Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

Broadcasting Decision CRTC 2014-486

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Ottawa, 22 September 2014

Leiacomm
Across Canada

Application 2014-0131-4

Complaint by Leiacomm against Bell Media Inc. alleging undue preference and disadvantage

Leiacomm, an Internet-based content distribution service, filed a complaint with the Commission against Bell Media Inc. when the latter refused to provide content for distribution on Leiacomm's service.

The Commission finds that Bell Media Inc. granted itself and certain broadcasting distribution undertakings a preference and subjected Leiacomm to a disadvantage by refusing to provide its content to Leiacomm. However, the Commission finds this preference and disadvantage is not undue.

*Accordingly, the Commission **dismisses** Leiacomm's complaint.*

A dissenting opinion by Commissioner Raj Shoan is attached.

The parties

1. Leiacomm is an Internet-based content distribution service that will operate as a digital media undertaking under the *Exemption order for digital media broadcasting undertakings* (the DMEO) set out in Broadcasting Order 2012-409. The service will offer linear and non-linear programming to its customers via a supplied set-top box or a secure website. Leiacomm is owned by Howard Rabb.

2. Bell Media Inc. (Bell), a subsidiary of BCE Inc., is a multimedia company with significant assets in television, radio, out-of-home advertising and digital media. Its television holdings include CTV, several specialty channels, including TSN and RDS, and pay channels, including The Movie Network (HBO Canada) and Super Écran. Bell also operates more than 200 websites and delivers its TV Anywhere service with its GO video streaming services, including CTV GO, TMN GO, and Bravo GO.

The complaint

3. In the complaint, Leiacomm alleged that Bell refused to license content to Leiacomm while providing such content on its own on-line and mobile platforms, as well as

through other on-line content providers, and is thus conferring on itself an undue preference in violation of the DMEO and the principles set out in Broadcasting Regulatory Policy 2011-601 (the framework relating to vertical integration) and the *Code of conduct for commercial arrangements and interactions* set out in Broadcasting Regulatory Policy 2011-601-1 (the Code).

4. Leiacomm asked that the Commission issue an order directing Bell to comply with the DMEO and the framework relating to vertical integration and to provide affiliation agreements so that Leiacomm can distribute the Bell stations on its service.

Bell's response

5. In its response to the complaint, Bell argued that Leiacomm cannot ask for the benefits of licensing (i.e. access to licensed Canadian programming services) without accepting the requirements and obligations of a licence.

6. Bell stated that its offerings are in compliance with Commission regulations and with the DMEO. Bell added that it is abiding by the exclusivity rule set out in the DMEO, which states that an undertaking may not offer television programming on an exclusive or otherwise preferential basis in a manner that is dependent on the subscription to a specific mobile or retail Internet access service.

7. Bell stated that where it has the necessary rights and makes programming available on-line, it either makes that programming accessible to all Canadians via the Internet at no charge, or provides it to other broadcasting distribution undertakings (BDUs)[1] for their on-line services, subject to negotiated terms and conditions, to be made available on an authenticated basis.

Interventions

8. The Commission received an intervention in opposition to the application from the Public Interest Advocacy Centre (PIAC). PIAC argued that the issues raised in the complaint are core issues to be explored in the television policy review "Let's Talk TV" announced in Broadcasting Notice of Consultation 2014-190 and that adjudication of the present dispute would be prejudging issues that should be subject to wider public consideration. PIAC requested that the Commission adjourn its consideration of the dispute until it has concluded the Let's Talk TV proceeding.

9. 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.

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[1] For the purposes of this decision, BDU refers to a licensed BDU or one operating pursuant to the BDU exemption order set out in Broadcasting Order 2014-445.

Commission's analysis and decisions

10. With respect to PIAC's intervention, the Commission considers that there is a clear regulatory framework in place governing the matters raised by Leiacomm: the DMEO, the framework relating to vertical integration, and the Code. It therefore finds that it is appropriate to deal with the complaint now rather than waiting for the completion of the Let's Talk TV proceeding.

11. After examining the public record for this application, the Commission considers that the issues it must address are the following:

    - Is there a preference or a disadvantage?
    - Is the preference or the disadvantage undue?
    - Does the Code apply to the present dispute?

Background on undue preference

12. As set out in the DMEO, an undertaking cannot offer television programming on an exclusive or otherwise preferential basis in a manner that is dependent on the subscription to a specific mobile or retail Internet access service.

13. When the Commission examines a complaint alleging undue preference or disadvantage, it must first determine whether the complainant was able to demonstrate that the licensee has given preference to any person or that the person was subjected to a disadvantage.

14. If the Commission finds that a preference has been given or a person has been subjected to a disadvantage, it must then determine whether, under the circumstances, that preference or disadvantage is undue.

15. To determine whether a preference or disadvantage is undue, the Commission considers whether the preference or disadvantage has had or is likely to have a material adverse impact on the complainant or on any other person. It also considers the impact the preference or disadvantage has had or is likely to have on the achievement of the objectives of the Broadcasting policy for Canada set out in the *Broadcasting Act* (the Act).

16. As set out in the DMEO, the burden of establishing that any preference or disadvantage is not undue is on the party that gives the preference or subjects the person to the disadvantage.

Is there a preference or a disadvantage?

17. In the present instance, the Commission must first determine whether Bell has given itself or anyone a preference or has subjected Leiacomm to a disadvantage.

18. The record demonstrates that Bell is offering its content on-line. Where it has the rights, Bell is providing its content on its websites at no charge, or providing it to BDUs on a non-exclusive basis for distribution on-line on an authenticated basis. "Authenticated" means that BDU subscribers to a given service may access content via the BDU's on-line service.

19. The Commission notes that the provision of Bell's content on Bell websites and cell phones, or via the on-line services offered by BDUs falls under the DMEO, and that Bell and its BDU partners, in offering such on-line services, are operating digital media undertakings.

20. Although Leiacomm will offer a content distribution service over the Internet only and does not operate (nor proposes to operate) a BDU, this does not affect the fact that Leiacomm will also operate as a digital media undertaking under the DMEO.

21. In light of the above, the Commission considers that Bell is treating Leiacomm differently than other digital media undertakings. By providing its content to some digital media undertakings operating under the DMEO and not to Leiacomm, Bell is granting a preference to itself and certain BDUs over an on-line content provider and is subjecting Leiacomm to a disadvantage.

