Broadcasting Decision CRTC 2021-274

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Ottawa, 12 August 2021

Canadian Association of Broadcasters
Across Canada

Public record for this application: 2020-0417-5

Regulatory relief for private Canadian broadcasters in the context of the COVID-19 pandemic

Executive summary

In July 2020, the Canadian Association of Broadcasters (CAB), which represents the vast majority of private Canadian programming services, including radio and television stations, networks, discretionary and on-demand services, filed an application in which it requested immediate regulatory relief relating to expenditure and exhibition requirements for Canadian private broadcasters due to the COVID-19 pandemic.

Due to the issues raised in the CAB's application and the number of stakeholders that could be affected by the requested relief, the Commission called for comments on the application in Broadcasting Notice of Consultation 2020-336 (the Notice).

After examining the CAB's proposal in light of the four expected outcomes set out in the Notice, the Commission determines that the proposal does not meet two of those expected outcomes, in particular, those relating to ensuring that parties currently benefiting from the Commission's requirements for broadcasters are not unreasonably affected by the proposed regulatory relief, and to ensuring that the proposed regulatory relief is minimally administratively burdensome for those entities seeking relief, but easily monitored and supervised by the Commission to ensure appropriate accountability. Consequently, the Commission **denies** the CAB's application.

In this decision, the Commission set outs its extended payment approach, which will provide regulatory relief for private Canadian broadcasters in the television and radio sectors in the context of the COVID-19 pandemic.

For the television sector, in regard to required Canadian programming expenditures (CPE) (which includes expenditures on programs of national interest, on independent production and on original French-language programming) the Commission requires that:

- licensees of the large ownership groups that incurred CPE shortfalls as of 31 August 2020 pay those shortfalls by no later than 31 August 2023; and

- licensees of independent services that incurred shortfalls as of 31 August 2020 pay those shortfalls by no later than 31 August 2024.

Further, in regard to required contributions to FACTOR and Musicaction, the Commission requires the licensees of the large ownership groups to pay any shortfalls incurred as of 31 August 2020 by no later than 31 August 2021.

In addition, beginning in the 2020-2021 broadcast year, licensees can avail themselves of 10% flexibility in regard to CPE and PNI under-expenditures until the end of their respective extended payment period, with the exception of the last year. However, the flexibility relating to under-expenditures on locally reflective news is maintained at 5%.

For the radio sector, in regard to Canadian content development (CCD) contributions (basic and over-and-above CCD contributions, and tangible benefits directed to CCD initiatives), the Commission requires that any licensee that incurred shortfalls in this regard for the 2019-2020 broadcast year:

- pay 50% of the CCD contribution shortfall by no later than 31 August 2022; and
- pay the remaining 50% of the CCD contribution shortfall by no later than 31 August 2023.

In the Commission’s view, the above approach relating to the extended payment periodmeets all four expected outcomes set out in the Notice.

The flexibility provided for in this decision applies only to expenditures and contributions that were normally required to have been made in the 2019-2020 broadcast year and does not apply to expenditures and contributions that were required in order to make up previous shortfalls or to remedy harm previously caused to the broadcasting system.

Further, this decision does not absolve licensees of their regulatory obligations for the 2019-2020 broadcast year. Consistent with its usual practice, the Commission will assess compliance at the time of licence renewal. Any licensee that has not paid its shortfalls within the extended payment period could be found in a situation of non-compliance.

To allow the Commission to easily monitor and supervise the payment of shortfalls, all licensees with shortfalls as of 31 August 2020 will be required to submit, as part of their current annual returns, a new form that will track the progress of shortfall payments up to the end of their payment period.

Background

1. The COVID-19 pandemic, also known as the coronavirus pandemic, began in late 2019, and its effects on the global economy were felt early in 2020. In Canada, the first wave of the pandemic began in March 2020. Over a year later, the pandemic continues, marked by the emergence of new variants of the coronavirus and continually evolving and varied public health measures, but also by a vaccination campaign that has resulted in fewer new cases across the country since the peak of the third wave in April 2021.

2. Due to the pandemic, in June 2020, there was negative growth in gross domestic product (GDP) of -5.4%,[1] an increase in short- to medium-term unemployment, and declines in consumer spending and consumer confidence.

3. The pandemic has had wide-ranging repercussions on the Canadian economy as a whole, and the Canadian broadcasting industry has not been spared. These repercussions include a significant decline in the advertising revenues of Canadian broadcasters, and the closure of music venues, recording studios, production sets and post-production facilities, which have deprived content creators and artisans working in the cultural sector of revenues. Although there was a brief resumption of certain musical activities in the summer of 2020 and during the winter of 2021, the pandemic's second and third waves put most performing arts and cultural activities on hold, and only in the summer of 2021 are these activities starting to be revived. GDP in the arts, entertainment and recreation industries declined significantly more between February and May of 2020 (-63%) than did total GDP across all industries over the same period (-14%).[2]

4. From 2015 to 2019, the broadcasting sector experienced a gradual decline in revenues; this was followed by a significant drop in revenues for the 2019-2020 broadcast year resulting from the impacts of the pandemic between March 2020 and August 2020, the end of the broadcast year. In regard to the television sector, the revenues of private conventional television stations declined by 14.3% from the 2018-2019 broadcast year to the 2019-2020 broadcast year (from $1.554 billion to $1.332 billion), while revenues of discretionary services declined by 7.2% over the same period (from $4.234 billion to $3.929 billion). The pandemic has had an even greater impact on the radio sector: during the same period, revenues of commercial radio stations declined by 20.9% (from $1.450 billion to $1.154 billion).

5. In order to support Canadian broadcasters as well as the various players in the arts and culture sector that have been directly affected by the repercussions of the COVID-19 pandemic, various levels of government, including the Government of Canada, put in place a series of immediate compensatory relief measures,[3] including the Emergency Support Fund for Cultural, Heritage and Sport Organizations. Broadcasters also received assistance when the government waived the payment of Part I and Part II licence fees for the 2020-2021 broadcast year (i.e., the period from 1 September 2020 to 31 August 2021). The assistance received amounts to more than $286 million, which included $68 million from the full waiving of Part I licence fees and the partial waving of Part II licence fees.[4]

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[1] See Statistics Canada: Gross domestic product, income and expenditure, fourth quarter 2020.

[2] See Statistics Canada: Gross domestic product (GDP) at basic prices, by industry, monthly.

[3] See Canada's COVID-19 Economic Response Plan.

[4] See 2020 Broadcasting Financial Summaries Highlights.

Application by the Canadian Association of Broadcasters

6. On 13 July 2020, the Canadian Association of Broadcasters (CAB)[5] filed an application in which it requested immediate regulatory relief relating to expenditure and exhibition requirements for Canadian private broadcasters due to the COVID-19 pandemic. It submitted that its proposals constitute a single and straightforward solution that is limited in scope, to be applicable only to requirements for the 2019-2020 broadcast year. In the CAB's view, its proposals alleviate the significant financial difficulties being experienced by most, if not all, Canadian broadcasters due to the pandemic and the impact of the difficulties the Canadian creative sector is experiencing in producing programming. The three types of relief measures proposed by the CAB are detailed below.

Deemed compliance in regard to expenditure requirements

7. According to the CAB, the pandemic has created two distinct obstacles for broadcasters in regard to expenditure requirements, in both the radio and television sectors. The first obstacle relates to the decline in revenues for the second half of the 2019-2020 broadcast year, which depleted the financial resources that broadcasters needed in order to meet requirements relating to programming expenditures. The second obstacle relates to cancellations and delays regarding the production of television programming (excluding news programming) as well as events in the radio sector that are eligible for Canadian content development[6] (CCD) funding, which have resulted in significant costs and have had an impact on broadcasters' programming priorities.

8. To address the above, the CAB proposed that for the 2019-2020 broadcast year (i.e., 1 September 2019 to 31 August 2020), the Commission deem broadcasting licensees, absent any bad faith on their part, to have met requirements set out in their conditions of licence and by regulation relating to expenditures (in particular, requirements relating to overall Canadian programming expenditures (CPE) and expenditures on programs of national interest (PNI) for the television sector, and CCD contributions for the radio sector) regardless of the actual expenditure levels. In addition, the CAB proposed that the Commission not require that any shortfalls incurred during the 2019-2020 broadcast year be made up in subsequent broadcast years.

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[5] The CAB represents the vast majority of private Canadian programming services, including radio and television stations, networks, and discretionary and on-demand services. The CAB members are listed on its website.

[6] CCD is more fully discussed in the section relating to expenditure requirements for the radio sector.

9. In regard to the television sector, the CAB noted that the advertising revenues of broadcasters decreased by almost 50% between April and August 2020, and that, as a result, the CPE requirements for the 2019-2020 broadcast year (which are based on 2018-2019 broadcast year revenues) are simply unattainable.

10. The CAB noted that almost all production of non-news programming (including live sports and independent productions) ceased in mid-March 2020 and then resumed in June 2020, and that the availability of significant volumes of new programming (other than news programming) cannot be expected until at least before the 2020-2021 broadcast year (which began 1 September 2020), or even later. It added that the Canadian Media Producers Association (CMPA) announced that without insurance coverage for pandemic-related risks[7] for the production sector, the majority of production in Canada would not resume.

11. Finally, the CAB stated that its proposal regarding "deemed compliance" would allow broadcasters to continue to prudently manage their programming expenditures, including CPE, throughout the remainder of the pandemic, while focusing on news programs and offering other available Canadian programs within the limits of broadcasters' reduced resources.

12. In regard to the radio sector, the CAB noted that CCD contributions go to third parties, and that a large portion of discretionary expenditures is allocated in the second half of the broadcast year, in particular, towards the summer months. It noted that on top of the revenue losses experienced by broadcasters, events and concerts that would otherwise have received CCD funding (and for which many had received advances) were cancelled. In this regard, the CAB noted that Commission staff indicated, among other things, that it would allow deferral of CCD payments for cancelled eligible events to the following broadcast year and that it would be more flexible in regard to the eligibility of initiatives. It added, however, that this does not represent a reduction in a broadcaster's CCD contribution obligations.

13. The CAB indicated that its proposal would allow broadcasters to cease all remaining CCD payments for the 2019-2020 broadcast year. It further indicated that any CCD payments already made for events that had been cancelled and rescheduled for the next year would be carried over to the 2020-2021 broadcast year.

Exhibition-related requirements and any other "should resources permit" regulatory requirements

14. According to the CAB, because of the repercussions of the pandemic, there was a strong possibility that some of its members, and in particular smaller broadcasters, would not be able to meet the requirements relating to the broadcast of locally reflective news and local programming.

[7] On 25 September 2020, the Government of Canada announced a temporary measure to address the lack of insurance coverage for production stoppages due to COVID-19 cases on production sets in the audiovisual industry.

15. In regard to such requirements, the CAB requested that the Commission refrain from assessing the compliance of broadcasters in regard to their locally reflective news and local programming exhibition requirements for the second half of the 2019-2020 broadcast year. Alternatively, the CAB proposed that the Commission treat these requirements as expectations that are subject to a “should resources permit” condition for the 2019-2020 broadcast year.

16. Finally, the CAB proposed that, absent any bad faith on the part of licensees, the Commission treat all other regulatory requirements relating to exhibition, apart from news and local programming exhibition requirements, that are applicable to the 2019-2020 broadcast year (including accessibility requirements[8]) as expectations, subject to a “should resources permit” condition.

Suspension of the requirement for Commission pre-approval of local management agreements for radio stations

17. The CAB indicated that for small broadcasters hit hard by the pandemic, the ability for them to work with other local broadcasters on sales and other operational matters through LMAs – while fully complying with licence requirements to maintain ownership and control – may be a lifeline allowing them to continue operating and providing a local service. However, the CAB indicated that because of the length of the Commission’s pre-approval process for LMAs[9] and the very restrictive criteria for approval, the LMA is a mechanism that is inaccessible for helping high-risk radio stations to avoid closing down.[10]

18. Accordingly, the CAB proposed suspending the requirement for Commission pre-approval for LMAs for a minimum period of 18 months, with the suspension to take effect 31 July 2020.

Call for comments on the CAB’s requested regulatory relief

19. Due to the issues raised in the CAB’s application and the number of stakeholders that could be affected by the requested relief, the Commission called for comments on the application in Broadcasting Notice of Consultation 2020-336 (the Notice).

20. In the Notice, the Commission acknowledged that many of the expenditures for which the CAB requested flexibility represent important elements for funding Canadian audio and audiovisual programming, funding that directly benefits Canada’s creative and artistic communities, which have themselves experienced significant adverse effects stemming from the pandemic. The Commission further noted that expenditure requirements are calculated based on the previous broadcast year’s revenues, and that expenditure requirements, as is the case for CPE

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[8] The CAB noted that this could include compliance by smaller independent broadcasters with the new mandatory quality standards for English-language closed captioning established in 2019 (see Broadcasting Regulatory Policy 2019-308).

