



Broadcasting Decision CRTC 2014-320

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Bell Aliant Regional Communications Inc. (the general partner), as well as limited partner with 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership
Fredericton and surrounding areas, Moncton and Saint John, New Brunswick; St. John's, Paradise and Mount Pearl, Newfoundland and Labrador; and Halifax, Dartmouth, Bedford and Sackville, Nova Scotia

Application 2013-1693-5

Terrestrial broadcasting distribution undertakings serving various communities in the Atlantic Provinces – Licence amendment

*The Commission **denies** the licensee's request to allocate a portion of its local expression contributions to provide community programming via an Internet platform in a live streaming format.*

Introduction

1. In Broadcasting Decision 2013-156, the Commission denied a request by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant)¹ to amend certain of its conditions of licence, which would have authorized the licensee to allocate a portion of its contributions to local expression to the broadcast of community programming over the Internet. In that decision, the Commission determined that Bell Aliant had not provided sufficient information in support of its application. The Commission indicated that although it was not opposed to the use of contribution funds for the provision of an Internet-based community channel, Bell Aliant would be expected to:
 - clearly identify the portion of funds it intends to allocate to Internet production; and
 - provide details similar to those the Commission requested of Bell Aliant regarding the distribution of its video-on-demand (VOD)-based outlet for

¹ Bell Aliant Regional Communications Inc. (the general partner), as well as limited partner with 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership

local expression (e.g., distinct local content, amount and types of local and non-local programming, amount and types of access programming, proposed accountability and reporting measures, as well as other related information regarding community programming).

Application

2. In response, Bell Aliant filed a new application reiterating its previous request with further details. Specifically, it requested that condition of licence 4 set out in the appendix to Broadcasting Decision 2013-156 be amended to read as follows (proposed changes in **bold**):

As a modification to sections 34(2), 34(3) and 34(5) of the *Broadcasting Distribution Regulations* (the Regulations):

- a) If the licensee does not distribute its own community programming, or does not produce community programming to be made available on its video-on-demand (VOD) undertaking **or on its Internet portal**, and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of 3% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming and a contribution of 2% of its gross revenues derived from broadcasting activities to the community programming undertaking.
- b) If the licensee does not distribute its own community programming, or does not produce community programming to be made available on its VOD undertaking **or on its Internet portal**, and if no community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of 5% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming.
- c) If the licensee distributes its own community programming, or produces community programming made available on its VOD undertaking **or on its Internet portal**, the licensee shall make, in each broadcast year, a contribution to Canadian programming that is equal to 5% of its gross revenues derived from broadcast activities in the broadcast year, less any allowable contribution to local expression made by the licensee in that broadcast year. For the purposes of this condition of licence, “allowable contribution to local expression” shall have the same meaning as that set out in section 34(6) of the Regulations, and may include an additional contribution pursuant to section 34(7) of the Regulations.

3. For each of its licensed service areas in Atlantic Canada, Bell Aliant requested that it be authorized to allocate up to 10% of its required contribution to local expression² to the production and delivery of community programming on its Internet portal in the form of a live webcast. The remaining 90% would be devoted to the VOD-based service, with the linear-based platform being discontinued in the near future.
4. Bell Aliant proposed that at least 60% of the programs funded from each licensed service area would be local to each area, and at least 50% of the programs funded for each area would consist of access programming. Live streaming of community events, such as sports tournaments and music festivals, would be presented from start to finish. Moreover, content would be shared and supplemented with content produced for its Internet (10% original programming) and VOD (90% original programming) platforms as primary and secondary windows.
5. Bell Aliant committed to soliciting input and contributions from community members and organizations, and to enabling and assisting in the production of access programming. Its promotional tools would consist of a website, social media, billing inserts, participation and signage at community events, meetings and training sessions.
6. The applicant indicated that 100% of the content currently available on the VOD platform is access programming. It expects that this would be the same for the content on its Internet platform.
7. Bell Aliant indicated that 70 hours of community programming produced from the beginning of September 2013 to 8 January 2014 are currently stored on the VOD-based platform. Approximately 650 hours of programming, produced from 1 September 2013 to 8 January 2014, are stored on the Internet platform.
8. Online and VOD content would be archived online and available on a 24-hour-per-day, seven-day-per-week basis. Customers would be able to access online content local to their area and from other licensed service areas from any Internet-enabled device. Programming would be available to customers with a high speed Internet connection and would not require a Bell Aliant Internet subscription.
9. Further, according to Bell Aliant, having the flexibility to offer community programming over the Internet would respond to customers' expectations of programming accessibility (time, place and device of choice), which would in turn enhance interaction and community participation. It would also extend the ties of community geographically.
10. Finally, Bell Aliant committed to report on a yearly basis the manner in which it is operating in accordance with Broadcasting Regulatory Policies 2010-622 and 2010-622-1 (the Community television policy), particularly vis-à-vis new local and