Is the preference or the disadvantage undue?

22. In determining whether the preference and disadvantage are undue, the Commission has examined whether Bell's refusal to provide content to Leiacomm has had, or is likely to have, a material adverse impact on Leiacomm, or on any other person. The Commission has also examined the impact that this has had, or is likely to have, on the achievement of the policy objectives of the Act and whether Bell's refusal violates the principles of the framework relating to vertical integration.

23. In the framework relating to vertical integration, the Commission recognized the importance of ensuring that consumers continue to benefit from a wide choice of programming in a broadcasting system where programming and distribution have become increasingly integrated.

24. In the present case, the Commission considers the impact on the achievement of the objectives of the Act to be minimal. According to Bell, its content is broadly available to Canadians in a way that does not require subscription to a specific mobile or retail Internet access service. While some of Bell's "GO" content may currently be only available via Bell BDUs, there is no evidence to suggest that Bell is reserving exclusive rights or that it is preferring itself when providing content on-line on an authenticated basis. It appears only that agreements have not yet been reached.

25. While a key principle of the DMEO and the framework relating to vertical integration is that on-line content should be made broadly available to Canadians and that such content must be available in a way that does not require subscription to a specific mobile or retail Internet service, it does not guarantee that such content will be made available to all on-line content providers.

26. Further, while Bell is providing content on its own websites for free and to authenticated BDU subscribers, as well as via its mobile platforms, it is not providing its content to any content provider operating solely over the Internet. Therefore, Bell is not providing its content to any provider with the same business model as Leiacomm on an exclusive basis.

27. The Commission therefore considers that Bell's actions do not violate the principles of the DMEO and the framework relating to vertical integration and that Bell is not abusing its position as a vertically integrated undertaking.

28. In this context, the Commission finds that Bell's refusal to provide content to Leiacomm does not have a material adverse impact on Leiacomm's service. The Commission is of the view that even without Bell's content, Leiacomm could offer an attractive on-line service, as have other on-line content providers that are successfully operating without Bell's programming (for example, Netflix, TOU.TV, etc.). Although Leiacomm may have to alter its business plan to do so, the Commission notes that a large supply of programming is available to Leiacomm from a number of program suppliers both in Canada and elsewhere. Further, once Leiacomm's service becomes established, the Commission anticipates that Leiacomm will be in a better position to negotiate deals with program suppliers, including Bell.

29. In light of the above, the Commission finds that while Bell is giving itself and BDUs preference and is subjecting Leiacomm to a disadvantage, this preference and disadvantage is not undue.

Does the *Code of conduct for commercial arrangements and interactions* apply to the present dispute?

30. Leiacomm argued that Bell is in violation of the *Code of conduct for commercial arrangements and interactions*. The Code is designed to provide guidelines to govern the commercial arrangements between BDUs, programmers and digital media undertakings and to assist in the negotiation process. Given that the parties are not at the stage of negotiating a commercial arrangement, the Code's clauses would not apply in the present dispute.

Conclusion

31. In light of all of the above, the Commission **dismisses** Leiacomm's complaint.

Secretary General

Related documents

- *Terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2014-445, 29 August 2014

- *Let's Talk TV,* Broadcasting Notice of Consultation CRTC 2014-190, 24 April 2014

- *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings),* Broadcasting Order CRTC 2012-409, 26 July 2012

- *Regulatory framework relating to vertical integration – Correction,* Broadcasting Regulatory Policy CRTC 2011-601-1, 14 October 2011

- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011

Dissenting Opinion of Commissioner Raj Shoan

I submit this dissenting opinion due to concerns that the Commission's decision may dramatically inhibit the growth of an independent, Canadian-based online content distribution industry. On the surface of the majority decision, one is left with the impression that the Commission is taking a free market, non-interventionist approach that will benefit the online content community and Canadian consumers alike. A deeper examination of the issues, however, reveals a result that increases regulation of online content entities to their detriment and a virtual shutting out of new Internet-only entrants to the broadcasting system through protections offered by the *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012 (Digital Media Exemption Order).

For the reasons that follow, in my view, this decision of the Commission threatens principles fundamental to the *Broadcasting Act* (the Act). There are profound implications for online content distribution and online video on demand services in this decision that would best be explored by way of a comprehensive public proceeding. I hope, through this dissent, to highlight the potential pitfalls of the majority decision and spur further discussion respecting Canada's online broadcasting system.

From an administrative law perspective, the Commission breached its duty of fairness to the complainant by:

a. drawing a policy distinction between Internet content distribution entities that has no basis in stated policy; and

b. determining that the complainant is not a broadcasting distribution undertaking (BDU) in the absence of an evidentiary basis in this process.

The Commission further erred, in my view, when determining that Bell Media's (Bell) refusal to provide content to the complainant would not have a material impact on the complainant's proposed service.

Lastly, by requiring Internet content distribution entities to subject themselves to the Telecommunications Act in order to access the undue preference/unjust discrimination provisions in the broadcasting context, I am of the view that the Commission has contravened the Act and erred in law.

Background

I incorporate by reference the background to this matter provided in the majority's decision at paragraphs 1-9.

In addition to the background provided in the Commission's decision, it is important to examine in detail the provisions of the Digital Media Exemption Order that are at issue in this matter. Exemption orders are issued by the Commission in specific circumstances that are articulated at paragraph 9(4) of the Act:

> (4) The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).

It is particularly notable that the requirement to exempt is mandatory through Parliament's use of the term "shall." In other words, if the Commission determines—as a matter of fact—that compliance with certain requirements of the Act will not contribute in a material manner to the implementation of Canada's broadcast policy, then it is required to exempt such undertakings. The Commission then has legal discretion to determine from which requirements such undertakings may be exempt.

For the purposes of this matter, the undertaking in question is captured by the Digital Media Exemption Order. The undertakings captured by the Digital Media Exemption Order are described as follows:

> 2. The undertaking provides broadcasting services, in accordance with the interpretation of "broadcasting" set out in *New Media*, Broadcasting Public Notice CRTC 1999-84/Telecom Public Notice CRTC 99-14, 17 May 1999, that are:
>
> a) delivered and accessed over the Internet; or
>
> b) delivered using point-to-point technology and received by way of mobile devices.

