of comments regarding the effectiveness of the Commission's current approach of temporarily suspending conditions of licence on local programming for specific periods or special events.
7. PIAC added that it is concerned that the CBC's current one hour of non-news local programming requirement would be included in the quarterly averaging, resulting in the possibility of consecutive weeks devoid of non-news local programming.

Applicant's reply

8. In its reply, the CBC reiterated that its application is consistent with Bell's and that its proposed amendment would give the CBC the flexibility needed to temporarily reduce the amount of local programming during holiday periods (to account for staffing issues) or to cover special events and make up for the reduction within the broadcast quarter. The CBC also submitted that if its application were approved, it would have sufficient flexibility to address small variations that could arise without reducing its overall local programming obligations. It also repeated that it does not intend to reduce or eliminate local programming for days or weeks at a time from the programming schedule.
9. Finally, to alleviate the concerns raised by PIAC regarding the broadcast of non-news local programming, the CBC proposed to further amend condition of licence 21a), set out above, as follows:

21. If the licensee operates in a:

- a) metropolitan market as defined in *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory Policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008 (Broadcasting Public Notice 2008-100), the licensee shall broadcast at least fourteen hours of Canadian local programming per week, averaged quarterly throughout the broadcast year. Of these 14 hours, at least 1 hour per week (not averaged quarterly) shall consist of non-news local programming.

Commission's analysis and decision

10. 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.
11. In recent years, the Commission has received several requests to amend requirements regarding the measurement of local programming obligations. 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.”

12. 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.
13. 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.
14. 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.
15. With respect to the CBC’s argument that both private and public conventional television stations face the same challenges in meeting local programming levels that are calculated on a weekly basis, 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. They may also request temporary exceptions to be relieved of their local programming obligations for specific periods or for special events.

Conclusion

16. In light of all of the above, and given in particular that the CBC filed this application to harmonize its local programming requirements with those proposed by Bell in Broadcasting Notice of Consultation 2013-529, which the Commission has denied in Broadcasting Decision 2014-170, also issued today, the Commission **denies** the application by the Canadian Broadcasting Corporation to amend the condition of licence applicable to its English-language conventional television network and

programming undertakings to allow it to average its weekly local programming requirements quarterly throughout the broadcast year.

Secretary General

Related documents

- *Proposed amendments to the requirements regarding the measurement of local programming applicable to conventional television stations*, Broadcasting Decision CRTC 2014-170, 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
- *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