² The allowable contribution is set out in the Regulations.

access programming, promotion of access programming and community outreach initiatives. It would also provide detailed information on program exhibition, program expenditures, access programming initiatives, access requests for official language minority community organizations or members, volunteer participation and community outreach.

Interventions

11. The Commission received interventions from the Public Interest Advocacy Group (PIAC), to which the applicant replied. PIAC was primarily concerned with the phase-out of the applicant's linear-based community channel and argued that it would have serious repercussions for the communities served by Bell Aliant, particularly for residents without an Internet connection. The Commission also received interventions commenting on the application from Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink) and an individual. In addition, the Commission received a supporting intervention from Saskatchewan Telecommunications (SaskTel), as well as an opposing intervention from the Canadian Association of Community Television Users and Stations (CACTUS). The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.

Applicant's reply

12. Bell Aliant replied that PIAC's submission was based on erroneous interpretations of the *Broadcasting Act* (the Act) and other Commission policies and decisions regarding the authorization to use, by condition of licence, a VOD platform to deliver community programming. Bell Aliant also referred to other Commission decisions that, along with several broadcasting distribution undertakings (BDUs) like Bell Canada, SaskTel, MTS Allstream and TELUS, permitted it to deliver community programming solely through its VOD service.

Interventions in comment

13. Eastlink questioned the appropriateness of Bell Aliant making live coverage of community events available on a platform that is not necessarily available to all of its subscribers. PIAC added that viewers would only be able to access live coverage with a fast broadband Internet service even though broadcast speed and monthly caps could prevent or discourage households from accessing community programming online.
14. Eastlink also submitted that while Bell Aliant proposed to allocate the funding in such a manner that at least 60% of the program offerings funded from each licensed service area would be local to each area and that 50% of the program offerings funded would consist of access programming, compliance is based on the percentage of programming that is distributed, not funded.
15. Further, Eastlink expressed concern regarding compliance monitoring of non-linear platforms, suggesting that the Commission either tighten its monitoring or grant

increased flexibility to BDUs offering linear community channels. It argued that since the *Broadcasting Distribution Regulations* (the Regulations) require BDUs to distribute the community channel as part of the basic service, the present application does not comply with the Regulations.

16. Eastlink and PIAC also expressed concern over the unavailability of linear community programming. As noted above, PIAC submitted that Bell Aliant should be required to continue distributing the linear community channel and that a broader proceeding should be initiated to examine the impact of terminating linear community channels. For its part, the individual submitted that Internet, Bell Mobility, or cable TV coverage are not available to the entire rural community within the Halifax Regional Municipality.

Intervention in opposition

17. CACTUS submitted that although it supports the application in principle, it fails to see the need to divert 10% of the funds to enable Internet delivery of community programming. It noted that the cost to operate and maintain an Internet community portal is insubstantial compared to the overall budget for community programming.
18. Further, CACTUS submitted that it is unclear to what extent Bell Aliant intends to share the programming across its platforms. It is of the view that any programming not shared discriminates against subscribers without access to all three platforms. CACTUS requested that the application be deferred until the time of the renewal of Bell Aliant's licence given its concerns over the operation and phase-out of its linear channel.