No party, including the complainant, in this process contests the fact that Leiacomm is an undertaking captured by the Digital Media Exemption Order. Leiacomm defines itself, in this process, as "a company that will operate under the exemption order distributing linear channels and non linear (on demand content) to our customers using the Internet." It further describes itself as a 'distributor' and 'IPTV' company.

Undertakings captured by the Digital Media Exemption Order are exempt from all requirements of Part II of the Act with the exception of rules respecting undue preference, reporting, exclusivity, anti-competitive behaviour and dispute resolution procedures.

For the purposes of this dissent, the relevant section of the Digital Media Exemption Order is as follows:

> 3. The undertaking does not give an undue preference to any person, including itself, or subject any person to an undue disadvantage. In any proceeding before the Commission, the burden of establishing that any preference or disadvantage is not undue is on the party that gives the preference or subjects the person to the disadvantage.

For the purposes of this analysis, preference is defined as dissimilar treatment of comparable entities. Notably, there is no requirement that these entities must be licensed; exempt undertakings are equally able to avail themselves of the undue preference provisions.

In addition to the Digital Media Exemption Order, Leiacomm relies upon the *Code of* conduct *for commercial arrangements and interactions*, as set out in Appendix 1 of *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011 (VI Code of Conduct). The relevant portions of the VI Code of Conduct were imposed on BCE Inc. as a condition of licence in *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013 (Decision 2013-310).

A policy distinction with no basis in stated policy

At paragraph 26 of the Commission's decision, it states, as the crux of its denial of the complaint, the following:

> Further, while Bell is providing content on its own websites for free and to authenticated BDU subscribers, as well as via its mobile platforms, it is not providing its content to any content provider operating solely over the Internet. Therefore, Bell is not providing its content to any provider with the same business model as Leiacomm on an exclusive basis.

A discussion of 'business model' is critical to the analysis for this matter. In the above-noted reference, the Commission notes that Bell is not providing its content to any content provider operating *solely over the Internet*. It then cites Leiacomm as an example of an Internet-only content provider.

The record of the proceeding, as well as a cursory examination of the online broadcasting industry, reveals a great many content providers engaged in the activity of providing online programming content to Canadians. Paragraph 2 of the Commission's decision, for example, indicates that Bell operates more than 200 websites and delivers its TV Anywhere online service with its GO video streaming services, including CTV GO, TMN GO, and Bravo GO.

In addition, there are other content distribution undertakings operating on the Internet that also provide Bell content to their subscribers/viewers; they are licensed as IPTV undertakings. A quick search of the CRTC website reveals 21 IPTV undertakings licensed to serve regions across the country A list of these IPTV undertakings can be found in the appendix to this dissenting opinion. Of the IPTV undertakings presently in operation, a majority of them are carrying Bell content.

From the perspective of the consumer, there would be little to no difference between the online content distribution offerings at issue in this matter. The Commission has succinctly described Leiacomm's proposed service at paragraph 1 of its decision: the service will offer linear and non-linear programming to its customers via a supplied set-top box or a secure website. From a broadcasting standpoint, the proposed service would

closely mirror that which is provided by Bell, other BDUs and licensed IPTV undertakings. From the perspective of the consumer, all of the services in question are being offered over the Internet.

To what then is the Commission referring when it references Leiacomm's business model? The unwritten distinction that the Commission is making in its decision is between those undertakings operating on the *public Internet* and those operating over a *private, managed network*. In making this distinction, I submit the Commission has drawn a policy distinction between Internet content distribution entities that no longer has any basis in stated policy.

In order to rely on the distinction, it would be necessary to identify a previous Commission policy, decision or regulation that distinguishes between undertakings operating over the public Internet and those operating over a private, managed network. By so doing, one could reasonably argue that the undertakings in question are not 'comparable' for the purposes of an undue preference analysis.

In *Regulatory framework for mobile television broadcasting services*, Broadcasting Public Notice CRTC 2006-47, 12 April 2006 (Public Notice 2006-47), the Commission previously defined an IPTV network. At paragraph 29 of Public Notice 2006-47, the Commission stated:

> Under the New Media Exemption Order, the mobile broadcasting services in question would only be exempted if they are both delivered and accessed over the Internet. The Commission notes that the phrase "broadcasting services delivered and accessed over the Internet," as used in the New Media Exemption Order, describes services that are available over the public Internet to Internet users through an ISP (albeit, in some cases, for a fee). Such services are delivered through the public Internet, rather than simply using Internet protocol (IP) for their delivery and/or relying on the use of dedicated networks for a portion or the entirety of their delivery.[2] Generally, users will access the service in a manner that requires the use of a web browser and the entry of a Uniform Resource Locator (URL).

In footnote 2 of paragraph 29, the Commission defined Internet Protocol Television (IPTV) as a service that makes use of the Internet Protocol, but is delivered over a private, managed network and which does not fall under the New Media Exemption Order.

Public Notice 2006-47 also, however, called for comments for an exemption order that would apply to mobile television broadcasting undertakings more generally, regardless of how they deliver their services (i.e. whether or not the services are delivered and accessed over the Internet). At paragraph 48, the notice stated, in part:

> Whether or not these services are delivered and accessed over the Internet, the Commission remains of the view, for the reasons detailed above pertaining to the similarities between new media and mobile television broadcasting, that such

> mobile television broadcasting services are unlikely to become substitutes for conventional broadcasting services or to interfere with the abilities of conventional broadcasters to meet their obligations under the Act. Accordingly, in *Call for comments on a proposed exemption order for mobile television broadcasting undertakings*, Broadcasting Public Notice CRTC 2006-48, 12 April 2006, the Commission has called for comments on a proposed exemption order in respect of mobile television broadcasting undertakings whose services are of the type or similar to those that were the subject of this proceeding, but are not necessarily "delivered and accessed over the Internet."

The proposed exemption order was subsequently approved in *Exemption order for* mobile *television broadcasting undertakings*, Broadcasting Public Notice CRTC 2007-13, 7 February 2007 (Mobile Broadcasting Exemption Order). With respect to the distinction between the public Internet and a private, managed network, the Commission noted as follows at paragraph 23:

> Shaw submitted that the Commission should clarify that the new exemption order applies only to mobile television services that are not delivered and accessed over the Internet. In this regard, the Commission considers that, under its proposed wording, some undertakings may indeed fall under both exemption orders. Undertakings that did not fall under both orders, i.e., those that provide mobile services that are not accessed and delivered over the Internet, would be limited to operating under the order under consideration here, and thus the Commission does not consider it necessary to include the language proposed by Shaw.

