



## Broadcasting Decision CRTC 2017-308

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Reference: Part 1 application posted on 14 June 2017

Ottawa, 25 August 2017

### **Rogers Communications Canada Inc.**

Moncton and surrounding areas, New Brunswick and Ottawa, Ontario

*Application 2017-0492-4*

### **Broadcasting distribution undertakings serving Moncton and surrounding areas, and Ottawa – Licence amendments**

*The Commission **approves** an application by Rogers Communications Canada Inc. to amend the conditions of licence relating to contributions to Canadian programming for its broadcasting distribution undertakings serving Moncton and surrounding areas, New Brunswick and Ottawa, Ontario.*

#### **Background**

1. Under the current section 34 of the *Broadcasting Distribution Regulations* (the Regulations), each licensed terrestrial broadcasting distribution undertaking (BDU) must contribute 5% of its gross revenues from broadcasting activities in each broadcast year to Canadian programming. Pursuant to its determinations set out in Broadcasting Regulatory Policy 2016-224 in regard to the contribution regime for licensed terrestrial BDUs, the Commission, in Broadcasting Notice of Consultation 2017-50, called for comments on proposed amendments to the Regulations that would require licensees of such undertakings, among other things:
  - to contribute to Canadian programming an amount equal to 4.7% of its gross revenues derived from broadcasting activities in the previous broadcast year less any allowable contribution to local expression made by the licensee in the current broadcast year to a maximum of an amount equal to 1.5% of its gross revenues derived from broadcasting activities in the previous broadcast year; and
  - to contribute an amount equal to 0.3% of its gross revenues derived from broadcasting activities in the previous broadcast year to the Independent Local News Fund (ILNF).<sup>1</sup>

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<sup>1</sup> In Broadcasting Regulatory Policy 2016-224, the Commission stated that as of 1 September 2017, it would replace the Small Market Local Production Fund (or SMLPF) with the ILNF, with the objective of supporting the production of locally reflective news and information by private independent television stations.

2. In Broadcasting Regulatory Policy 2017-278, the Commission announced that it had made the above amendments and that they would come into force on 1 September 2017.

## **Application**

3. Following the issuance of Broadcasting Notice of Consultation 2017-50, Rogers Communications Canada Inc. (Rogers) filed an application relating to its regional BDUs serving Moncton and surrounding areas, New Brunswick and Ottawa, Ontario. These BDUs are currently required by condition of licence,<sup>2</sup> as an exception to the Regulations, to make a contribution to Canadian programming, in each broadcast year, of an amount not less than the greater of:
  - (i) 5% of its gross revenues derived from broadcasting activities in the year, less its contributions to its French- and English-language community channels, provided that the deduction for such contributions not exceed 2% of its gross revenues derived from broadcasting activities for each of these community channels; or
  - (ii) 1% of its gross revenues derived from broadcasting activities in that year.
4. Pursuant to the amendments proposed by the Commission in Broadcasting Notice of Consultation 2017-50 (and subsequently made as announced in Broadcasting Regulatory Policy 2017-278), Rogers proposed to amend that condition of licence such that the 5% level in (i) be replaced by 4.7% and, proportionally, that the 1% level in (ii) be replaced by 0.7%.
5. Rogers stated that should its request not be approved, beginning 1 September 2017, its Ottawa and Moncton region BDUs would each be required, by condition of licence, to contribute 5% of their previous broadcast year's gross revenues to Canadian programming and, pursuant to the above-noted amendment to the Regulations, 0.3% to the ILNF, for a total of 5.3%. In Rogers' view, approval of the amendment would be in the public interest since it would ensure that its Ottawa and Moncton region cable systems make a contribution to Canadian programming that is consistent with the contributions made by all other licensed BDUs.
6. The Commission did not receive any interventions regarding this application.

## **Commission's analysis**

7. For most BDUs, the amendment to the Regulations requiring that 4.7% of gross annual revenues (less the allowable contribution to local expression) be directed to Canadian programming and that 0.3% of gross annual revenues be directed to the ILNF will not have an impact on their overall obligation, since the resulting total contribution will be maintained at 5% of gross annual revenues. However, the above-noted pre-existing

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<sup>2</sup> For Ottawa, condition of licence 72 in the appendix to Broadcasting Decision 2007-230; for the Moncton region, condition of licence 22 in the appendix to Broadcasting Decision 2006-459.

condition of licence for Rogers creates an additional obligation, given that its current condition of licence requires a contribution of 5% of revenues as an alternative to section 34 of the Regulations, but does not relieve it from the regulatory requirement to contribute 0.3% to the ILNF. Consequently, Rogers' total contributions for Ottawa and the Moncton region would amount to 5.3% of the gross annual revenues of their respective BDUs, which is higher than what is required from other BDUs.

8. Accordingly, the Commission **approves** the application by Rogers Communications Canada Inc. to amend the broadcasting licences for its BDUs serving Moncton and surrounding areas, New Brunswick and Ottawa, Ontario in order to amend their conditions of licence relating to contributions to Canadian programming. These BDUs will therefore be subject to the following **condition of licence**:

Effective 1 September 2017, the licensee shall, as an exception to subsection 34(2) of the *Broadcasting Distribution Regulations*, make a contribution to Canadian programming, in each broadcast year, of an amount not less than the greater of:

- (i) 4.7% of its gross revenues derived from broadcasting activities in the previous broadcast year, less its contributions to its French- and English-language community channels, provided that the deduction for such contributions not exceed 2% of its gross revenues derived from broadcasting activities for each of these community channels; or
  - (ii) 0.7% of its gross revenues derived from broadcasting activities in that year.
9. As noted above, as part of the amendments made to the Regulations, the allowable maximum contribution by licensed terrestrial BDUs to local expression (i.e., to community channels) was set at 1.5% of gross revenues derived from broadcasting activities in the previous broadcast year. Rogers' current condition of licence as well as the amended condition of licence allow for a deduction from the overall contribution requirement for its contributions to its French- and English-language community channels, up to a maximum of 2% of its gross revenues derived from broadcasting activities for each of these community channels. In its application, Rogers did not propose to reduce that level to 1.5%. In the Commission's view, it would be more appropriate to examine the maximum amount for deductions for Rogers' community channel contributions in the context of the next licence renewal for these BDUs, as this would provide an opportunity for a fuller consideration of the issue.

Secretary General

## **Related documents**

- *Amendments to the Broadcasting Distribution Regulations and the Television Broadcasting Regulations, 1987 regarding local and community television, and financial support, logging requirements and Canadian exhibition requirements for over-the-air television stations*, Broadcasting Regulatory Policy CRTC 2017-278, 4 August 2017

- *Call for comments on proposed amendments to the Broadcasting Distribution Regulations and the Television Broadcasting Regulations, 1987, Broadcasting Notice of Consultation CRTC 2017-50, 24 February 2017*
- *Policy framework for local and community television, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016*
- *Class 1 regional licence for cable broadcasting distribution undertakings in Ontario, Broadcasting Decision CRTC 2007-230, 13 July 2007*
- *Class 1 regional licence for broadcasting distribution undertakings in New Brunswick and in Newfoundland and Labrador, Broadcasting Decision CRTC 2006-459, 31 August 2006*

*This decision is to be appended to each licence*