[9] As required by section 11.1 of the *Radio Regulations, 1986.*

[10] The CAB estimated that around 50 radio stations could cease operations over the few months following the filing of its application.

requirements, already allow for year-to-year flexibilities that, for licensees of television services, permit carrying over under-expenditures into subsequent broadcast years. The Commission added that granting the relief sought by the CAB would compound the impact on contributions to Canada’s creative and artistic sectors, which are likely to decrease in absolute terms during the 2020-2021 broadcast year.

21. In light of the above, the Commission specified that any potential regulatory relief must meet the following four expected outcomes:

    1. the viability of the Canadian broadcasting sector, insofar as it has been affected by the COVID-19 pandemic, is not further harmed as a result of the regulatory relief proposed;

    2. parties that currently benefit from the requirements imposed by the Commission on broadcasters are not unreasonably affected by any potential regulatory relief;

    3. when viewed as a whole, current news and information programming and the service such programming provides to Canadians is maintained; and

    4. any resulting regulatory action granting potential relief is minimally administratively burdensome on those entities seeking relief but is easily monitored and supervised by the Commission in order to ensure appropriate accountability.

Commission’s preliminary views set out in the Notice

22. In the Notice, the Commission stated that the CAB’s proposed “deemed compliance” for all broadcasters may not be the appropriate approach, as it was unconvinced that the approach meets the above-noted expected outcomes. The Commission stated that it may be more appropriate to adopt an approach, applicable to all broadcasters, whereby it would determine a broadcaster’s compliance with its regulatory obligations for the 2019-2020 broadcast year based on whether that broadcaster has fulfilled such obligations over a protracted period of time (for example, by spreading the financial requirements over several broadcast years). However, the Commission recognized that there may be other approaches, other than those proposed by the CAB in its application and above by the Commission, to address the concerns raised by the CAB in its application, and invited interested persons to submit proposals for regulatory relief that might achieve the four expected outcomes identified by the Commission. These proposals are discussed later in this decision.

23. In regard to accessibility in broadcasting and public alerts distributed through the National Public Alerting System (NPAS), the Commission stated that flexibility relating to any regulatory requirements should not jeopardize key services provided by broadcasters. Closed captioning, described video and audio description play an important role in providing people who are blind or partially sighted or who are deaf or hard of hearing with programming adapted to their particular needs, thereby

enabling them to fully participate in Canadian society. Public alerts distributed by broadcasters through the NPAS contribute to overall public safety and constitute a critical tool for the reduction of risk of environmental and civic threats to Canadians and the resumption of normal life post-COVID-19. Given this, and in light of the current economic and societal context surrounding the COVID-19 pandemic, the Commission indicated that it did not intend to consider any proposals that would diminish the policy framework and measures it has taken in regard to accessibility in broadcasting (closed captioning, video description and audio description) and public alerting.

24. Finally, the Commission concluded that any issues relating to the modification of its current approach to LMAs would be more appropriately addressed in the context of the commercial radio policy framework review[11] rather than as part of the current proceeding.

Interventions and replies

25. In response to the Notice, the Commission received interventions from the CAB, individual broadcasters (both CAB and non-CAB members), associations representing the creative sector (producers, artists and creators), public interest and research groups, and individuals. The CAB, along with other parties, submitted replies to interventions.

Expenditure requirements

Regulatory framework

26. The Commission has the authority, pursuant to subsection 9(1) of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act as well as to amend those conditions of licence. The Commission also has the authority, pursuant to subsection 10(1) of the Act, to make regulations, in furtherance of its objects, amongst other things, respecting the proportion of time that shall be devoted to the broadcasting of Canadian programs, respecting standards of programs and the allocation of broadcasting time for the purpose of giving effect to the broadcasting policy, requiring licensees to submit information to the Commission, and respecting such other matters as it deems necessary for the furtherance of its objects, which include implementation of the broadcasting policy set out in subsection 3(1).

27. Paragraphs 3(1)(e) and (s) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and

[11] On 12 November 2020, the Commission formally requested comments on the commercial radio policy framework (see Broadcasting Notice of Consultation 2020-374). While none of the issues related specifically to LMAs, the Commission indicated that it was open to considering other issues and concerns that relate to the commercial radio sector and that fall within its jurisdiction and authority under the Act.

presentation of Canadian programming, and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming.

28. Consistent with these provisions, and pursuant to the powers granted under subsections 9(1) and 10(1) of the Act, the Commission has developed various regulatory frameworks requiring television and radio sector licensees to make contributions to the creation and presentation of Canadian programming.

Expenditure requirements for the television sector

29. In general, expenditure requirements for the television sector are intended to support the financing and production of Canadian programs, with independent creators and producers being significant beneficiaries. Most television services are subject to minimum requirements relating to CPE, which are intended to maintain the levels of expenditures devoted by broadcasters to Canadian programs.

30. There are also various expenditure requirements that are subcategories of CPE:

- Expenditures on PNI are intended to ensure that services continue to offer a wide range of programs that are expensive to produce,[12] but constitute the principal means of conveying Canadian stories.
- Expenditures on independent production are intended to ensure that broadcasters make significant use of independent production companies. Required expenditures on independent production are a subcategory of PNI expenditures.
- Expenditures on locally reflective news[13] aim to ensure that Canadians continue to benefit from local news programming that is of interest to and reflects the communities and markets in which they live.
- Expenditures directed to the music funds FACTOR and/or Musicaction are intended to ensure that significant contributions are made to the creation and presentation of music.[14]
- Expenditures on original French-language programming[15] are intended to ensure that significant contributions are made to the creation and presentation of original French-language programs.

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[12] PNI includes programs from the following program categories set out in the appendix to Broadcasting Regulatory Policy 2010-808: 2(b) Long-form documentaries; 7 Drama and Comedy; 8(a) Music and dance, 8(b) Music video clips and 8(c) Music video programs (French-language market only); 9 Variety (French-language market only); and award shows, which fall under 11(a) General entertainment and human interest.

[13] “Locally reflective news” refers to programming that meets the criteria set out in paragraphs 56 to 58 of Broadcasting Regulatory Policy 2016-224.

[14] In Broadcasting Decisions 2018-334 and 2018-335, the Commission required large groups to make contributions to these funds. This is a temporary requirement.

31. Expenditure requirements are expressed as a percentage of gross revenues of the previous broadcast year and are set at the time of licence renewal. Under the group-based approach,[16] large private ownership groups can allocate their expenditures relating to Canadian programming, PNI and locally reflective news (if they own conventional television stations) among the various services that make up their groups in order to meet their spending requirements, the aim being to give them sufficient flexibility to adjust to market fluctuations.

32. All licensees with CPE, PNI expenditure and locally reflective news expenditure requirements also may benefit from a certain level of flexibility in regard to under-expenditures, which allows them to adjust to market fluctuations. Specifically, during each broadcast year of a licence term, excluding the final year, a licensee may spend up to 5% less on Canadian programming, PNI and locally reflective news programming than the minimum required expenditure for that year (hereafter referred to as the “5% flexibility”).[17] If a licensee avails itself of the 5% flexibility, it must spend in the following broadcast year the full amount of the previous broadcast year’s under-expenditure in addition to making the minimum required expenditure for that year. Licensees must make up any remaining shortfalls incurred during a licence term before the end of that licence term.

33. Since the Commission has never imposed requirements relating to the methods that undertakings must use to amortize their expenses, amortization practices vary from one licensee to another.[18] Under generally accepted Canadian accounting principles, licensees can begin accounting for and amortizing program expenditures only when the program is broadcast. Licensees can also recognize a loss in a particular broadcast year in the event that they write down the program expenditures that have been impaired, such as for a program that will not be telecast.

34. Tangible benefits are also imposed on licensees as part of certain ownership transactions. Since the number of ownership transactions in the television sector has been relatively low over the last few years, a limited number of broadcasters are currently required to pay tangible benefits.

Expenditure requirements for the radio sector

35. Expenditure requirements for the radio sector are intended to contribute to the development and promotion of Canadian musical and spoken word content, in order

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[15] “Original French-language program” means a Canadian program produced in French and broadcast for the first time in the French-language market, which excludes dubbed Canadian programs.

[16] See Broadcasting Regulatory Policy 2010-167.

[17] The Corus English-language group is the only group that currently may avail itself of 10% flexibility in regard to under-expenditures from year to year (with the exception of the last year) (see Broadcasting Decision 2020-220).

[18] For example, one licensee may amortize expenditures for a Canadian program over three years using a 40/30/30 split, while another licensee may amortize the expenditures for a Canadian program over five years using a 30/25/20/15/10 split.

to stimulate and support demand for high-quality Canadian musical and spoken word content in a variety of genres. The recipients of these contributions are primarily the funds that support music production, namely, Fonds Radiostar, Radio Starmaker Fund, FACTOR, Musicaction, and the Community Radio Fund of Canada (CRFC), as well as eligible initiatives (including certain costs incurred for cultural events such as local music festivals or competitions) selected at the discretion of broadcasters.[19]

36. There are three sources of CCD contributions: basic CCD contributions, over-and-above CCD contributions, and tangible benefits contributions.

37. Pursuant to subsection 15(2) of the *Radio Regulations, 1986* (the Regulations)[20] all commercial and ethnic radio stations with annual revenues in excess of $1,250,000 are required to make a basic CCD contribution, which is based on the gross revenues of the previous broadcast year. Sirius XM Canada Inc. (Sirius), licensee of the national satellite subscription radio undertakings Sirius Canada and XM Canada, and Stingray Group Inc. (Stingray), licensee of the national pay audio service Stingray Music, are not subject to this requirement, but they are required, by condition of licence, to contribute 4% of their gross revenues of the previous broadcast year to eligible CCD initiatives.

38. A licensee may be required to make an over-and-above CCD contribution (i.e., a contribution that is in addition to the required basic contribution) if it has made commitments in that regard in its application for a new broadcasting licence.

39. Further, the Commission imposes tangible benefits contributions in some ownership transactions that result in a change to the ownership and effective control of broadcasting undertakings. The goal behind the imposition of tangible benefits is to provide measurable improvements to the communities served by the broadcasting undertaking to be acquired, as well as to the Canadian broadcasting system as a whole.[21] Tangible benefits payments relating to radio undertakings are allocated to the same music funds and eligible initiatives to which CCD contributions are allocated.

40. In addition to the above, a licensee may be required to make an additional CCD contribution if the Commission imposed a requirement to make such a contribution as a remedial measure in the context of a situation of non-compliance.

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[19] Parties and initiatives that are considered to be eligible for CCD funding are specified in [Canadian Content Development Contributions and Eligible Initiatives]().

[20] Given that basic CCD contributions are incorporated into the Regulations and are calculated based on the previous broadcast year's revenues, the obligation and the amount to be contributed are not imposed by condition of licence.

[21] For radio programming undertakings, the Commission generally expects the payment of tangible benefits representing at least 6% of the value of the transaction as determined by the Commission, with payment to be spread equally over seven consecutive broadcast years. The Commission set out its revised approach to tangible benefits and how to determine the value of the transaction in Broadcasting Regulatory Policy 2014-459.

Accumulated shortfalls in the television and radio sectors

41. As of 31 August 2020 (i.e., the end of the 2019-2020 broadcast year), the television sector’s large groups incurred CPE shortfalls amounting to $138,315,385. Shortfalls incurred specifically for PNI expenditures amounted to $12,863,284. Although the large groups did not incur any shortfalls in regard to expenditures on locally reflective news, shortfalls were incurred in regard to expenditures on original French-language programs and on independent productions, and contributions to the music funds FACTOR and Musicaction.

42. For the 2019-2020 broadcast year, a total shortfall of $12,980,175 in the radio sector was incurred for basic and over-and-above CCD contributions, and for expenditures relating to tangible benefits.

Commission’s analysis of the CAB’s proposal for regulatory relief

43. Broadcasters generally supported the regulatory relief proposed by the CAB, and considered that its proposal meets the four expected outcomes identified by the Commission in the Notice. For its part, the creative sector (producers, creators, artists, etc.) along with public interest and research groups generally opposed the CAB’s proposal. In the following sections, the Commission addresses the positions of parties in regard to the four expected outcomes.

Expected outcome 1: Would the regulatory relief proposed by the CAB ensure that the viability of the Canadian broadcasting sector, insofar as it has been affected by the COVID-19 pandemic, is not further harmed?