In noting that "some undertakings may indeed fall under both exemption orders," the Commission acknowledged that, depending on the technology employed and/or the manner accessed, content could traverse both the public Internet as well as a private, managed network before being accessed by the end user.

The Mobile Broadcasting Exemption Order itself was revoked in totality in *Amendments to the Exemption order for new media broadcasting undertakings (Appendix A to Public Notice CRTC 1999-197); Revocation of the Exemption order for mobile television broadcasting undertakings*, Broadcasting Order CRTC 2009-660, 22 October 2009 (Broadcasting Order 2009-660). Additionally, Broadcasting Order 2009-660 explored and adopted new definitions for new media broadcasting undertakings, further underlining that previous definitions were no longer applicable. At paragraphs 8 and 10, the Commission stated:

> The Commission considers the proposed definition to be broad enough to encompass ***a full range of new media broadcasting undertakings, whether they exercise programming or distribution functions***. (emphasis mine)
>
> The Commission notes that the intent behind the proposed definition was to provide regulatory clarity. The proposed amendment, in effect, blends the existing definitions of "new media broadcasting undertaking" and "mobile television

> broadcasting undertaking." As a result, the Commission considers it appropriate to revoke the Mobile Television Exemption Order.

The definitions contained in Broadcasting Order 2009-660 were subsequently adopted in the current Digital Media Exemption Order. The purpose of blending definitions was to exempt, in a comprehensive manner, broadcasting services provided on Internet-based or mobile platforms until such time that regulation was warranted. This exemption order consolidated and replaced all previous exemption orders, including those that differentiated on the basis of public Internet and private, managed networks.

In short, the chronology of events listed above demonstrates that there is no Commission document presently in force that upholds the distinction between undertakings operating over the public Internet and those operating over private, managed networks for the purposes of an exemption order—and, by extension, for an undue preference analysis contained in any such exemption order.

The Digital Media Exemption Order does not draw any distinction amongst the various technologies that may be used to access the Internet, despite what their differences may be. This interpretation is consistent with the inherent technological neutrality of the Act. As noted above, undertakings subject to the Digital Media Exemption Order are defined by the interpretation of broadcasting as contained in *New Media*, Broadcasting Public Notice CRTC 1999-84/Telecom Public Notice CRTC 99-14, 17 May 1999 (New Media Policy).[2] At paragraphs 38-40 of the New Media Policy, the Commission stated as follows:

> 38. The Commission notes that the definition of "broadcasting" includes the transmission of programs, whether or not encrypted, by other means of telecommunication. This definition is, and was intended to be, technologically neutral. Accordingly, the mere fact that a program is delivered by means of the Internet, rather than by means of the airwaves or by a cable company, does not exclude it from the definition of "broadcasting."
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> 39. Some parties argued that there is no "transmission" of content over the Internet, and therefore, there is no "broadcasting." The fact that an end-user activates the delivery of a program is not, in the Commission's view, determinative. As discussed below, on-demand delivery is included in the definition of "broadcasting." Further, ***the Commission considers that the particular technology used for the delivery of signals over the Internet cannot be determinative. Based on a plain meaning of the word, and recognizing the intent that the definition be technologically neutral, the Commission considers that the delivery of data signals from an origination point (e.g. a host server) to***

[2] The reference to the 1999 New Media Policy in the Digital Media Exemption Order becomes all the more important in this context; by first exempting and subsequently revoking policies and orders affecting mobile broadcasting undertakings, the Commission effectively 'reset the regulatory clock' back to its initial 1999 policy when the technological neutrality of the Act was a paramount consideration.

> ***a reception point (e.g. an end-user's apparatus) by means of the Internet involves the "transmission" of the content***. (emphasis mine)
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> 40. Some parties submitted that the definition of "broadcasting receiving apparatus" was not intended to capture devices such as personal computers or Web TV boxes when used to access the Internet. The Commission notes that the definition of "broadcasting receiving apparatus" includes a "device, or combination of devices, intended for or capable of being used for the reception of broadcasting". The Commission considers that an interpretation of this definition that includes only conventional televisions and radios is not supported by the plain meaning of the definition and would undermine the technological neutrality of the definition of "broadcasting". In the Commission's view, devices such as personal computers, or televisions equipped with Web TV boxes, fall within the definition of "broadcasting receiving apparatus" to the extent that they are or are capable of being used to receive broadcasting.

In my view, this technology neutral interpretation of broadcasting, which continues to apply today, is offended by the policy distinction that the Commission makes in its decision. All of the undertakings examined in this process—Leiacomm's proposed service, Bell's online offerings, IPTV undertakings—are transmitting content online for the purposes of the New Media Policy. To further distinguish amongst them in this process based on technology employed goes beyond merely capturing broadcasting activity and into the realm of arbitrarily validating/restricting certain online business models in a manner that violates the technological neutrality of the Act. One benefit of the revocation and merger of the Mobile Broadcasting Exemption Order with Broadcasting Order 2009-660 was to give broadcasting industries in their infancy an opportunity to grow and develop into services of genuine interest and relevancy to Canadians without the burden of regulation.

Furthermore, given the overall growth of the online content industry in recent years, the lines have begun to blur between various service offerings such that distinctions of the nature that the Commission is attempting to make in this decision are no longer meaningful or helpful. Both Internet-only and IPTV undertakings may or may not use content delivery networks (CDNs) to deliver their content to end users via an Internet service provider (ISP).[3] Both offerings will share the same connection to the premises of the end-user. Both offerings may or may not use methods of authenticating their subscribers/viewers. All IPTV undertakings require consumers to accept their retail Internet service before providing access to their TV content offerings; such an offering is not, however, advertised as a 'private, managed network' offering. It is advertised as what it is: retail Internet access. From the perspective of the consumer, these are completely comparable entities operating over the Internet. In my view, it is the Canadian consumer's perspective that should be paramount in this undue preference analysis.