Intervention in support

19. SaskTel submitted that Bell Aliant's application is innovative, supports the objectives of the Act and maximizes the availability of community programming. SaskTel indicated that its customers have embraced the flexibility offered through its VOD platform (e.g., availability of programming from other communities). It also submitted that the application broadens such a concept to anyone with a broadband connection, that the allocation of 10% is fair and that sharing programming across the VOD and Internet platforms provides viewers with more viewing opportunities. SaskTel also encouraged the Commission to establish regulatory frameworks that incent the creation of new delivery methods and to experiment with business models.

Commission's analysis and decision

20. The Community television policy states that attractive Canadian content should be available at any time and on any platform in order for the broadcasting system to remain responsive to the public's demands as well as relevant and competitive in the new digital era. The policy also states that the Commission would consider at licence renewal proposals by BDUs to allocate a portion of their local expression contributions to community programming to digital media.

21. Bell Aliant is the first BDU licensee to request that a portion of local expression contributions be allocated to the production and delivery of community programming via an Internet platform. The Commission acknowledges that while Bell Aliant provided additional information in the present application, it did not respond adequately to the concerns expressed in Broadcasting Decision 2013-156 and did not sufficiently justify why additional funds (i.e., 10% of the allowable contribution of 1.5%) would be needed to stream live community programming.
22. The Commission notes that equipment and servers are already in place to distribute community programming online on an on-demand basis. However, Bell Aliant did not indicate whether it would be using separate equipment or additional staff for this purpose. It only provided the overall costs for the programming, the equipment and the server.
23. As to the applicant's submission that its online community programming would consist of community events such as local sporting events, local concerts, community celebrations and other local events, the Commission notes that this is similar to the content currently shown on Bell Aliant's Internet portal. Moreover, the sharing of programming from the VOD service to the Internet service in the form of a live stream would require little to no production and editing since it is expected that the same content would be produced and shown on its VOD service.
24. Bell Aliant also argued that the funds are necessary to offer live programming on the Internet portal. If the applicant's goal is to offer the broadest access to live programming, then the Commission questions why it would discontinue community programming on its linear community channel. Offering community programming on a VOD and Internet-only basis would not result in more attractive Canadian content being made available "at anytime and on any platform," a goal towards which the Commission has stated the Canadian broadcasting system should strive. In fact, the discontinuation of the linear platform would make the live programming unavailable to a portion of subscribers who may not have access to high-speed Internet or are concerned with monthly caps.

Conclusion

25. In light of all of the above, the Commission finds that Bell Aliant did not provide sufficiently detailed justification that additional funds from its local expression contributions should be allocated to the delivery of community programming via an Internet platform in a live streaming format. In this respect, the Commission finds that Bell Aliant has not demonstrated that its proposal would be in the interest of its subscribers or that it would benefit the broadcasting system as a whole.
26. Accordingly, the Commission **denies** Bell Aliant's application to amend its regional broadcasting licence serving various communities in the Atlantic Provinces in order to modify condition of licence 4 set out in the appendix to Broadcasting Decision 2013-156.

Other matters

27. The submissions made by PIAC, Eastlink and CACTUS that the Commission prevent Bell Aliant from discontinuing its linear community channel are beyond the scope of this application. Bell Aliant has already been authorized to operate its community channel on a VOD basis only.³ With respect to the comments made by Eastlink regarding the requirement set out in the Regulations that BDUs must distribute the community channel as part of the basic service, the Commission notes that this only applies to the linear community channel and not to on-demand forms of local expression. Other requirements relating to the linear community channel are set out in the Regulations.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2014-190, 24 April 2014
- *Terrestrial broadcasting distribution undertakings serving various communities in the Atlantic Provinces – Licence renewal and licence amendments*, Broadcasting Decision CRTC 2013-156, 27 March 2013
- *Regional terrestrial broadcasting distribution undertaking – Licence amendment*, Broadcasting Decision CRTC 2011-663, 24 October 2011
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010, as amended by Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010

³ See Broadcasting Decisions 2013-156 and 2011-663.