Positions of parties

44. The CAB and broadcasters that filed individual interventions submitted that the viability of the Canadian broadcasting sector, insofar as it has been affected by the pandemic, would not be further harmed by the CAB’s proposal. As evidence of this impact, the CAB provided data from a 26 August 2020 report entitled “The Crisis in Canadian Media and the Future of Local Broadcasting – CMI Report Backgrounder” (the CMI report). The CAB noted that according to data from that report, for the 2019-2020 broadcast year, when compared to the previous broadcast year, conventional television station revenues declined by $276 million (18%), while private radio station revenues declined by $383 million (27%).

45. Certain broadcasters,[22] along with the CAB, submitted that most broadcasters will be unable to make up the losses in advertising revenues incurred during the 2019-2020 broadcast year, and that those monies are lost to the system. In their view, there will be no surplus money in coming years to make up for the amounts that could have been spent in the past.

[22] Bell, the Independent Broadcasters Group, Asian Television Network International Limited, and Anthem Sports & Entertainment.

46. Further, the broadcasters submitted that the suspension of in-house productions, live sports programming, drama series and commissioned independent productions led to the deferral or displacement of certain expenditures planned for the 2019-2020 broadcast year, and that the decreases in production volume, combined with revenue declines, caused the revenue shortfalls incurred during that broadcast year.

47. In the broadcasters' view, because of the uncertainty surrounding the pandemic and its impact on the production sector, the Commission cannot say with certainty that production will continue throughout the 2020-2021 broadcast year, or that broadcasters will be able to amortize their expenditures sufficiently to meet their requirements, even at a comparatively lower CPE level. They added that the government assistance they have received is not sufficient to cover the losses incurred during the year of the pandemic.

48. Broadcasters from the television sector submitted that the 5% under-expenditure flexibility is not sufficient under the current circumstances to allow them to make up their shortfall, since the impact of the pandemic is wide-ranging and does not correspond to the average fluctuations that can be corrected under the current approach. Certain broadcasters noted that due to the accounting rules for amortization, broadcasters must budget not only for the amortization expenses necessary to meet their expenditure requirements for the year, but also for cash advance payments for programs that will not be aired until subsequent years.

49. The creative sector, on the other hand, submitted that the current regulatory framework provides sufficient flexibility for broadcasters to cushion the impact of pandemic-related production cuts. Certain interveners from that sector[23] noted that the current regulatory framework for the television sector (in particular, the group-based licensing approach, the elimination of genre protection and the reduction of Canadian content exhibition requirements) has provided broadcasters with considerable flexibility in regard to expenditure requirements. In their view, the 5% flexibility combined with amortization accounting practices alleviates the volatility of revenues and expenses from one year to the next and can therefore cushion pandemic-related production declines.

50. Certain interveners[24] characterized the CAB's proposal as a "one size fits all" solution, which they argued is not adequate as it does not recognize the different realities of broadcasters (radio/television, linguistic market, etc.) and the impact the pandemic has had on broadcasters.

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[23] The CMPA, the Writers Guild of Canada (WGC), On Screen Manitoba, the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the Quebec English-Language Production Council, the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), the Directors Guild of Canada (DGC), the Documentary Organization of Canada (DOC), and the Association québécoise de la production médiatique (AQPM).

[24] The WGC, the Conseil provincial du secteur des communications, the Alliance des producteurs francophones du Canada (APFC), On Screen Manitoba, the Ministère de la culture et des communications du Québec (MCCQ), the DGC, Unifor and ACTRA.

51. In this regard, the Forum for Research and Policy in Communications (FRPC) suggested that the Act does not allow the Commission to grant the same regulatory relief to all broadcasters, as the Commission must set conditions of licence based on the specifics of each licensee. It added that the Act does not allow the Commission to suspend or weaken its supervisory role, as the Commission must, pursuant to its powers under the Act, enforce the requirements that flow from the policy objectives set out in the Act.

52. Certain interveners from the creative sector[25] submitted that the revenue declines experienced by broadcasters have been offset, at least in part, by other forms of pandemic-related government relief. They added that the CAB also requested that the Commission's Part II licence fees be waived, which was not confirmed at the time of the intervention period.[26]

53. The Société professionnelle des auteurs et des compositeurs du Québec (SPACQ) also noted that the CAB's request does not take into account the exemption from the basic CCD contribution requirement for radio stations for which gross annual revenues are below $1.25 million.

54. For their part, the CMPA and the Directors Guild of Canada (DGC) noted that approval of the CAB's proposal would effectively give broadcasters two years of relief. First, they would be considered as being in compliance with expenditure requirements for the 2019-2020 broadcast year, notwithstanding the 2018-2019 broadcast year revenues, which were higher than those of previous years and would effectively have to translate into higher programming expenditures in absolute dollars to comply with the imposed requirements. Second, for the 2020-2021 broadcast year, during which revenues are expected to increase, broadcasters would benefit from natural relief since expenditures would depend on the gross revenues of the pandemic year, and would therefore be significantly lower than they otherwise would have been.

55. Finally, interveners from the creative sector noted that the CAB-commissioned CMI report does not contain the relevant and necessary financial information regarding actual revenues for the various types of services that would be required so that the Commission could confirm broadcasters' claims regarding the impact of the pandemic.

56. In its reply to interventions received, the CAB stated that its proposal does not constitute a "one size fits all" solution as its deemed compliance proposal is based on a "good faith" assessment that would apply on a case-by-case basis and would take into account each licensee's particular circumstances at the time of licence renewal.

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[25] The AQPM, On Screen Manitoba and the Canada Media Fund.

[26] On 21 December 2020, the government waived Part II licence fees for television, radio and discretionary television licensees for the 2020-2021 broadcast year, subject to certain conditions. For more details, see Remission Order in Respect of Part II Licence Fees Paid or Payable Under the Broadcasting Licence Fee Regulations, 1997: SI/2020-77.

57. In regard to the creative sector's claim that broadcasters would effectively be getting two years of relief, the CAB emphasized that for the time being, its application targets only the 2019-2020 broadcast year and, therefore, that the 2020-2021 broadcast year would, barring further adverse effects, see a return to the current regulatory requirements, and not additional relief.

58. The CAB, Bell Media Inc. (Bell) and Québecor Media Inc. (Québecor) submitted that the interveners' arguments regarding the sufficiency of the current regulatory framework do not at all take into account the extent of the loss of advertising revenues caused by the COVID-19 pandemic and of the alarming projections presented in the CMI report.

Commission's analysis

59. The pandemic had an undeniable impact on television broadcasters' revenues during the 2019-2020 broadcast year. However, in the Commission's view, it would not be accurate to state that the pandemic has had an equal impact on all broadcasters, or that the viability of the entire broadcasting sector is at risk. Although the pandemic has had a pronounced impact on the revenues of conventional television stations (with their losses more than doubling during the 2019-2020 broadcast year), discretionary services continue to be generally profitable.

60. Overall, television broadcasters experienced a decrease in profitability during the 2019-2020 broadcast year, with revenues declining by 9.1% (from $5.788 billion to $5.261 billion). This decline in revenues resulted in an overall decline in profit before interest and taxes (PBIT) of 26.3% ($962 million to $709 million) for the 2019-2020 broadcast year, when compared to the previous broadcast year. Conventional television stations experienced the greatest PBIT decline, of 127% (from -$109 million to -$247 million) for the 2019-2020 broadcast year, when compared to the previous broadcast year.

61. In regard to the radio sector, commercial radio stations experienced a decrease in profitability during the 2019-2020 broadcast year, with revenues declining by 20.9% ($1.453 billion to $1.149 billion). Although this was coupled with a 10.6% decrease in expenses (from $1.158 billion to $1.035 billion), commercial radio stations also experienced a notable overall decline in PBIT, from approximately $251 million to $63 million.

62. In the Commission's view, the CAB's proposal responds specifically to the needs of broadcasters and issues of interest to them, particularly broadcasters who have felt the effects of the COVID-19 pandemic. Should the Commission approve the proposal, the resulting relief could result in allowing broadcasters to avoid paying up to $138 million in CPE, $13 million in PNI expenditures, and $13 million in CCD contributions, amounts that would otherwise have gone to the creative sector. The Commission therefore finds that approval of the CAB's proposal would not further harm broadcasters and would contribute to their viability, which would meet the first expected outcome set out in the Notice.

Expected outcome 2: Would the regulatory relief proposed by the CAB ensure that parties currently benefiting from the Commission's requirements for broadcasters are not unreasonably affected?

Positions of parties

63. Broadcasters from the television sector submitted that the production sector would not be unreasonably affected by the regulatory relief proposed by the CAB. In this regard, they noted that the production sector currently benefits from significant government assistance dedicated to it. They further noted that requiring broadcasters to pay the shortfalls for the 2019-2020 broadcast year that were caused by production stoppages would mean that the creative sector would be compensated twice for the same stoppages (through support funds and through expenditures paid to them).

64. On the other hand, members of the creative sector along with public interest and research groups indicated that the creative sector would be unreasonably affected by CAB's proposal because it was greatly affected by the adverse consequences of the pandemic. In this regard, the CMPA filed a study by Nordicity[27] (published on 8 April 2020, at the very beginning of the first wave of the pandemic) which projected that from mid-March to June 2020, there would be a loss of over $2.5 billion in production volume and an impact on over 172,000 workers.

65. The creative community working in the television and radio sectors emphasized the importance of expenditure requirements as a central pillar of regulatory support for Canadian programming. It noted that in the past, the Commission has stated that shortfalls are amounts that are owed to the broadcasting system.[28]

66. The MCCQ emphasized the importance of not overlooking the potential impact of the CAB's proposed relief on requirements relating to the production of original French-language Canadian programming and to the development of Francophone music.[29] ADISQ,[30] which opposed any form of regulatory relief, agreed with the MCCQ by stressing the importance of maintaining expenditure requirements (imposed on both the radio and television sectors) for music production. In its view, stopping the payment of this money, which is sorely needed by the music industry, would be particularly problematic for Musicaction, given that it does not have a sufficient reserve fund to absorb temporary decreases or gaps in funding.

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[27] Source: COVID-19 Impact Analysis – Employment at Risk due to Shutdowns in the Screen-based Media Production Sector
[28] For example, in Broadcasting Decision 2020-205 regarding the renewal of the licence for Super Channel.
[29] See Broadcasting Decision 2018-334.
[30] Supported by the Professional Music Publishers Association, the Alliance nationale de l'industrie musicale (ANIM), the Canadian Independent Music Association and the SPACQ.

67. In regard to the broadcasters' argument that the payment of shortfalls would represent a second source of revenue for the creative sector for production stoppages, the Writers Guild of Canada (WGC) countered that the COVID-19 emergency funds are intended for individuals and companies that are not working because of the pandemic, whereas CPE and PNI expenditures generate work and, therefore, revenues for the production sector as a whole. According to the WGC, it is a question of two completely different and mutually exclusive sources of revenue.

Commission's analysis

68. Approval of the relief sought by the CAB would set an important precedent, given that the Commission has seldom exempted a licensee (or a group of licensees) from the radio or television sectors from expenditure requirements.

69. For the television sector, the Commission has maintained CPE requirements even in circumstances that were beyond the control of licensees. One example relates to the 2004 National Hockey League (NHL) lockout. In that case, the Commission maintained the CPE requirements for licensees of sports services (Sportsnet,[31] as well as TSN and RDS[32]), but granted them a certain level of flexibility by allowing them to pay the CPE shortfalls for the 2004-2005 broadcast year by the end of their licence terms.

70. In regard to the radio sector, the Commission has generally maintained contribution requirements, but has granted extensions for the payment of the amounts owed.

71. Investment in Canadian programming is essential to help the broadcasting system achieve the policy objectives relating to the creation of Canadian content, as described in subsection 3(1) of the Act. As noted by interveners, such investment fluctuates from year to year depending on broadcasters' revenues.

72. As for the television sector, the Commission considers that it would be unfair and unreasonable for the creative sector not to be able to benefit from the revenue increases that broadcasters generally experienced during the 2018-2019 broadcast year. In this regard, the large English-language ownership groups should have contributed $819 million in CPE and $209 million in PNI expenditures for the 2019-2020 broadcast year, and the shortfalls incurred for these expenditures represent, respectively, 16.8% and 6.2% of those amounts. Further, the March to June 2020 production shutdown along with the various funds that were established to support the creative sector during these unprecedented times do not in themselves justify depriving that sector of the amounts that it was slated to receive. As such, the Commission does not share broadcasters' view that requiring broadcasters to pay the shortfalls incurred during the 2019-2020 broadcast year that were caused by production stoppages would mean that the creative sector would be compensated twice for the same production stoppages. Rather, the Commission considers, as did the WGC, that these are two different revenue streams.

[31] See Broadcasting Decision 2005-387
[32] See Broadcasting Decision 2005-388.