Given that the Commission has:

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[3] The Internet is known as the "network of networks." An exempt service would therefore go through interconnection points or bypass some points through CDNs that can be used by both IPTV and OTT services.

a. relied upon an obsolete policy distinction based upon a revoked regulatory framework that no longer has any relevance in fact, law or policy; and

b. relied upon a policy distinction at odds with the overriding technological neutrality of the Act,

I am of the view that the Commission has breached its duty of fairness to the complainant.

Lack of evidentiary basis to conclude Leiacomm is not a BDU

At paragraph 20 of the Commission decision, the Commission states:

> Although Leiacomm will offer a content distribution service over the Internet only and does not operate (nor proposes to operate) a BDU, this does not affect the fact that Leiacomm will also operate as a digital media undertaking under the DMEO.

The statement that an Internet-only content distribution service cannot be characterized as a BDU operation lacks an evidentiary, policy and legal basis upon which to rely.

Firstly, there was no discussion or exchange in this complaint-based process that explored whether an Internet-only content distribution service may be characterized as a BDU. Given that an exploration of the definition of a BDU was not in the scope of this process, it is unclear upon what basis the Commission has limited its definition in this decision to licensed BDUs or those operating pursuant to the BDU exemption order set out in Broadcasting Order 2014-445. As noted by Leiacomm in its Reply to Interventions, this eliminates from consideration many BDUs presently operating in Canada. Moreover, Leiacomm defines itself as a distributor[4] as well as an IPTV undertaking.[5]

Furthermore, as noted in paragraph 25 of this dissent, the definition of digital media broadcasting undertaking encapsulates undertakings engaged in the distribution of programming. Accordingly, a credible argument can be made that the definition of digital media undertaking in the Digital Media Exemption Order includes distribution undertakings—and an exempt distribution undertaking is still a BDU.

Secondly, the Act defines a distribution undertaking as follows:

> *"distribution undertaking"* means an undertaking for the reception of broadcasting and the retransmission thereof by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking

Leiacomm's proposed service is *prima facie* captured by the definition of distribution undertaking as contained in the Act. Given the New Media Policy's interpretation of broadcasting as stated above, it is clear that Leiacomm's proposed service would receive and retransmit programming in a manner contemplated by the Act. Accordingly, the

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[4] Paragraph 20, Reply to Interventions, Leiacomm

[5] See Leiacomm's website: http://picktv.net/

Commission's assertion that Leiacomm is not a BDU appears to be open to legal challenge.

Thirdly, a review of the conditions attached to IPTV licences—the closest approximation within the regulated system to the type of service proposed by the complainant—issued by the Commission to date reveals no impediment to the inclusion of an entity such as Leiacomm. As Leiacomm's proposed broadcasting service would be delivering online content to Canadian consumers in a manner substantially similar to that of IPTV undertakings—by way of Internet Protocols and an authentication process—it is not readily apparent as to why the Commission would declare it incapable of being classified as a BDU, exempt or otherwise, for the purposes of this analysis.

In this respect, it is notable that, in its reply, Bell agreed that Leiacomm was capable of being licensed as a BDU and stated that "if Leiacomm were to obtain a BDU licence, these products would similarly be made available for them to offer to their subscribers."[6]

The Commission's assertion that Internet-only content distribution entities cannot be classified as a BDU (exempt or otherwise) has serious implications for Canadian entrepreneurs seeking to innovate in this sphere and, more specifically, restricts their access to regulatory tools—such as undue preference rules contained in other CRTC policies and regulations as well—that could assist this burgeoning industry. Accordingly, prior to issuing a legal determination with respect to their status under the Act, the Commission should have properly invited public comment from not only the complainant but all Canadians engaged or interested in this type of activity.

In this respect, I note that it has typically been CRTC policy to explore any new regulatory framework, exemption order and/or definition-related issues by way of a public process. At paragraph 35 of *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010, the Commission notes that it may decide to hold a public hearing to:

- decide to issue or renew a broadcasting licence (section 53),
- consider issuing a mandatory order (section 56),
- consider a policy issue,
- prepare a report requested by the Governor in Council, or
- consider an application that has been the subject of a Part 1 proceeding where the interventions have raised issues that warrant a public hearing.

In this matter, interveners and applicants have raised serious policy issues in the context of a Part 1 proceeding that, in my view, warrant a public hearing.

Given the foregoing, I am of the view that the Commission breached its duty of fairness to the complainant by:

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[6] Paragraph 18, Reply to Part 1 Application by Leiacomm, Bell Media

a. issuing a determination with respect to the potential applicability of the Act on the complainant in the absence of a submission on the subject by the complainant; and

b. issuing a determination with respect to the potential applicability of the Act on a conceptually new class of undertaking (i.e. Internet-only distribution undertakings) in the absence of a public consultation on the subject.

Error with respect to material impact analysis

At paragraph 28 of the Commission's decision, it states:

> …the Commission finds that Bell's refusal to provide content to Leiacomm does not have a material adverse impact on Leiacomm's service. The Commission is of the view that even without Bell's content, Leiacomm could offer an attractive on-line service, as have other on-line content providers that are successfully operating without Bell's programming (for example, Netflix, TOU.TV, etc.). Although Leiacomm may have to alter its business plan to do so, the Commission notes that a large supply of programming is available to Leiacomm from a number of program suppliers both in Canada and elsewhere.

In my view, the Commission's material impact analysis is flawed for the following reasons.

Firstly, it cites Netflix and TOU.TV as examples of online content providers who are "successfully operating without Bell's programming." This is not, however, an apples to apples comparison. Leiacomm's proposed service differs markedly from the offerings of Netflix and TOU.TV. Netflix and TOU.TV are essentially online video-on-demand services; Netflix is subscription-based while TOU.TV is offered with advertising. Both offer direct access to online programming.

