



## Broadcasting Decision CRTC 2016-139

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Reference: Part 1 applications posted on 2 October 2015

Ottawa, 18 April 2016

**Rogers Communications Canada Inc.**  
Across Canada

*Applications 2015-1142-8 and 2015-1143-6*

### **Rogers Sportsnet PPV (terrestrial and direct-to-home services) – Licence amendment**

*The Commission **approves** applications to amend the broadcasting licences for the national terrestrial and direct-to-home pay-per-view services known as Rogers Sportsnet PPV in order to change the method for calculating each undertaking's annual contribution to support Canadian programming.*

*Specifically, for the purposes of calculating this contribution, the annual gross revenues of these undertakings will be defined as two-thirds of the retail revenues received by the broadcasting distribution undertaking. This approach is consistent with the manner in which the Commission treated these contributions prior to the last licence renewal for the services in 2014.*

#### **Applications**

1. Rogers Communications Canada Inc. (Rogers)<sup>1</sup> filed applications to amend the broadcasting licences for its national terrestrial and direct-to-home (DTH) pay-per-view (PPV) services known as Rogers Sportsnet PPV in order to change the method for calculating each undertaking's annual 5% contribution to support Canadian programming.
2. Currently, as set out in Broadcasting Decision 2014-344, Rogers must adhere to the standard conditions of licence for PPV licensees set out in the appendix to Broadcasting Regulatory Policy 2013-561. This includes a requirement to contribute at least 5% of its gross annual revenues from each undertaking to an existing Canadian independent production fund administered independently of the

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<sup>1</sup> The applications were filed by Rogers Cable and Data Centres Inc. and Fido Solutions Inc., partners in a general partnership carrying on business as Rogers Communications Partnership. On 21 December 2015, the Commission approved an intra-corporate reorganization resulting in the transfer of the assets of the broadcasting undertakings operated by the partnership to Rogers Cable and Data Centres Inc. On 1 January 2016, Rogers Cable and Data Centres Inc. changed its name to Rogers Communications Canada Inc.

undertakings. Contributions must be made in monthly installments paid within 45 days after each month and must represent at least 5% of the month's gross revenues.

3. For the purpose of calculating these contributions, Rogers requested that the annual gross revenues of the PPV services be defined as two-thirds of the retail revenues received by the broadcasting distribution undertaking (BDU) from consumers purchasing the PPV programming, consistent with the manner in which the Commission treated the contributions prior to the last licence renewal for the services.
4. The Commission did not receive any interventions regarding these applications.

## **Background**

5. In Broadcasting Decision 2006-315, the Commission approved an application by Rogers to amend its condition of licence regarding Canadian programming contributions in order to define the PPV undertakings' gross revenues as two-thirds of the retail revenues received by the BDU. At the time, the Commission noted that the method by which the gross annual revenues of Bell ExpressVu's DTH PPV service and Shaw's terrestrial PPV service were to be determined was as follows: the revenues allocated to the PPV licensees based on the share of retail revenues required to cover the programming costs, plus half of the remainder. However, Rogers argued that as its PPV content consisted of live sports and specials, its programming costs varied, complicating the above calculation. Noting that in its case the programming costs generally represented about one-third of retail revenues, Rogers proposed its alternate method for calculating Canadian programming contributions, which the Commission agreed would represent a simpler administrative approach and result in contribution levels comparable to those of other PPV licensees. A condition of licence reflecting this contribution method was imposed.
6. In its 2014 renewal application for its Sportsnet PPV services, Rogers indicated that it would adhere to the standard conditions of licence set out in Broadcasting Regulatory Policy 2013-561 and did not specify that it wished to maintain the condition of licence defining its gross revenues as two-thirds of the BDU's retail revenues. As a result, the standard condition of licence regarding Canadian programming contributions was applied.
7. Subsequently, in correspondence with Commission staff regarding the 5% contribution requirement for the 2013-2014 broadcast year, Rogers stated that it had assumed that the manner in which it had calculated gross annual revenues for the services since 2006 would continue to apply over the new licence term for the reasons noted in Broadcasting Decision 2006-315.
8. After being advised by Commission staff on 9 September 2015 that it was subject to the standard conditions set out in Broadcasting Regulatory Policy 2013-561 during the period in question and that reinstating the two-thirds method of calculation for its Sportsnet PPV services would require a licence amendment, Rogers made an

additional contribution to the Rogers Documentary Fund. Rogers then filed the current amendment applications, arguing that the change was necessary because its PPV services still offer sports and events programming, while other PPV services feature mostly movies.

### **Commission's analysis and decision**

9. The Commission notes that it approved an identical request by Rogers in Broadcasting Decision 2006-315 and that the relevant circumstances regarding the type of programming broadcast by the licensee have not changed substantially since that time.
10. Given the variable programming costs associated with the Rogers Sportsnet PPV services, the Commission finds that the method for calculating gross annual revenues set out in the standard conditions of licence remains complex for these services. As Rogers' proposed calculation method would still represent a simpler administrative approach to its contributions while accurately reflecting gross annual revenues as defined by the Commission, the Commission considers it appropriate to grant Rogers' request.
11. In light of the above, the Commission **approves** the application by Rogers Communications Canada Inc. to amend the broadcasting licences for its national terrestrial and DTH PPV services Rogers Sportsnet PPV in order to change the method for calculating each undertaking's annual 5% contribution to support Canadian programming.
12. Accordingly, the Commission imposes the following **condition of licence**:

The licensee shall adhere to the standard conditions of licence set out in the appendix to *Revised regulatory framework for pay-per-view services*, Broadcasting Regulatory Policy CRTC 2013-561, 23 October 2013, as amended from time to time, with the exception of condition of licence 8, which is replaced by the following:

The licensee shall contribute a minimum of 5% of the gross annual revenues earned by its pay-per-view (PPV) television programming undertaking to an existing, independently administered Canadian program production fund. Contributions to the fund shall take the form of monthly instalments paid within 45 days of month's end and representing a minimum of 5% of the PPV television programming undertaking's gross revenues for that month.

For the purpose of this condition of licence, the gross revenues of the PPV television programming undertaking shall be defined as two-thirds of the retail revenues received by the broadcasting distribution undertaking.

Secretary General

**Related documents**

- *Rogers Sportsnet PPV (terrestrial and direct-to-home services) – Licence renewal*, Broadcasting Decision CRTC 2014-344, 25 June 2014
- *Revised regulatory framework for pay-per-view services*, Broadcasting Regulatory Policy CRTC 2013-561, 23 October 2013
- *Direct-to-home and terrestrial pay-per-view services – Licence amendments*, Broadcasting Decision CRTC 2006-315, 26 July 2006

*\*This decision is to be appended to each licence.*