73. The Commission therefore finds that approval of the CAB's proposal would not ensure that parties currently benefiting from the expenditure requirements are not unreasonably affected by the proposed regulatory relief, and would therefore not meet the second expected outcome set out in the Notice.

Expected outcome 3: Would the regulatory relief proposed by the CAB ensure that news and information programming and the service such programming provides to Canadians is maintained?

74. Broadcasters submitted that, as stated by the CAB and its members, the CAB's proposal would maintain news and information programs as a whole along with the service they provide to Canadians.

75. In the Commission's view, the regulatory relief proposed by the CAB would ensure that news and information programming is maintained, since the CAB made it clear in its application that private broadcasters are not requesting that the Commission presume compliance by licensees in regard to expenditures on news and information programs. In this regard, the Commission notes that the large ownership groups with conventional television stations generally exceeded their locally reflective news expenditure requirements for the 2019-2020 broadcast year. Although there are no local news expenditure requirements for the radio sector, radio station licensees indicated that they maintained their local programming and news offerings, with some even stating that they reallocated resources to do so. Accordingly, the Commission finds that approval of the CAB's proposal would not impede meeting the third expected outcome set out in the Notice.

Expected outcome 4: Would the regulatory relief proposed by the CAB be minimally administratively burdensome for those entities seeking relief, but be easily monitored and supervised by the Commission to ensure appropriate accountability?

76. According to the CAB and broadcasters that filed individual interventions, assessing "bad faith" on the part of licensees in regard to non-compliance with regulatory requirements would constitute a minor administrative burden, and that whether licensees are acting in "bad faith" would be easily monitored and supervised by the Commission to ensure appropriate accountability.

77. Members of the creative sector, along with other interveners who opposed the CAB's application, submitted that assessing "bad faith" on the part of licensees would be administratively burdensome, given that it would involve complex investigations into broadcasters' decision-making processes and motivations, and would be difficult to implement. The WGC and the CMPA noted that the CAB's proposed "bad faith" assessment would shift the burden of regulatory compliance to the Commission and interveners.

78. The Commission notes that in the context of licence renewals, in both the television and radio sectors, its practice is to assess instances of non-compliance by examining the circumstances that led to the non-compliance in question, the arguments provided by the licensee, and the measures taken to correct the situation. Although the

Commission has considered in the past whether licensees were acting in good faith when assessing if non-compliance is likely to be repeated, the responsibility for demonstrating this lies with the licensee. In the present case, the Commission considers that the CAB's proposal to deem licensees in compliance unless the Commission can determine at licence renewal that a licensee acted in bad faith shifts the burden of proof to the Commission. This approach is not consistent with the Commission's current practice of requiring broadcasters to bear the burden of demonstrating compliance with regulatory obligations.

79. The Commission further notes that the concept of "bad faith" is a subjective one, with no objective basis for evaluation, and therefore considers that the CAB's proposal would be difficult to implement. In particular, the subjective analysis would require complex investigations by the Commission into broadcasters' decision-making processes and motivations, something that is also not generally part of the Commission's review process. Completing such an assessment for every licensee at the time of licence renewal would therefore create a significant administrative burden for the Commission and for broadcasters, and would significantly change the approach taken by the Commission to fulfill its monitoring and supervision responsibilities. Consequently, the Commission finds that approval of the CAB's proposal would not meet the fourth expected outcome set out in the Notice.

Commission's decision regarding the CAB's proposal

80. In the Commission's view, the CAB's proposed regulatory relief relating to the expenditure requirements imposed on television and radio sector licensees fails to meet two of the four expected outcomes set out in the Notice. Specifically, it would do great harm to the parties that benefit from the expenditure requirements and would create a significant administrative burden for the Commission at the time of licence renewals. Consequently, the Commission **denies** the regulatory relief proposed by the CAB.

Additional proposals relating to regulatory relief for the television sector

81. As noted above, in the Notice, the Commission also invited interested parties to provide additional proposals for relief. In response, various parties provided proposals relating only to the television sector. The principal proposals are addressed below.

Quebecor – Changes to expenditure requirements

82. Quebecor indicated that due to the filming postponements caused by the pandemic, it may have some difficulty in fully meeting its PNI expenditure requirements for the 2020-2021 broadcast year. It therefore requested that the Commission reduce by two percentage points the PNI expenditure requirements for all broadcasters (in both linguistic markets) for the remainder of their licence terms, or at least for the 2020-2021 broadcast year.

83. The Alliance des producteurs francophones du Canada (APFC) opposed Quebecor's proposal, submitting that there is no possible justification for such a percentage

decrease given that the current regulatory framework already provides for “perfect proportionality between a decrease in revenues and a decrease in spending obligations in the subsequent year.” [translation]

84. Finally, and consistent with the comments from certain interveners from the creative sector,[33] the Commission considers that the current regulatory framework already provides licensees with flexibility in regard to expenditure requirements (i.e., the 5% flexibility and the proportionality of expenditure requirements based on the previous broadcast year revenues). In the Commission’s view, Quebecor’s proposal is inappropriate given that the majority of the large groups (including Quebecor) will likely be able to meet their PNI expenditure requirements by the end of their licence terms due to the surpluses they have accumulated in previous broadcast years.

Rogers – Changes to expenditure requirements

85. Rogers Media Inc. (Rogers) stated that it wishes to redirect, by the end of its licence term (i.e., 31 August 2022), shortfall amounts relating to PNI expenditures and contributions to FACTOR from the 2019-2020 broadcast year to news and information programs. In support of its proposal, Rogers explained that this would, among other things, allow it to continue producing quality news and information content, which is consistent with the Commission’s third expected outcome relating to the maintenance of news and information programming.

86. The CMPA and the WGC opposed Rogers’ proposal because it unfairly positions one type of important Canadian programming against another. The WGC added that Rogers benefits from the current flexibility for supporting news programming and from the synergies of a vertically integrated entity, and has the lowest PNI expenditure threshold of any English-language group (5%).

87. The Commission notes that although Rogers’ proposal would meet the third expected outcome set out in the Notice (i.e., the maintenance of news and information programming), it would come at the expense of supporting the production of PNI, the primary vehicle for conveying Canadian values and stories. Accepting Rogers’ proposal would also imply that the Commission is prioritizing one type of Canadian programming (news programs) over another (PNI), whereas both types, as noted by the CMPA and the WGC, are important and essential for the support of the policy objectives of the Act.

88. Consequently, the Commission considers that it would not be appropriate to adopt Rogers’ proposal.

[33] The CMPA, the WGC, On Screen Manitoba, ACTRA, the Quebec English-Language Production Council, ADISQ, the DGC, the DOC and the AQPM.

Corus – Change in the method of calculating expenditure requirements

89. Corus Entertainment Inc. (Corus) requested that the Commission determine broadcasters' compliance with expenditure requirements (other than expenditure requirements relating to locally reflective news) for the 2019-2020 broadcast year based on revenues of that broadcast year, rather than on revenues of the 2018-2019 broadcast year.

90. The CMPA and the APFC opposed Corus's proposal given that it would mean the expenditure requirements for the 2019-2020 and 2020-2021 broadcast years would both be based on the lower 2019-2020 broadcast year revenues.

91. In the Commission's view, Corus's proposal would set a significant precedent given that the Commission's general practice is to base licensees' expenditure requirements on their gross revenues from the previous broadcast year. Further, the creative sector as a whole would be unreasonably affected by Corus's proposal since the adjustment to the calculation methodology would mean that members of the creative sector would not benefit from the revenue increases that most large groups experienced in the 2018-2019 broadcast year, but would instead receive contributions based on the lower revenues of the 2019-2020 broadcast year two years in a row.

92. In addition, the Commission notes that Corus, even prior to the pandemic broadcast year, appeared to struggle with revenue volatility and managing its debts.[34] Despite these challenges, Corus was the most profitable group in the 2019-2020 broadcast year, in both linguistic markets. Finally, as noted above, Corus already benefits from additional flexibility relative to the other groups as it has 10% under-expenditure flexibility, as opposed to 5% for the other groups.

93. Consequently, the Commission considers that it would not be appropriate to adopt Corus's proposal.

Anthem – Additional support for independent services

94. Anthem Sports & Entertainment (Anthem), supported by the Independent Broadcast Group (IBG),[35] made proposals that would allow independent services to generate additional revenues. In this regard, Anthem indicated that the Commission should:

- revert to the former local availabilities policy,[36] at least for independent Canadian services, to provide greater support for additional promotional opportunities;
- remove the limit on advertising time per clock hour only for independent Canadian discretionary services – this change would ensure that any new

[34] See Broadcasting Decision 2020-220
[35] The IBG is a group of independent conventional television and discretionary service broadcasters.
[36] The policy, as set out in Broadcasting Regulatory Policy 2015-380, limits the promotional periods of time made available on U.S. television services (known as local availabilities), to promote first-run, original Canadian television programs.

revenues generated are not picked up by the large groups, which already generate the majority of advertising revenues;

- encourage or require broadcasting distribution undertakings (BDUs) to distribute independent discretionary services in high-penetration packages for the next two to three years to mitigate the impacts of the pandemic; and
- permanently modify the rules for services that may be included in the basic service.

95. The Commission notes that certain of Anthem's proposals are intended to improve the distribution of independent services, and do not specifically provide regulatory relief in the context of the pandemic. Consequently, the Commission finds that addressing this issue lies outside the scope of the present proceeding.

CCSA and TELUS – Relief for BDUs

96. The Canadian Cable Systems Alliance (CCSA),[37] on behalf of its members, requested wholesale rate relief for discretionary services to reflect the reduced value of content provided. Specifically, the CCSA noted that wholesale rates for discretionary services continue to rise, particularly those of the large ownership groups for over-the-air sports services, despite the fact that no new sports content was offered during the pandemic.

97. Rogers submitted that providing BDUs with wholesale rate relief for discretionary services, as proposed by the CCSA, would not be justified and would only aggravate an already untenable financial situation for broadcasters.

98. TELUS Communications Inc. (TELUS) noted that filming delays and cancellations have also affected the ability of BDUs to fulfill their requirements relating to access programming expenditures and to exhibition. As such, it proposed that any regulatory relief should also apply to BDUs operating community channels.

99. Finally, the FRPC opposed TELUS's proposal by noting that BDUs do not need regulatory relief in order to maintain their offerings on their community channel given that they benefit from stable revenues.

100. The Commission does not interfere in the determination of wholesale rates, other than for services that are granted mandatory distribution under paragraph 9(1)(h) of the Act (9(1)(h) services), and in the context of final offer arbitration, as this is a matter that is generally left for private agreement between BDUs and broadcasters. Accordingly, the Commission does not consider the CCSA's proposal to interfere in these relationships on a wide-scale basis to be appropriate.

101. The Commission further considers that TELUS's proposal that any regulatory relief be extended to BDUs operating community channels lies outside the scope of the

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[37] The CCSA represents small independent BDUs across Canada.

present proceeding. Specifically, the present proceeding deals with broadcasting services, not BDUs, which were not mentioned in the CAB's application.

Commission's analysis and decisions regarding its proposed extended payments approach

102. As noted above, in the Notice, the Commission expressed the preliminary view that it may be more appropriate to adopt an approach, applicable to all broadcasters, whereby it would determine a broadcaster's compliance with its regulatory obligations for the 2019-2020 broadcast year on the basis of that broadcasters' compliance with those obligations over a longer period of time. Under this proposal, licensees would be given more time to pay shortfalls incurred during the 2019-2020 broadcast year.

103. The Commission regulates and supervises the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) of the Act. Through its policies, conditions of licence and regulations, the Commission ensures that these policy objectives are achieved.[38] In so doing, the Commission also has broad discretionary power allowing it to impose regulatory obligations that reflect a situation within the system broadly or to respond to the circumstances of an individual licensee or a particular class of licensees.[39] This discretion includes the ability to reduce or modify existing regulatory obligations.[40]

104. The Act further specifies that the Commission's regulation and supervision should be flexible and, among other things, facilitate the provision of broadcasting to Canadians and of Canadian programs to Canadians as well as take into account the administrative burden it may impose on the operators of broadcasting undertakings.[41]

105. Furthermore, in fulfilling its mandate, the Commission has wide discretion as to how to exercise its powers and regarding the considerations that must be taken into account. In the present case, the exceptional circumstances surrounding the CAB's application and the impact of the pandemic on the industry as a whole, including both the broadcasting and creative sectors, as well as the public interest, were taken into account. Consistent with paragraphs 3(1)(e) and (s) of the Act, the Commission has imposed various regulatory obligations requiring broadcasting undertakings to contribute in an appropriate manner to the creation and presentation of Canadian programming and, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. It is these obligations that are at the heart of the present proceeding.