Leiacomm's proposed service, on the other hand, will "*distribute linear channels* and non-linear (on demand content)" (emphasis mine). In other words, Leiacomm proposes to stream channels and specialty services to its customers, in addition to an unspecified amount of on-demand content. In order to conduct this activity, it is absolutely necessary to have access to channels to distribute; without access to channels, Canadian or otherwise, it has no product. Netflix and TOU.TV, on the other hand, can bypass broadcasters altogether and either create their own content or licence it from others. Netflix and TOU.TV do not need Bell to operate their business models. An online content distributor such as Leiacomm, however, cannot function without affiliation agreements with broadcasters or on-demand services; its model is to distribute, via streaming, broadcaster signals and applications.[7]

[7] Paragraph 18, Reply to Interventions, Leiacomm

Furthermore, Netflix is a large, multi-national American corporation that operates in more than 40 countries with more than 50 million worldwide subscribers.[8] TOU.TV is a video-on-demand service operating in the French-language by CBC/Radio-Canada, Canada's public broadcaster. Apart from the obvious differences in the linguistic markets, TOU.TV also benefits from content re-purposed from Radio-Canada's television platforms and produced, in part, from public funding. Leiacomm is a proposed service; it has yet to launch. It will operate only in Canada, target Canadian consumers (primarily English) and presumably will not have access to programming from related platforms or public funding. The size, scale and target audience of Netflix and TOU.TV differ considerably from Leiacomm's unlaunched service. It is difficult to understand why the Commission deemed it appropriate to compare such entities to Leiacomm for the purposes of a material impact analysis; their business models differ substantially.

Secondly, it is important to account for Bell's overall market power in the Canadian broadcasting system when assessing the material impact of a lack of access to its programming services. Paragraph 2 of the Commission's decision states that Bell Media Inc. (Bell), a subsidiary of BCE Inc., is a multimedia company with significant assets in television, radio, out-of-home advertising and digital media. Its television holdings include CTV, several specialty channels, including TSN and RDS, and pay channels, including The Movie Network (HBO Canada) and Super Écran. Bell also operates more than 200 websites and delivers its TV Anywhere service with its GO video streaming services, including CTV GO, TMN GO, and Bravo GO.[9]

According to the CRTC's 2013 Communication Monitoring Report, the combined total viewing shares of English Canadian viewers by ownership group put Bell at 40.2%[10]—far exceeding the second place broadcaster, Shaw Media, at 23.4%. Since that report, Bell has divested Astral Media assets at the behest of the Commission but its overall television asset mix remains unparalleled in the Canadian broadcasting system, simultaneously controlling the most profitable over-the-air television network (CTV), specialty service (TSN) and pay television services (The Movie Network/HBO Canada). More Canadians watch more Bell television properties than any other Canadian broadcaster—often by a viewing shares factor of more than four to one.

At paragraph 8 of *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013 (Decision 2013-310), the Commission stated that "a distributor with the content properties of the then proposed combined BCE/Astral could exert market power in an anti-competitive fashion by restricting access to its programming services or by offering them at above market rates to its competitors; threaten the availability of diverse programming for Canadians; and endanger the ability of distribution undertakings to deliver programming at affordable rates and on reasonable terms on multiple platforms."

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[8] http://ir.netflix.com/

[9] A list of Bell Media assets can be found at http://www.bellmedia.ca/about-bellmedia/

[10] The 40.2% figure represents the combined total of viewing shares for Bell Media and Astral Media.

In my view, given the viewing share dominance by Bell, its ownership of an extremely popular television asset mix and the market power it possesses (as acknowledged by the Commission in Decision 2013-310), the Commission erred in finding there was no material impact on Leiacomm in Bell's refusal to provide content. Without access to the same services that Bell licences to IPTV undertakings, Leiacomm is at a serious competitive disadvantage in the online sphere.

Majority decision is *ultra vires* the Commission

As noted in the policy discussion above, I am of the opinion that the distinction drawn by the majority decision relies on an obsolete distinction that may offend the technological neutrality of the Act. From a legal perspective, however, the implications of the Commission's decision are far more reaching in that:

a. it essentially requires an Internet-only content distribution entity to first subject itself to the provisions of the *Telecommunications Act* and secondly an undefined IPTV licensing regime in order to benefit from undue preference rules; and

b. it renders meaningless the undue preference rule in the Digital Media Exemption Order.

In so doing, in my view, the Commission has exceeded the authority granted to it by the Act.

As noted above, if the Commission determines—as a matter of fact—that compliance with certain requirements of the Act will not contribute in a material manner to the implementation of Canada's broadcast policy, then it is required to exempt such undertakings. The Commission then has the legal discretion to determine from which requirements such undertakings may be exempt. In the case of undertakings operating according to the Digital Media Exemption Order, of which Leiacomm is one, they are exempt from all requirements of Part II of the Act with the exception of rules respecting undue preference, reporting, exclusivity, anti-competitive behaviour and dispute resolution procedures.

The policy distinction that the Commission makes in this decision in terms of digital media undertakings operating on the Internet is based on distinguishing between the public Internet and a private, managed network, such as that operated by a licensed IPTV undertaking. This distinction has specific regulatory, operational and financial implications for online content distribution entities. In the case of the public Internet, there is no technical implication for an entity seeking to operate; it can launch at its discretion and conduct its business as an exempt broadcasting undertaking. In order to operate a private managed network, however, an entity has two choices: it can either lay fiber or a hybrid fiber/coaxial cable system, for example, to the customer's home and begin operating as an Internet service provider in order to gain access to a proprietary managed network[11] or it can lease facilities from an incumbent local exchange carrier

[11] Bell Fibe, Telus Optik and other IPTV services offered by ILECs are provided over their own networks.

(ILEC) and operate as an internet reseller. In both circumstances, the Internet content distribution entity would be required to subject itself to the jurisdiction of the *Telecommunications Act*.

This is a legally problematic position. By requiring Internet-only content distribution entities to subject themselves to the *Telecommunications Act* and further subject themselves to an IPTV licensing regime in order to avail themselves of the undue preference rule and gain access to the programming services of Canadian broadcasters, the Commission has contravened paragraph 9(4) of the Act and, by extension, the Digital Media Exemption Order. In other words, the majority's decision, somewhat paradoxically, purports to require entities such as Leiacomm—for whom licensing has been deemed to be unnecessary—to subject themselves to a licensing regime in order to take advantage of a protection (i.e. the undue preference rule) that already exists in the Commission exemption order to which Leiacomm is presently subject.