106. The Commission notes that the circumstances surrounding the pandemic are exceptional in nature. These impacts touch the entirety of the broadcasting industry,

[38] Paragraph 9(1)(b) and subsection 10(1) of the Act.
[39] Paragraph 9(1)(b), and subsections 10(1) and (2) of the Act.
[40] Paragraph 9(1)(c) and subsection 10(1) of the Act.
[41] Paragraphs 5(2)(d), (e) and (g) of the Act.

including both broadcasters and creators, and not just individual sectors or players. As a result, the Commission has endeavoured to find a solution that responds to the needs expressed by the industry as a whole while simultaneously respecting the regulatory framework within which it operates and minimizing the administrative burden on both licensees and the Commission.

Positions of parties

107. According to the CAB, the Commission’s proposed approach considers only the impact on parties that benefit from expenditure requirements and offers almost no relief to broadcasters, assuming that broadcasters would be able to find money to cover the shortfalls. It added that the Commission’s proposed approach fails to meet two of the expected outcomes set out in the Notice, since it would not prevent further harm to the viability of the Canadian broadcasting sector, and could result in these broadcasters diverting their expenditures for news and information programs to other genres.

108. Various parties from the broadcasting sector also expressed concern over the Commission’s proposed extended payment approach. For example, the IBG submitted that the decision to defer the spending obligations for the 2019-2020 broadcast year to future years should not be made while the pandemic persists. It argued that there will be no “surplus” funds in future years to offset the amounts that should have been spent in the past, and that the adoption of the Commission’s proposal would seriously compromise the future financial viability of broadcasters and their ability to meet the demands and challenges that will face them, which at this point are still unknown.

109. Bell submitted that the obligation to pay shortfalls for the 2019-2020 broadcast year in subsequent broadcast years disregards the significant impacts of the pandemic on revenues. For its part, Corus submitted that shortfalls incurred during that broadcast year cannot be carried forward to subsequent years without having a significant and discriminating impact on broadcasters.

110. According to Sirius, even with an extended schedule for payment of the shortfalls incurred during the 2019-2020 broadcast year, a disproportionate liability would be assumed by broadcasters who are already dealing with competing digital businesses that are disrupting the market, not paying contributions, and seeking a larger share of the Canadian market. Sirius noted, however, that it would support any relief proposal that would allow the amounts due for the 2019-2020 and 2020-2021 broadcast years to be contributed in a flexible manner over several years.

111. Several interveners from the creative sector that opposed the CAB’s proposal supported the Commission’s proposal. For its part, the MCCQ agreed with the expected outcomes set out in the Notice, but submitted that if the Commission deems it necessary to intervene in order to ease the regulatory burden on broadcasters, it should ensure that the measures put in place have the least possible impact on the

availability of cultural content and on the ecosystem that ensures the creation and production of content.

112. In regard to the television sector specifically, the broadcasters Bell, Corus and Rogers[42] submitted that under the Commission's proposed approach, a minimum five-year period (i.e., up to the end of the 2024-2025 broadcast year) for the payment of shortfalls incurred during the 2019-2020 broadcast year[43] would be necessary for the large ownership groups. In support of this, the interveners indicated that programming expenditures are often amortized over a period of four to five years. They also noted that the Commission granted a five-year payment period to Rogers in 2005[44] when its Sportsnet discretionary service incurred CPE under-expenditures due to the NHL lockout. In their view, any payment period shorter than five years would create additional financial difficulties for broadcasters, since the impact of the pandemic on their revenues would be added to the current competitive challenges they face. These broadcasters added that they would like the Commission to grant broadcasters flexibility to pay off their shortfalls as they see fit during the payment period given the high volatility of revenues and expenses expected for the 2020-2021 and 2021-2022 broadcast years.

113. The IBG, TV5 Québec Canada (TV5) and Blue Ant Media Inc. (Blue Ant) submitted that a "one size fits all" approach may not be appropriate because of the characteristics of the broadcasters, and in particular, independent broadcasters. Blue Ant acknowledged, however, that it would not be practical for the Commission to implement licensee-specific solutions as part of the present proceeding, and that it should therefore grant broadcasters as much flexibility as possible to allow them to make appropriate decisions regarding content.

114. Certain members of the television creative sector[45] proposed allowing broadcasters to pay any shortfalls incurred during the 2019-2020 broadcast year by the end of their respective licence terms, which would be by the end of the 2021-2022 broadcast year for the large private-ownership groups, and by the end of the 2022-2023 broadcast year for all other private broadcasters. For its part, the FRPC stated that independent broadcasters, who do not benefit from the same synergies as do the large ownership groups, should be given more time than the large groups to pay their shortfalls.

115. In the CMPA's view, the viability of the Canadian broadcasting sector would not be further harmed by the Commission's proposal, since private broadcasters would be given additional time to pay their under-expenditures for the 2019-2020 broadcast

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[42] As noted above, Corus and Rogers also made alternative proposals, but indicated that if those proposals are not adopted, a five-year payment period would be required.

[43] Corus added that if pandemic-related production disruptions continue, the shortfalls of the 2020-2021 broadcast year should also be part of the flexibility provided.

[44] See Broadcasting Decision 2005-387.

[45] The Alliance québécoise des techniciens et des techniciennes de l'image et du son, Association des réalisateurs et réalisatrices du Québec, Société des auteurs de radio, télévision et cinéma, Union des artistes (collectively, AQTIS-ARRQ-SARTEC), the CMPA, On Screen Manitoba, ACTRA, Unifor, the DOC, the DGC, the APFC and the FRPC.

year, and parties who benefit from these requirements would not be unreasonably affected, given that all expenditures would eventually be paid.

116. The APFC proposed that any shortfalls for the 2019-2020 broadcast year be paid by the end of the licence term, in some cases with a one-year administrative renewal for some of the hardest-hit broadcasters. However, given the possibility that certain French-language broadcasters (specifically, Bell Media, Quebecor and TV5) will not be able to meet their expenditure requirements for the 2020-2021 broadcast year due to widespread lockdowns, insurance issues and border closures, both interprovincial and international, the APFC modified its initial proposal by suggesting that the Commission provide all broadcasters with an additional year beyond their current licence term to pay for shortfalls incurred during the 2019-2020 or 2020-2021 broadcast years, either by keeping their licence term unchanged or by granting them a one-year administrative renewal.

117. Finally, other members of the creative sector, including the Association québécoise de la production médiatique (AQPM), the WGC and ADISQ, opposed any form of regulatory relief, including that proposed by the Commission. For its part, ADISQ considered that producers and creators are already facing significant losses, and that a shift in contributions, as proposed by the Commission, could prove disastrous since it would magnify these losses and would harm investment in the sector. The AQPM also questioned the consistency of the Commission's proposal, given that the Commission had very recently denied a request by Corus for its under-expenditures to be cumulative until the end of its licence term, on the justification that the potential for volatility regarding CPE requirements would be more significant.[46] Moreover, the AQPM noted that any regulatory measure that would provide broadcasters with even more flexibility would require increased accountability measures on the part of broadcasters and an indispensable increase in the Commission's oversight, which, according to the AQPM, clearly runs counter to the Commission's expected outcomes.

118. In their replies to the interventions from the creative sector for television, both Bell and Corus submitted that a two-year period for the payment of shortfalls would not be adequate. In this regard, Corus indicated that it amortizes its programs over three years, according to a 50/30/20 schedule, and that a two-year shortfall payment period would mean that it could amortize only 80% (50+30) of the licence fees for programs that did not air during the 2019-2020 broadcast year. Corus added that it would be very difficult to aim for an equal distribution of revenue shortfalls, as proposed by certain members from the creative sector, and this would represent a significant administrative burden.

119. In regard to the radio sector, ADISQ submitted that any relief granted to broadcasters would be at the expense of Canadian content producers and creators, who have been hard hit by the pandemic. It considered that the impact of the pandemic on the music industry is tied to the losses incurred by broadcasters; since CCD contribution levels

[46] See paragraph 24 of Broadcasting Decision 2020-220.

are based on a percentage of broadcasters' gross revenues of the previous broadcast year, the contributions due in the 2020-2021 broadcast year will see reductions proportional to the decrease in revenues of the 2019-2020 broadcast year. Finally, stressing the importance of Musicaction for the music industry and of ensuring the predictability of contributions to that fund in order for it to carry out its activities, ADISQ, echoed by the Alliance nationale de l'industrie musicale in its intervention, noted that this fund does not have a sufficient reserve that could absorb significant temporary decreases in broadcasters' contributions or funding lags.

120. Finally, the Canadian Independent Music Association (CIMA) opposed the Commission's proposal to grant an additional period of time to meet the expenditure requirements for the 2019-2020 broadcast year. Noting that CCD contribution requirements are flexible, since they are calculated according to gross revenues of the previous broadcast year, it stated that the music industry has been greatly affected by the impact of the adverse effects of mandatory physical distancing, guidelines on gatherings, and concerns regarding the health of audiences and artists in general during the pandemic. The CIMA expressed concern that this industry's economic recovery will be delayed for more than two years and will come only once it is possible to hold live events and do international promotional tours.

Consideration of the Commission's relief approach for the television and radio sectors in regard to the first three expected outcomes set out in the Notice

121. As it did for the CAB's proposal, the Commission considered whether its proposal to provide television and radio broadcasters with more time to pay shortfalls incurred during the 2019-2020 broadcast year (i.e., as of 31 August 2020) would meet the first three expected outcomes set out in the Notice. The fourth expected outcome relating to whether any resulting regulatory action granting possible relief is minimally administratively burdensome on those entities seeking relief but is easily monitored and supervised by the Commission in order to ensure appropriate accountability is addressed below in the section on reporting, for both the television and radio sectors.

Expected outcome 1

122. In regard to the first expected outcome, the Commission considers that the viability of the Canadian broadcasting sector, for both television and radio, would generally not be further or unduly harmed by the payment of shortfalls over an extended period of time. In this regard, the Commission notes that television services, on aggregate, have remained profitable in the midst of the pandemic, and that according to forecasts, should remain profitable over the next few years, despite the required payment of shortfalls. Although radio stations experienced a sharper decline in profitability than did television services, overall the commercial radio industry remained profitable during the 2019-2020 broadcast year.

123. In addition to providing them with greater ability to meet their regulatory obligations, an extended payment period would allow broadcasters to better plan their programming expenditures and contributions over the next few years based on what the production sector has to offer on the television side, and the ability to again

contribute to live events and other opportunities to showcase and support Canadian artists on the radio side, as well as invest in quality content that respects the nature of their services and meets the needs and interests of their audiences. It would also reduce broadcasters' obligations in the short term while they are still constrained by the impacts of the pandemic. Furthermore, the required payment of shortfalls would be scheduled for broadcast years during which broadcasters' expenditure obligations will have been substantially reduced, thereby relieving them of an unreasonable financial burden.

Expected outcome 2

124. In regard to the second expected outcome, the Commission's approach would ensure that recipients of broadcasters' expenditures and contributions are not unreasonably affected, by ensuring that the broadcasting system receives the entirety of financial contributions that are due, albeit over a longer period of time. Although spreading the payment of shortfalls over a longer period of time would provide somewhat less predictability for the creative sector, it would nonetheless allow parties benefiting from the expenditure and contribution requirements to still eventually receive all of the investment monies they would have received during the 2019-2020 broadcast year had it not been for the pandemic. Further, the deferral of expenditures and contributions that were to be paid in the 2019-2020 broadcast year would help to ensure that those monies are available when Canada's creative industries regain their full capacity to produce content for broadcast on television services and radio stations.

125. The Commission's proposal would provide a more balanced approach for all stakeholders in both the television and radio sectors in ensuring that recipients of broadcasters' contributions are not unreasonably affected, and that broadcasters are provided with the necessary latitude for meeting their programming specific obligations. The key to ensuring the impact is not unreasonable is the length of time over which the shortfalls must be paid. The Commission's approach to this is described in detail below.

Expected outcome 3

126. Finally, in regard to the third expected outcome, the Commission's proposed extended payment period for television sector broadcasters would not apply to spending requirements for news and information programming for large groups given that these licensees did not incur any shortfalls in this regard for the 2019-2020 broadcast year. Accordingly, the Commission considers that as a whole, news and information programming would be maintained under its approach.

127. In regard to radio sector broadcasters, the Commission's proposal would maintain the provision of news and local programming since it would not compromise the ability of radio licensees with shortfalls to make expenditures on such programming over the coming years. In fact, certain broadcasters that intervened in the context of this proceeding indicated that they have taken the steps necessary to maintain their offerings of local news and local programming. Such programming plays an

important role in supporting the diversity of opinions and viewpoints, thereby ensuring the expression of a healthy Canadian democracy. The need for broadcasters to maintain an adequate offering of local news and local programming that is relevant for their audiences is especially important in the context of the current pandemic, during which relevant and up-to-date information on the latest developments relating to the restrictions and guidelines in force across the provinces and regions continues to be in demand and important for Canadians.