Under the Act, the Commission has the ability to oversee the interconnection by broadcasting undertakings with telecommunications carriers for the purposes of distributing programming to Canadians. Paragraph 9(1)(*f*) of the Act states as follows:

> 9. (1) Subject to this Part, the Commission may, in furtherance of its objects,
>
> (*f*) require any licensee to obtain the approval of the Commission before entering into any contract with a telecommunications common carrier for the distribution of programming directly to the public using the facilities of that common carrier;

As noted above, paragraph 9(4) of the Act exempts undertakings "from any or all of the requirements of this Part or of a regulation made under this Part." Section 9(1)(*f*) of the Act is contained in Part II of the Act. By requiring Internet-only content distribution entities to become ISPs or Internet resellers in order to access Canadian broadcaster services through an IPTV licensing approval process, the Commission has breached the mandatory requirement under the Act to exempt undertakings that do not contribute in a material manner to the objectives of the Act from the requirements of the Act.

In my view, through this decision, the Commission is attempting to do indirectly what it has publicly stated that it will not do directly, namely, require the regulation of Internet-only content entities. This is precisely the legal effect of the Commission's distinction in this decision: in order to gain access to the television services of Canadian broadcasters through undue preference rules, Internet-only content distribution entities must become entities comparable to licensed IPTV undertakings.[12] In the Commission's view, the only way to accomplish this is to become a competitive local exchange carrier (CLEC) and invest in physical infrastructure (or become a reseller of Internet access) and then become licensed as an IPTV undertaking. When acting as Internet resellers, this requirement financially benefits, at a minimum, the ILECs who, in most cases, own the very

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[12] In IPTV systems, television signals are received at a central location ("headend") using over-the-air, satellite and/or cable technology (optical fibre/copper) and are then transmitted to consumers over a local distribution/access network (i.e. the telephone copper network, coaxial cable, fibre-to-the-premise). IPTV mimics traditional cable networks.

broadcasting services that Internet-only content distribution entities are seeking to provide.[13] Overall, the distinction seems to incorporate a facilities-based perspective to broadcasting regulation that heretofore has been limited to the Canadian telecommunications regime and is not reflected amongst the Canadian broadcasting policy objectives contained in the Act.

In so doing, in my view, the CRTC failed to adhere to the regulatory policy set out in the Act, namely, paragraphs 5(2)(*c*), (*d*), (*e*), (*f*) and (*g*):

> (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that
>
> […]
>
> (*c*) is readily adaptable to scientific and technological change;
>
> (*d*) facilitates the provision of broadcasting to Canadians;
>
> (*e*) facilitates the provision of Canadian programs to Canadians;
>
> (*f*) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians; and
>
> (*g*) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings.

Lastly, in terms of the undue preference rule in the Digital Media Exemption Order, the Commission's decision has the effect of rendering the rule meaningless from an operational perspective.

From a technical point of view, IPTV provides a high quality of service. Services are managed so that users are not subjected to issues of contention, which can have an effect on picture quality. Over-the-top (OTT) services,[14] on the other hand, are subject to the effects of an unmanaged network, which can affect the overall quality of the stream. Consumer use of an OTT service can also counts towards the bit cap in the case of customer plans with data caps. In the case of contention (IPTV and OTT services sharing a limited Internet connection), priority is typically given to the IPTV service. Authentication is used for both OTT and IPTV services.

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[13] It is my understanding that most non-ILEC IPTV undertakings act as Internet resellers; from their perspective, for the provision of TV services, it is more economically efficient to lease ILEC facilities rather than build fibre to the home. Traditional IPTV services are limited to local/regional markets and limited in fact by the technology running over the local access network (usually DSL standards). As such, this arrangement largely ends up being one of Internet re-sale. ILECs benefit financially to varying degrees from this arrangement.

[14] YouTube, Netflix and Crackle are examples of OTT services operating in Canada (as of August 2014).

By deciding that there is a distinction between undertakings operating over the public Internet (i.e. OTT entities) and those operating over private, managed networks (i.e. IPTV licensees) for the purposes of an undue preference analysis, the Commission has essentially ensured that, on a going forward basis, any prospective entrepreneur interested in providing online programming to Canadians will favour an IPTV licensing regime over an unregulated OTT regime.

A basic rule of statutory interpretation is that the legal interpretation of a concept will not result in a manifestly unjust result. From a technical perspective, given that IPTV undertakings are given priority over OTT undertakings for the purposes of network management, the Commission's decision places an unfounded premium on the ability of entrepreneurs to forge contractual arrangements with telecommunications common carriers to create private, managed networks in the broadcasting context for the provision of content to Canadians in order to avoid traffic management in the telecommunications context that could affect an exempt OTT business model. In the absence of a regulatory framework or regulation asserting the Commission's authority pursuant to paragraph 9(1)(*f*) of the Act, this result is manifestly unjust to potential Canadian OTT operators in contravention of paragraphs 5(2)(*c*), (*f*) and (*g*) of the Act given they have already been exempt from the application of section 9(1)(*f*) of the Act.

In this respect, it is important to note that the Commission has no official policy framework regarding the licensing of IPTV services and has never conducted a public consultation to solicit input on such a framework. It is clear, however, that some unwritten policy is at work as the Commission has only licensed IPTV undertakings that also provide a retail Internet access service and, in this decision, refused to acknowledge that an Internet-only distribution entity such as Leiacomm may be classified as an IPTV undertaking or BDU. Accordingly, there is substantial ambiguity respecting the policy framework buttressing the Commission's current authority to licence IPTV undertakings. In my view, this ambiguity, and any corresponding implied obligation for Canadian OTT operators to contract with telecommunications common carriers to protect against degraded service, bears further legal examination.

Conclusion

At paragraph 5 of its Reply to Leiacomm's complaint, Bell states that "Leiacomm cannot have it both ways. It cannot refuse to obtain a Commission licence and then demand that licensed programming entities make their services available to it."

In principle, I agree with the underlying point of Bell's statement: the benefits of licensing should not extend to exempt undertakings. Leiacomm, however, is not seeking to "have it both ways." It is merely attempting to avail itself of a provision contained in an exemption order duly enacted pursuant to the Act. In the context of that exemption, the Commission has provided potential access to broadcaster services available on other Internet distribution services, such as IPTV undertakings, by way of an undue preference rule. In my view, given there is no regulatory rationale under the Act or any existing CRTC policy to distinguish between Leiacomm's proposed service and an IPTV

undertaking, Leiacomm should be granted access to the same services Bell makes available to IPTV undertakings.[15]

From a policy perspective, Bell argues Leiacomm's request would give it an advantage over licensed BDUs. This may or may not be true. The appropriate course of action, however, would be for Bell or another interested party to request a re-examination of the provisions of the Digital Media Exemption Order and/or request a public process to establish an appropriate IPTV licensing framework for services such as that proposed by Leiacomm. Requiring Canadian OTT providers to subject themselves to an IPTV licensing regime tethered to the *Telecommunications Act* in order to have a viable business model is not the appropriate remedy.