Commission's analysis and decisions regarding its proposed approach for the television sector

128. As noted by the AQPM, the Commission recently denied Corus's request for its CPE under-expenditures (10% flexibility) to be cumulative until the end of its licence term given that the potential for volatility would be higher. The Commission notes, however, that this decision did not take into account the context of the COVID-19 pandemic and was made in consideration of Corus's particular circumstances. The present proceeding aims to provide regulatory flexibility to all broadcasters in the context of the pandemic since the annual allocation of shortfalls are known, as opposed to Corus's request where the annual allocation of the shortfalls could have been uncertain. Although providing an extended payment period may increase the volatility of expenditures over the next few years, particularly in the final year of the payment period, this volatility would not unduly affect the creative sector given that it will ultimately receive all of the amounts it was slated to receive.

CPE and PNI expenditures

129. As mentioned above, as of 31 August 2020, the large groups incurred a CPE shortfall totalling $138 million (of which $121 million was incurred in the 2019-2020 broadcast year alone) and a PNI expenditure shortfall totalling $13 million. The Commission notes that some large groups incurred expenditure shortfalls relating to independent production, original French-language programs, and the music funds FACTOR and Musicaction.

130. In the Commission's view, a two-year period for the payment of shortfalls, as proposed by interveners from the creative sector, would be neither realistic nor appropriate. As the end of the first year of payments would be 31 August 2021, licensees would be required to spend hastily on Canadian content simply to meet the Commission's requirements. Moreover, as noted by Corus, the fact that programming expenditures are generally amortized over a period of three or more years could lead to broadcasters making sub-optimal programming decisions that would run counter to the Commission's approach to place greater focus on quality over quantity.

131. For all broadcasters, the Commission has considered the need to ensure that the payment period chosen represents a fair balance between granting broadcasters a certain level of flexibility and ensuring that the creative sector, and the Canadian broadcasting system as a whole, receives the contributions in a timely manner. The Commission notes that in making its decision regarding the duration of the payment

period, it considered the television licensees' practices relating to expenditure requirements, as well as the production volume available.

132. In regard to CPE and PNI expenditures, the Commission finds that a three-year period for paying the shortfalls incurred as of 31 August 2020 would be the most appropriate for the large groups. According to the aggregate data for the licensees that have incurred CPE shortfalls, adjusted CPE would then be roughly two percentage points higher than their current requirement. The Commission finds that this extended payment period would not have an undue negative impact on the viability of broadcasters, which is in line with the first expected outcome set out in the Notice.

133. Further, the Commission considers that there should be sufficient production volume to allow licensees to pay the shortfalls accumulated as of 31 August 2020 over three broadcast years, in addition to continuing to pay the expenditure amounts required each year based on the gross revenues of the previous broadcast year. Despite the challenges that held up the television production in Canada over a certain period of time, the Commission considers that a return to normalcy in the short-to-medium term now seems likely, contrary to what certain parties noted in interventions that were filed in fall 2020.

134. In light of the above, the Commission grants the large ownership groups a three-year period, until 31 August 2023 (the end of the 2022-2023 broadcast year) to pay the shortfalls relating to CPE and PNI expenditures (including shortfalls relating to required expenditures on independent production and original French-language programming) that they incurred as of 31 August 2020. The Commission reminds those groups that they must also ensure that they meet their annual expenditure requirements beginning with the 2020-2021 broadcast year.

FACTOR and Musicaction

135. The Commission notes that requirements relating to expenditures to FACTOR and Musicaction were imposed on the large groups as a temporary measure until the end of their licence term in 2022,[47] and that these expenditures do not benefit from flexibility relating to under-expenditures (that is, the amounts must be fully paid each year). At the time, the Commission considered that these expenditure requirements were the best way to offset the repercussions stemming from the loss of funding experienced by the music programming sector and to ensure continued support for its creators. In this regard, the Commission notes ADISQ's argument stressing the importance of the amounts allocated to Musicaction, given that this fund does not have a reserve that is sufficient to absorb temporary decreases or gaps in funding. In addition, the Commission notes that the amounts allocated to FACTOR and Musicaction can be disbursed relatively quickly and do not require multi-year planning, as is the case for programming expenditures, which depend on the volume of production available and on the amortization strategies chosen by licensees.

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[47] See Broadcasting Decisions 2018-334 (French-language market) and 2018-335 (English-language market).

136. In light of the above, the Commission requires the large groups to pay by 31 August 2021 (i.e., the end of the 2020-2021 broadcast year) any shortfalls incurred as of 31 August 2020 in regard to expenditures to FACTOR and Musicaction.

Independent services

137. After examining the expenditure levels of independent services (and 9(1)(h) services), the Commission notes that the aggregate results show that these services greatly exceeded their CPE requirements during the 2019-2020 broadcast year. While 9(1)(h) services in particular have significantly higher CPE requirements because of their mandatory carriage by BDUs, all of these services have met their individual requirements over the past three broadcast years, including those for the 2019-2020 broadcast year.

138. The Commission further notes, however, that the aggregate data for independent services, as discussed above, may not provide a representative picture of all independent services, given that they operate according to different types of programming. Further, certain independent services have likely been more affected by the pandemic than others. In addition, not all licences for independent services are renewed at the same time, and those services do not benefit from the same synergies as do the large groups.

139. Consequently, the Commission finds that a three-year payment period may not be sufficient for certain independent services, and that it would be appropriate to grant them an additional year to pay their shortfalls incurred as of 31 August 2020. This approach addresses the concern expressed by interveners that the particularities of independent broadcasters should be taken into account in the context of the present proceeding. In addition, for those independent services for which the licences expire at the end of the 2022-2023 broadcast year, this approach will provide them with greater flexibility.

140. In light of the above, the Commission grants the licensees of independent services (in any market) a four-year period, until 31 August 2024 (the end of the 2023-2024 broadcast year) to pay any shortfalls incurred as of 31 August 2020. In the Commission’s view, a four-year payment period will not destabilize the industry as a whole given that the shortfall amounts are significantly less than those of the large groups. The Commission reminds licensees of independent services that they must also ensure that they meet their annual expenditure requirements beginning with the 2020-2021 broadcast year.

141. The Commission is aware that the current licence terms for certain independent services end prior to the end of the four-year repayment period, and that certain of these services may be paying shortfalls into their next licence terms. This issue will be addressed as required at the time of licence renewal.

Locally reflective news

142. Given the nature of service of independent conventional television stations and that their programming is focused on news, and given that their spending on locally reflective news has likely increased in the context of the pandemic, these services have likely met their expenditure requirements in this regard. Nevertheless, it may have been more difficult for certain independent conventional television stations to meet those requirements. The Commission will, at the time of licence renewal, review any instances of apparent non-compliance during the 2019-2020 broadcast year for independent conventional television stations relating to expenditure requirements on locally reflective news.

Allocation of shortfall payments

143. In regard to the allocation of shortfall payments, the Commission recognizes that broadcasters prefer to have the flexibility to pay shortfalls as they see fit over the payment period, whereas interveners from the creative sector expressed the desire for the amounts to be distributed equally. Whereas an equal distribution would ensure a certain level of stability and predictability for the production sector, it could also hamper broadcasters' ability to meet current challenges, make optimal programming decisions, and adapt to market fluctuations and production realities. In addition, an equal distribution approach would not be adequate given that under such an approach, shortfall payments would need to be made prior to 31 August 2021, and given that programming expenses must be planned well in advance.

144. Accordingly, the Commission finds that it would be appropriate not to set out a specific allocation of shortfalls to be paid by the end of the payment period (three years for the licensees of large groups and four years for licensees of independent services), provided that licensees pay all shortfalls by the end of that period. In the Commission's view, an extended payment period without a specific allocation constitutes, on the whole, a balanced measure that meets the distinct needs of the creative sector and its desire to receive the sums by the end of the 2021-2022 broadcast year, and of broadcasters, who wish to receive maximum flexibility in regard to the payment of shortfalls.

CPE and PNI under-expenditures and 10% flexibility

145. Certain interveners (such as TV5) indicated that it may be difficult for them to comply with their 2020-2021 broadcast year CPE requirements, or that they are seeking regulatory relief beyond the 2019-2020 broadcast year (such as Quebecor). The Commission acknowledges that the pandemic will likely also have an effect on the 2020-2021 broadcast year due, in part, to some of the production delays that occurred during the 2019-2020 broadcast year. In light of this, the Commission also considered the possibility of providing all television broadcasters with 10% flexibility in CPE and PNI expenditure requirements until the end of the payment period. Under such an approach, broadcasters would be able to benefit from 10% flexibility for CPE and PNI under-expenditures during the years of their payment period (starting in the 2020-2021 broadcast year), with the exception of the final broadcast year.[48] However, they would have to pay the required expenditures in full, including shortfalls, by the end of their payment period. Under this scenario, licensees from large groups would be permitted to make CPE and PNI under-expenditures of up to 10% in the 2020-2021 and 2021-2022 broadcast years; for licensees of independent services, this 10% flexibility would extend to the 2022-2023 broadcast year.

146. This additional flexibility would apply only to current requirements (i.e., those beginning with the 2020-2021 broadcast year), and not to shortfalls accumulated as of 31 August 2020, which are the subject of the extended payment periods set out above.

147. In the Commission's view, providing 10% flexibility to all television broadcasters in regard to their CPE and PNI expenditure requirements would allow broadcasters to adjust to market fluctuations as the pandemic continues and, as noted by the Commission in the Notice, as the industry concurrently adapts to increased competition from foreign platforms. Further, the 10% flexibility would also allow them to better plan their programming investments and be more competitive, which is consistent with the first expected outcome set out in the Notice. In addition, the use of this additional flexibility would be optional for broadcasters, and those who decide to avail themselves of it could do so in whole or in part. Licensees could therefore use this flexibility in different ways, depending on their needs and programming choices.

148. Moreover, this additional flexibility would respond to the needs of some broadcasters (such as Quebecor) that are seeking regulatory flexibility beyond the 2019-2020 broadcast year.

149. Finally, this additional flexibility would not unreasonably affect the creative sector, as all amounts would ultimately be paid by the end of the extended payment periods granted by the Commission, consistent with the second expected outcome set out in the Notice.

150. However, in order to maintain the news and information programs offered to Canadians, and consistent with the achievement of the third expected outcome set out

[48] Under the group-based approach, the flexibility allowed on under-expenditures does not apply in the final year of the licence term.

in the Notice, the Commission considers that the flexibility relating to under-expenditures on locally reflective news should remain at 5% for both the large groups and independent conventional television stations. The Commission considers that this approach is appropriate given that expenditures relating to locally reflective news are entirely controlled by the licensees and are not amortized.

151. In light of the above, with the exception of under-expenditures on locally reflective news, the Commission provides all television broadcasters with the option of availing themselves of 10% flexibility in regard to CPE and PNI under-expenditures until the end of their respective extended payment periods.

Commission's analysis and decisions regarding its proposed approach for the radio sector

152. To determine the extent to which the COVID-19 pandemic has had an impact on the revenues and expenditures of licensees of commercial radio stations during the 2019-2020 broadcast year, the Commission examined the data submitted in the annual returns for a sample of companies holding radio broadcasting licences. Based on those companies' revenues, they were placed in the following three distinct groups:

- **Group 1:** Bell and its subsidiaries; Rogers Media Inc.; Corus Entertainment Inc.; Cogeco Média Inc.; and Stingray Group Inc.[49] (the five largest private ownership groups);
- **Group 2**: Jim Pattison Broadcast Group Limited Partnership; Vista Radio Ltd.; Golden West Broadcasting Ltd.; Blackburn Radio Inc.; Harvard Broadcasting Inc.; and Rawlco Radio Ltd. (the next six largest private ownership groups); and
- **Group 3**: All other licensees of private commercial radio stations.

153. SiriusXM is not captured by any of the groups since it does not operate any commercial radio stations. However, given that SiriusXM contributes to CCD as well through its operations of Sirius Canada and XM Canada, the Commission has also considered the impact of the pandemic on its contributions and has included any shortfalls in its calculations for the radio sector. For its part, Stingray's national pay audio service Stingray Music is excluded from Group 1; however, the Commission has considered the impact of the pandemic on its contributions as well, and has therefore included any shortfalls in its calculations.

154. The COVID-19 pandemic and subsequent efforts to slow the spread of the coronavirus have had an immediate negative impact on commercial radio. For example, working from home has changed consumption habits during peak listening hours. Further, a higher proportion of commercial and professional industries in major markets that operate primarily in urban environments have made it easier for most of the workforce in those markets to work from home. In addition, the financial uncertainty prevalent from the beginning of the pandemic, combined with certain

[49] Stingray Group Inc.'s pay audio service was not included in the services operated by the companies in this group.

large markets across the country spending more time in lockdown and the ensuing mandatory closing of local businesses, has negatively impacted retail sales as well as spending on advertising.

155. From the 2015-2016 broadcast year to the 2019-2020 broadcast year, total revenues for all three groups of companies declined. However, for the Group 1 companies, of which a large portion of radio stations serve the heavily impacted major markets, a significant 24.7% decline in revenues was observed. Similar declines in revenues were experienced by the other two groups.[50]

156. Furthermore, the Group 1 companies experienced the sharpest decline in profitability, with their PBIT margin falling from 21.7% in the 2018-2019 broadcast year to 6.6% in the 2019-2020 broadcast year. Nevertheless, the commercial radio industry remained profitable overall during the 2019-2020 broadcast year.

157. From the 2018-2019 broadcast year to the 2019-2020 broadcast year, total required basic CCD contributions decreased by more than 20% across all three groups, led by the companies of Group 1. Of the total shortfall for the 2019-2020 broadcast year that was incurred by commercial radio stations in particular, the majority can be attributed to the Group 1 companies. Due to declining revenues in the commercial radio sector, the Commission expects total required basic CCD contributions for that sector for the 2020-2021 broadcast year to be lower than the total for the 2019-2020 broadcast year.

158. The radio sector also incurred a shortfall in regard to over-and-above CCD contributions (i.e., those to which applicants for new broadcasting licences voluntarily commit in their applications) for the 2019-2020 broadcast year. In fact, such contributions were already projected to decrease in the years preceding the COVID-19 pandemic. The Commission notes that financial commitments submitted as part of applications for new broadcasting licences are becoming more infrequent, as are applications for broadcasting licences to operate new commercial radio stations.

159. Historically, the Commission has been firm in its position that it is essential for radio station licensees to meet their CCD contribution requirements given that the initiatives funded by those contributions foster the launch of careers of emerging artists as well as the continued development of careers of established artists, while simultaneously increasing the supply of high quality Canadian music as well as demand from listeners for Canadian music. Failure to meet obligations relating to CCD contributions causes harm to the broadcasting system. As a result, the Commission has not generally granted exceptions to CCD contribution requirements, and generally seeks to remedy any non-compliance through remedial measures.

160. Given the significant impact that the pandemic has had and continues to have on the operations of radio programming undertakings, the Commission considers that some relief from contribution requirements would provide broadcasters with greater

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[50] The data take into account the general trend whereby during the pandemic, revenue figures posted for French-language stations have been more positive than those posted by English-language stations.

flexibility in making strategic decisions and in continuing to be in compliance with their respective obligations.

161. However, given the importance of CCD contributions to the Canadian broadcasting system as a whole, and given the Commission's regulatory approach regarding shortfalls incurred through non-compliance with contribution and programming requirements, the Commission considers that it is important to ensure that the shortfalls incurred during the 2019-2020 broadcast year are paid within a reasonable period of time to limit the short- and medium-term negative impacts that the missing funds will have throughout the broadcasting system. Accordingly, the Commission finds that relief involving the obligation to contribute the shortfall amounts from the 2019-2020 broadcast year during subsequent years would be appropriate.

162. Certain interveners from the radio sector[51] suggested that the Commission should, on a case-by-case basis, put in place specific criteria that must be met before the Commission would grant relief. However, the Commission considers that it would be administratively burdensome for both the licensees and the Commission to adopt a case-by-case relief approach since it would require the filing and processing of individual licence amendment applications for each licensee.

163. Although the vast majority of shortfalls were incurred by a very small number of broadcasters, the Commission considers that it would be more appropriate to apply the same approach to all radio station licensees with shortfalls from the 2019-2020 broadcast year. This approach would minimize the administrative burden and would make it easier to monitor and supervise the payment of shortfalls to ensure appropriate licensee accountability, consistent with the fourth expected outcome set out in the Notice.

164. The Commission notes that although the majority of radio broadcasters met their contribution requirements for the 2019-2020 broadcast year, the shortfall for the radio sector amounts to almost $13 million. Further, while the pandemic has had an impact on the financial performance of licensees that operate radio stations, the extent of financial contributions in relation to their impact on the financial performance of the stations is just as important. Nevertheless, the Commission recognizes that the impacts of the pandemic are ongoing and cannot be delimited with any precision at this point.

165. Accordingly, the Commission considers that it would be appropriate to defer payment of any shortfalls in the 2019-2020 annual contributions (basic CCD contributions, over-and-above CCD contributions, and tangible benefits) over two broadcast years (2021-2022 and 2022-2023), incremental to any existing annual CCD regulatory contribution requirements, with 50% of the total shortfall incurred to be paid in each of those broadcast years.

[51] The National Campus and Community Radio Association, the Alliance des radios communautaires du Canada and the Association des radiodiffuseurs communautaires du Québec (joint intervention), and the CRFC.

166. The Commission notes that the deferral of payments for any shortfall applies only to the CCD contributions that were required to be made during the 2019-2020 broadcast year as part of the normal course but that could not be paid because of financial repercussions on licensees caused by the COVID-19 pandemic. The Commission considers that it would be inappropriate to grant relief in the form of payment deferral for previous shortfalls, or for over-and-above CCD contributions imposed as a corrective measure following findings of non-compliance given that the requirement to make such contributions was imposed to remedy the harm caused to the Canadian broadcasting system.

Reporting

167. The fourth expected outcome set out in the Notice is that any resulting regulatory action granting potential relief be minimally administratively burdensome for those entities seeking relief but easily monitored and supervised by the Commission to ensure appropriate accountability. Accordingly, the Commission sought comments on reporting and compliance monitoring. Given the differences between the requirements for the television and radio sectors, the Commission has addressed this issue separately for each sector.

Television sector

168. All television broadcasters considered that the current annual returns that licensees file with the Commission, along with the annual production report filed by large groups[52] and by 9(1)(h) services, contain all the data necessary to enable the Commission to monitor compliance with requirements relating to the payment of shortfalls. In their view, a new reporting requirement would represent a significant administrative burden. Corus noted, however, that an explanatory note to the annual returns could detail how broadcasters strive to meet their requirements relating to the extended payment period. It added that if there were any questions about the explanatory notes, the Commission could provide clarification through requests for additional information.

169. Interveners from the creative sector considered that any regulatory action by the Commission granting television broadcasters more flexibility would require increased accountability on the part of the broadcasters involved and increased monitoring by the Commission. In this regard, the APFC considered that annual returns could provide details on the progress of payments. Other interveners from the creative sector[53] proposed that television broadcasters provide a new annual report that clearly identifies the type of expenditures made and any unpaid amounts incurred during the 2019-2020 broadcast year until the shortfalls have been rectified.

170. The Commission is of the view that the information contained in the annual returns, and currently provided to the Commission, is not sufficient to assess compliance with the flexibility granted in this decision. The Commission therefore considers that it

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[52] See Broadcasting Information Bulletin 2019-304.
[53] The CMPA, On Screen Manitoba, ACTRA, the DOC, Unifor and the WGC.

would be appropriate to require all television sector licensees that accumulated shortfalls as of 31 August 2020 to submit a new form as part of the annual returns they currently file with the Commission, until the end of their payment period. This form will track the progress of any shortfall payments, detailed for each type of requirement, and would therefore allow the Commission to easily monitor and supervise, during the extended payment period, the payment of any shortfalls. In the Commission's view, the requirement for licensees having accumulated shortfalls to file the new form would not constitute a heavy administrative burden for them.

171. Further, given the extent of the shortfalls incurred by the large groups, publishing their completed forms on the Commission's website would allow both the public and the industry to follow the progress in the payment of the shortfalls, and would ensure a certain level of transparency.

172. For independent television services, however, the Commission is of the view that it would not be appropriate to publish the forms to be filed as the Commission has historically only published aggregate returns for large groups. Furthermore, as independent television services are often smaller in size, it is difficult to compile and publish information while maintaining confidentiality. In the Commission's view, the risks posed towards confidentiality outweigh the advantages to be gained through transparency for the public interest.

173. Accordingly, the Commission requires licensees in the television sector that have accumulated shortfalls as of 31 August 2020 to file, as part of the annual returns they currently file with the Commission, a new detailed form on the shortfalls incurred and on the payment of those shortfalls until the end of their respective payment periods (2023 for the large groups and 2024 for independent services). As noted above, only the forms for the large groups will be published on the Commission's website.

174. In regard to the 10% flexibility that broadcasters may use with respect to CPE and PNI under-expenditures, the annual returns currently filed by broadcasters allow the Commission to determine whether and how they are using that flexibility. Given that this flexibility relates to year-to-year requirements and not to the payment of shortfalls, the Commission considers that it would not be appropriate to require broadcasters to include information regarding their use of the 10% flexibility in the new form to be filed with the Commission. However, any interested party can evaluate the use of flexibility by each of the large groups based on published aggregate returns.

Radio sector

175. The CIMA submitted that to ensure a transparent and fair process, radio broadcasters should specify, in the annual returns they file with the Commission, the types of expenditures made and the amounts those expenditures represent for the purposes of assessing the payment of shortfalls incurred during the 2019-2020 broadcast year. For its part, Groupe Radio Simard submitted that a new reporting requirement should apply only to broadcasters that are in non-compliance with expenditure requirements.

176. However, other interveners, including broadcasters, opposed any increase in reporting requirements. According to the IBG, the already numerous current reporting requirements would provide the Commission with sufficient information to monitor and report on compliance. Corus and Sirius submitted that the obligation to file additional financial information with the Commission by way of a report on committed and uncommitted contributions would result in an additional regulatory burden being placed on broadcasters and would be detrimental to their commercial interests.

177. The Commission considers that a reporting requirement that is simple, efficient and not unduly administratively burdensome would allow the Commission, as well as stakeholders involved in broadcasting and in the Canadian music industry, to assess the compliance of radio licensees in regard to the payment of shortfalls incurred during the 2019-2020 broadcast year. The use of a new form by radio broadcasters for that purpose, with reporting to be done separately for each undertaking, would simplify the administrative burden for the Commission in regard to validating and publishing information received on shortfall payments and would represent a minimal administrative burden for broadcasters.

178. Accordingly, to allow the Commission to easily monitor and supervise the payment of shortfalls, all radio licensees with shortfalls for the 2019-2020 broadcast year will be required to submit, as part of their current annual returns, a new form that will track the progress of shortfall payments up to the end of their payment period. In the Commission's view, completion of the form to be filed will not represent a significant administrative burden for broadcasters and will allow the Commission to monitor the progress in the payment of the shortfalls incurred by licensees.

179. Given that reporting will be done separately for each undertaking, and given the sensitive nature of the information to be provided and the impact that publication could have on broadcasters, the Commission will treat the forms as confidential and will not publish them on its website. However, the Commission intends to publish on its website an aggregated version of the financial data to be provided through the forms, so as to ensure both confidentiality of data and a high level of transparency for the benefit of stakeholders involved in broadcasting and in the Canadian music industry. The publication of these data will be done according to the three above-noted groups of companies that hold radio broadcasting licences. Group 1 also includes Sirius, which holds the licence for the national satellite subscription radio undertakings Sirius Canada and XM Canada, and Stingray, licensee of the national pay audio service Stingray Music.

180. Finally, in regard to the year in which licensees should allocate their contributions, the Commission considers that CCD contributions made during the 2019-2020 broadcast year should be recognized during that broadcast year, whether or not the initiatives were undertaken before the end of that broadcast year (i.e., 31 August 2020). This approach reflects the Commission's general practice of considering contributions to eligible initiatives in the years during which the contributions are made.

Exhibition and content requirements

181. In the television sector, the most commonly imposed exhibition requirements relate to Canadian content,[54] local programming[55] and locally reflective news.[56] Content requirements for the radio sector relating to the broadcast of Canadian musical selections and French-language vocal musical selections are set out in section 2.2 of the Regulations. The national satellite subscription radio services Sirius Canada and XM Canada, as well as the national pay audio service Stingray Music, are also subject to requirements relating to the broadcast of Canadian music, which are set out by condition of licence.[57]

182. Licensees of radio stations are not generally subject to a condition of licence setting out the minimum amount of local programming that must be broadcast. However, to be permitted to solicit and accept local advertising, licensees of commercial FM radio stations operating in markets served by more than one private commercial radio station must devote at least one-third of their broadcast week (i.e., a minimum of 42 hours per week) to local programming.[58]

183. In addition to the above types of programming requirements, licensees in the television and radio sectors also have obligations relating to the distribution of public alerts and, in the case of television, accessibility (described video and audio description for people who are blind or partially sighted and closed captioning for people who are deaf or hard of hearing).