As a larger issue, it is unclear to me on what policy and legal basis the Commission should avoid supporting Canadian, Internet-only, content distribution entities. In an era of rate deregulation, distribution undertaking competition is the optimal way to reduce cost to consumers, improve customer service and ensure the best user experience. Leiacomm's proposed service could have offered a credible alternative to the cable and satellite services currently available to Canadians. The policy distinction that the Commission is making in this decision inappropriately limits the development of online business models, stifles innovation and, ultimately, reduces BDU competition. Furthermore, the Commission's decision unreasonably and unjustly tilts the competitive landscape to favour licensed IPTV undertakings vis-à-vis exempt OTT providers without the benefit of public consultation or legislative intent.

Lastly, I am of the view that the applicability of the Act to online BDUs should be explored in a public process. As noted above, Leiacomm's proposed service possesses, *prima facie*, all of the legal characteristics of a BDU. Given the obvious benefits to Canadians of increased competition amongst distribution undertakings, the Commission should initiate a public process to explore how to increase BDU competition in the online sphere for the benefit of all Canadians.

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[15] Moreover, Leiacomm has not refused a licence. The record of the proceeding does not indicate that Leiacomm was offered the option of accepting a licence.

Appendix to Dissenting Opinion by Commissioner Raj Shoan

Terrestrial IPTV Licensees

Province	Location	Licensee	Licence Expiry Date
Alberta	Calgary, Edmonton (including St. Albert, Sherwood Park, Spruce Grove and Stony Plain), Fort McMurray, Grande Prairie, Lethbridge, Medicine Hat and Red Deer	TELUS Communications Inc., and 1219723 Alberta ULC and Emergis Inc. in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company	31 August 2016
British Columbia	Kamloops, Kelowna, Nanaimo, Penticton, Prince George, Terrace, Vancouver (including Lower Mainland and Fraser Valley), Vernon and Victoria	TELUS Communications Inc., and 1219723 Alberta ULC and Emergis Inc. in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company	31 August 2016
	Vancouver and Lower Mainland	AEBC Internet Corp.	31 August 2018
Manitoba	Winnipeg and surrounding areas	MTS Allstream Inc.	31 August 2015
New Brunswick	Fredericton and surrounding areas, Moncton and Saint John, New Brunswick (also under the regional licence: St John's, Paradise and Mount Pearl, Newfoundland and Halifax, Dartmouth,	Bell Aliant Regional Communications Inc., (the general partner), as well as limited partner with 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership	31 August 2018

	Bedford and Sackville, Nova Scotia)		
Newfoundland and Labrador	St John's, Paradise and Mount Pearl, (also under the regional licence: Fredericton and surrounding areas, Saint John and Moncton, New Brunswick; and Halifax, Dartmouth, Bedford and Sackville, Nova Scotia)	Bell Aliant Regional Communications Inc., (the general partner), as well as limited partner with 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership	31 August 2018
Nova Scotia	Halifax, Dartmouth, Bedford and Sackville, (also under the regional licence: Fredericton and surrounding areas, Saint John and Moncton, New Brunswick; and St John's, Paradise and Mount Pearl, Newfoundland and Labrador)	Bell Aliant Regional Communications Inc., (the general partner), as well as limited partner with 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership	31 August 2018
Ontario	Greater Sudbury and Sault Ste. Marie	Bell Aliant Regional Communications Inc., (the general partner), as well as limited partner with 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership	31 August 2018
	Greater Toronto Area, including Ajax, Aurora, Bolton, Brampton, Caledon, Claremont, Etobicoke, Georgetown, King City, Markham, Milton, Mississauga,	2251723 Ontario Inc.	31 August 2017

	Nobleton, North York, Pickering, Richmond Hill, Scarborough, Toronto, Vaughan and Woodbridge; Hamilton-Niagara; Kingston; Kitchener-Waterloo; London; Oshawa; Ottawa; Peterborough; Sudbury; Thunder Bay and Windsor, and their surrounding areas		
	Hamilton/Niagara, Kingston, Kitchener, London, Oshawa, Ottawa, Peterborough, Stratford, Toronto, Windsor and their surrounding areas	Bell Canada	31 August 2018
	Sudbury	768812 Ontario Inc.	31 August 2016
	Thunder Bay and surrounding areas	TBayTel	31 August 2015
	Toronto	Pannu Media Inc.	31 August 2015
	Toronto (East Bayfront and West Don Lands)	Beanfield Technologies Inc.	31 August 2018
	Toronto, Hamilton/Niagara, Oshawa, Kitchener, Ottawa, London and Windsor, and their surrounding areas	Zazeen Inc.	31 August 2019

Quebec	Baie-Comeau, Gaspé, Montmagny, Mont-Tremblant, Rimouski, Saint-Georges, Sainte-Marie and Sept-Îles, and their surrounding areas	TELUS Communications Inc., and 1219723 Alberta ULC and Emergis Inc. in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company	31 August 2018
	Drummondville and surrounding areas, Saint-Hyacinthe and surrounding areas	Télé-Int-Tel inc.	31 August 2015
	Drummondville (region of Centre-du-Québec), Gatineau, Joliette (region of Lanaudière), Montréal, Québec, Saint-Jérôme (region of Laurentides), Sherbrooke, Trois-Rivières (region of Mauricie) and their surrounding areas	Bell Canada	31 August 2018
	Gatineau, Montréal, Québec and Sherbrooke, and their surrounding areas	Zazeen Inc.	31 August 2019
	Montréal, Drummondville, Trois-Rivières, Gatineau, Sherbrooke and Québec, and their surrounding areas	Colba.Net Telecom Inc.	31 August 2019
	Saint-Liboire	Sogetel inc.	31 August 2016
	Saint-Paulin	Sogetel inc.	31 August 2015

Saskatchewan	Regina (which includes Pilot Butte and White City), and Saskatoon,	Saskatchewan Telecommunications	31 August 2015

Disclaimer: Compiled with the best available information