184. As noted above, the CAB proposed that the Commission not assess the compliance of licensees with exhibition requirements relating to local programming or locally reflective news, and treat them as expectations for the second half of the 2019-2020 broadcast year. It further proposed that, absent any bad faith on the part of licensees, the Commission treat all other regulatory requirements relating to exhibition that are applicable to the 2019-2020 broadcast year (including accessibility requirements) as expectations, subject to a "should resources permit" condition.

185. In the Notice, the Commission indicated that local, regional and national news programming ensures that Canadians are informed about issues of concern in a consistently evolving context that is endemic to the current environment. It expressed the view that any flexibilities that could be considered in regard to spending or other requirements in relation to news must ensure, to the extent possible, that the same depth and breadth of information currently provided to Canadians by Canadian broadcasters is maintained (i.e., the third expected outcome set out in the Notice).

[54] See Broadcasting Regulatory Policy 2015-86.
[55] See Broadcasting Regulatory Policy 2016-436. These requirements apply to conventional television stations and vary by linguistic market and type of market.
[56] These requirements apply to conventional television stations, are determined at licence renewal, and are based on historical broadcast levels.
[57] See Broadcasting Decision 2019-431 for the conditions of licence for Sirius Canada and XM Canada, and Broadcasting Decision 2020-313 for those for Stingray Music.
[58] See condition of licence 8 in Broadcasting Regulatory Policy 2009-62.

186. Moreover, the Commission indicated that it did not intend to consider any proposals that would diminish the policy framework and measures that it has taken regarding accessibility in broadcasting and public alerting.

187. Accordingly, the Commission sought comments on the CAB’s proposal as it relates to exhibition requirements and on whether determining compliance over a protracted period of time should apply to exhibition requirements.

Positions of parties

Broadcasting sector

188. Corus submitted that the current level of news and information programming would be maintained if the CAB’s proposal were adopted. It noted that broadcasters, in general, have exceeded their news-related expenditure and exhibition obligations during the pandemic.

189. Television broadcasters expressed the view that the hours of programming that could not be produced during the pandemic cannot be “caught up” in subsequent years, as this would disrupt their limited broadcast schedules.[59]

190. For its part, Quebecor stated that it has been unable to produce local programming in Québec for more than three months because of the production stoppage. It therefore requested that the Commission deem TVA to have met its local programming obligations for the 2019-2020 broadcast year, and that if the second wave of the pandemic affects local facilities and production, the same relief apply to the 2020-2021 broadcast year as well.

191. Groupe Radio Simard specified that its radio stations maintained their levels of local news, and that certain of its stations hired more resources during the 2019-2020 broadcast year.

Creative sector

192. Certain interveners from the creative sector and public interest and research groups[60] stressed the importance of maintaining local news, especially in the context of the pandemic, while others[61] stated that the Commission should not grant flexibility in regard to requirements relating to the broadcast of local programming and local news. The Conseil provincial du secteur des communications (CPSC) submitted that transforming broadcasters’ local programming and news requirements into simple non-binding expectations would not allow for news and information programming to be maintained, contrary to the third expected outcome set in out the Notice.

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[59] Bell, the IBG and Quebecor.

[60] Unifor; the Fédération nationale des communications et de la culture – CSN and the Union des artistes; the MCCQ; the SPACQ; Friends of Canadian Broadcasting; and the FRPC.

[61] Unifor; the Fédération nationale des communications et de la culture – CSN and the Union des artistes; and ACTRA.

193. The Alliance québécoise des techniciens et des techniciennes de l'image et du son, the Association des réalisateurs et réalisatrices du Québec, the Société des auteurs de radio, télévision et cinéma, and the Union des artistes (collectively, AQTIS-ARRQ-SARTEC) noted that the Commission's proposal to determine a broadcaster's compliance with its regulatory obligations for the 2019-2020 broadcast year on the basis that the broadcaster has fulfilled those obligations over a longer period of time should also apply to exhibition requirements. The CPSC agreed with this proposal, and submitted that the hours of presentation of local programming and local news that were not broadcast at the beginning of 2020 should be broadcast in the coming years.

194. Finally, CIMA and the Music Managers Forum of Canada (MMF) expressed the view that the Commission should not automatically deem radio sector licensees to be in compliance, including with content requirements, whereas ADISQ firmly opposed any measure that would reduce the presence of French-language music on Canadian airwaves.

Commission's analysis and decisions

195. In the Commission's view, the CAB's proposal that the Commission not assess licensees' compliance with requirements relating to the broadcast of local programming or local news for the second half of the 2019-2020 broadcast year runs counter to the Commission's mandate to regulate and monitor broadcasting in the public interest.

196. Further, the CAB's alternative proposal to treat requirements relating to locally reflective news and local programming as expectations, subject to a "should resources permit" condition, for the 2019-2020 broadcast year runs counter to the third expected outcome set out in the Notice as it would not serve to ensure that news and information programming and the service such programming provides to Canadians is maintained.

197. In addition, the CAB's proposal that the Commission, in the absence of any bad faith on the part of a licensee, treat any other regulatory requirements as expectations, subject to a "should resources permit" condition, for the 2019-2020 broadcast year is inappropriate. As noted above for expenditure requirements, the "bad faith" indicator is problematic; not only would it be difficult to assess given its subjective nature, its assessment would also be administratively burdensome for both broadcasters and the Commission, as it would involve complex investigations into the decision-making processes and motivations of broadcasters.

198. In light of the above, the Commission **denies** the CAB's proposal relating to exhibition and content requirements imposed on licensees in the television and radio sectors.

199. Although the 2020 production stoppage for the television sector likely had repercussions on the delivery of programming, and in particular local programming, the large ownership groups all exceeded their requirements relating to spending on

locally reflective news during the 2019-2020 broadcast year. As such, the Commission considers that these groups did not have any difficulty meeting their exhibition requirements in this regard.

200. Further, the Commission shares the view of broadcasters that any programming hours that could not be produced during the pandemic cannot be "caught up" in subsequent years, since this would disrupt broadcast schedules, which are limited. In this regard, the Commission notes that it has never required that hours of programming not broadcast in one year be made up in future years.

201. In regard to the radio sector, licensees indicated that they have prioritized the provision of local programming and local news since the beginning of the pandemic. In the Commission's view, most radio station licensees have had no difficulty meeting their requirements in this regard.

202. The Commission's general approach to assessing instances of non-compliance with exhibition requirements is to examine the circumstances that led to the non-compliance in question, the arguments provided by the licensee and the steps taken to correct the situation. In the present case, the Commission considers that it would be appropriate to examine instances of non-compliance relating to exhibition and content requirements on a case-by-case basis at the time of licence renewal, taking into account the specific circumstances of each licensee, including the different challenges they faced during the pandemic year.

203. In this regard, the Commission understands and recognizes that the postponement and stoppage of several shoots in Canada and abroad may have made it difficult for some licensees of television services to comply with their exhibition requirements during the pandemic year (2019-2020) and during the current broadcast year (2020-2021).

204. In light of the above, the Commission reminds all licensees that they should keep a record of the reasons for any instances of non-compliance in order to justify the non-compliance at their next licence renewals. In the Commission's view, this would not create an additional administrative burden for broadcast licensees since they have had to explain the circumstances surrounding instances of non-compliance even during pre-pandemic licence renewals.

205. Finally, the Commission reminds licensees from both the television and radio sectors that it expects them to maintain news and information programs as a whole, and of their obligations relating to accessibility in broadcasting and the distribution of public alerts through the NPAS.

Conclusion

206. As noted above, the Commission has denied the CAB's proposed relief for broadcasters relating to expenditure requirements, and instead has adopted an approach whereby it will grant broadcasters an additional period of time to pay various expenditure and contribution shortfalls over several broadcast years.

207. For ease of reference, the Commission sets out below its determinations on expenditure and contribution requirements made in the context of this proceeding. In its view, these determinations take into consideration the exceptional circumstances of the COVID-19 pandemic, while ensuring that the four outcomes set out in the Notice are met.

208. Pursuant to the Commission's general practice, the compliance assessment relating to the expenditure/contribution and exhibition requirements for television and radio licensees will be done at the time of licence renewal.

209. The following table reiterates the requirements in regard to the payment of shortfalls incurred as of 31 August 2020 in the television sector.

Type of shortfall payment for the television sector	**Payment deadline**
Canadian programming expenditures (includes expenditures on programs of national interest, independent production, and original French-language programming)	-
Licensees of large groups	31 August 2023
Licensees of independent services	31 August 2024
Contributions to FACTOR and Musicaction – Services of large groups only	31 August 2021

210. In addition, beginning in the 2020-2021 broadcast year, television licensees can avail themselves of 10% flexibility in regard to CPE and PNI under-expenditures until the end of their respective payment period, with the exception of the last year. However, the flexibility relating to under-expenditures on locally reflective news is maintained at 5%.

211. The following table reiterates the requirements in regard to the payment of shortfalls incurred as of 31 August 2020 in the radio sector.

Payment deadlines for the radio sector relating to Canadian content development contribution shortfalls (basic and over-and-above CCD contributions, and tangible benefits amount directed to CCD initiatives)	
31 August 2022	50% of CCD contribution shortfall
31 August 2023	50% of CCD contribution shortfall

212. The flexibility provided for in this decision applies only to expenditures and contributions that were normally required to have been made in the 2019-2020

broadcast year, and does not apply to expenditures and contributions that were required in order to make up previous shortfalls or to remedy harm previously caused to the broadcasting system.

213. Further, this decision does not absolve licensees of their regulatory obligations for the 2019-2020 broadcast year. Consistent with its usual practice, the Commission will assess compliance at the time of licence renewal. Any licensee that has not paid its shortfalls within the extended payment period could be found in a situation of non-compliance.

214. To allow the Commission to easily monitor and supervise the payment of shortfalls, all television and radio licensees with shortfalls as of 31 August 2020 will be required to submit, as part of their current annual returns, a new form that will track the progress of shortfall payments, up to the end of their payment period.

215. Also noted above, the Commission has denied the CAB's proposed relief for broadcasters relating to exhibition and content requirements imposed on licensees in both the television and radio sectors.

216. Rather, the Commission will examine instances of non-compliance relating to exhibition and content requirements on a case-by-case basis at the time of licence renewal, taking into account the specific circumstances of each licensee, including the different challenges they faced during the pandemic year.

Secretary General

Related documents

- *Call for comments – Commercial radio policy framework review*, Broadcasting Notice of Consultation CRTC 2020-374, 12 November 2020, as amended by Broadcasting Notice of Consultation CRTC 2020-374-1, 11 January 2021

- *Call for comments on an application by the Canadian Association of Broadcasters requesting regulatory relief for Canadian broadcasters in regard to the COVID-19 pandemic*, Broadcasting Notice of Consultation CRTC 2020-336, 17 September 2020

- *Stingray Music – Licence renewal*, Broadcasting Decision CRTC 2020-313, 27 August 2020

- *Television services that form part of the Corus group of services – Licence amendments*, Broadcasting Decision CRTC 2020-220, 10 July 2020

- *Super Channel – Licence renewal and issuance of mandatory order*, Broadcasting Decision CRTC 2020-205 and Broadcasting Order CRTC 2020-206, 29 June 2020

- *Sirius Canada and XM Canada – Licence renewal and licence amendments*, Broadcasting Decision CRTC 2019-431, 19 December 2019

- *English-language closed captioning mandatory quality standards relating to the accuracy rate for live television programming*, Broadcasting Regulatory Policy CRTC 2019-308, 30 August 2019, as corrected by *English-language closed captioning mandatory quality standards relating to the accuracy rate for live television programming – Correction*, Broadcasting Regulation Policy CRTC 2019-308-1, 20 September 2019

- *Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Information Bulletin CRTC 2019-304, 29 August 2019

- *Reconsideration of licence renewal decisions for the television services of large English-language private ownership groups*, Broadcasting Decision CRTC 2018-335, 30 August 2018

- *Reconsideration of licence renewal decisions regarding the licence renewals for the television services of large French-language private ownership groups*, Broadcasting Decision CRTC 2018-334, 30 August 2018, as corrected by *Reconsideration of licence renewal decisions regarding the licence renewals for the television services of large French-language private ownership groups – Correction*, Broadcasting Decision CRTC 2018-334-1, 12 September 2018

- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016

- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016

- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2015-380, 19 August 2015

- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014

- *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010

- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010

- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009

- *TSN and RDS – Licence amendment*, Broadcasting Decision CRTC 2005-388, 9 August 2005

- *SportsNet – Licence amendment*, Broadcasting Decision CRTC 2005-387, 9 August 2005