



Broadcasting Decision CRTC 2008-136

Ottawa, 30 June 2008

TELUS Communications Inc. and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company

Calgary, Edmonton (including St. Albert, Sherwood Park, Spruce Grove and Stony Plain), Fort McMurray, Grande Prairie, Lethbridge, Medicine Hat and Red Deer, Alberta; and Kamloops, Kelowna, Nanaimo, Penticton, Prince George, Terrace, Vancouver (including Lower Mainland and Fraser Valley), Vernon and Victoria, British Columbia

Applications 2007-1411-4 and 2007-1412-2, received 5 October 2007

Broadcasting Public Notice CRTC 2008-24

20 March 2008

Licence amendments related to the funding and provision of an outlet for local expression

*The Commission **approves** the applications by TELUS Communications Inc. and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company, for conditions of licence in respect of the Class 1 regional licences for its cable broadcasting distribution undertakings (BDUs) serving the above-mentioned locations. The conditions of licence recognize eligible expenditures on the proposed outlet for local expression as contributions to local expression under the contribution scheme set out in section 29 of the Broadcasting Distribution Regulations. In the case of each BDU, these contributions may be deducted from the amount that the BDU would otherwise be required to direct to Canadian programming in accordance with that section. Depending on the number of subscribers served by the BDU within a given licensed area, the deductions may range from a maximum of 2% of its annual gross revenues derived from broadcasting activities within that licensed area to a maximum of 5% of those revenues.*

The applications

1. The Commission received applications by TELUS Communications Inc. and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company (TELUS), to amend the Class 1 regional licences for its cable broadcasting distribution undertakings (BDUs) serving the above-mentioned locations in order to authorize it to allocate:

- up to 5% of its gross revenues derived from broadcasting activities in the broadcast year to the programming made available on its outlet for local expression in Calgary and Edmonton (including St. Albert, Sherwood Park, Spruce Grove and Stony Plain), Alberta and in Vancouver (including Lower Mainland and Fraser Valley), British Columbia; and
 - up to 20% of the funds that would otherwise be allocated to local expression in each of the Calgary, Edmonton and Vancouver licensed areas to programming of broader community interests produced in other licensed areas, programming produced outside the licensed areas or programming covering provincial events, depending on program submissions and program needs.
2. The Commission did not receive any interventions in connection with these applications.

Commission's analysis and determinations

3. The Commission notes that it approved similar applications by Saskatchewan Telecommunications (SaskTel) and by MTS Allstream Inc. in Broadcasting Decisions 2006-490 and 2007-86. As indicated in those decisions, section 29(6) of the *Broadcasting Distribution Regulations* (the Regulations) permits a Class 1 BDU licensee having 20,000 or more subscribers and distributing its own community programming on the community channel in a licensed area to make a deduction of a maximum of 2% of its gross annual revenues earned from broadcasting activities from the amount it must otherwise contribute to Canadian programming (i.e., to the Canadian Television Fund and other independent production funds) to reflect its contribution to local expression. Under section 29(5) of the Regulations, a Class 1 BDU licensee that has fewer than 20,000 subscribers and that distributes its own community programming on the community channel in a licensed area is permitted to make a deduction of up to a maximum of 5% of its gross annual revenues earned from broadcasting activities (i.e., the entire amount it must otherwise contribute to Canadian programming) to reflect its contribution to local expression.
4. The contribution scheme set out in section 29 of the Regulations draws a distinction between smaller and larger BDUs. Given that TELUS, like SaskTel, has been granted a regional licence authorizing it to carry on BDUs in a number of licensed areas, the Commission considers it appropriate that TELUS be permitted to deduct from its contributions to Canadian programming up to 5% of the gross annual revenues that are derived from the broadcasting activities of its BDUs in those licensed areas having fewer than 20,000 subscribers, provided that it contributes that amount, at a minimum, to local expression. Consistent with section 29(6) of the Regulations, the maximum deduction for contributions to local expression in licensed areas having 20,000 or more subscribers will be 2% of a BDU's gross annual revenues derived from broadcasting activities.

5. Further, the Commission also finds reasonable the licensee's proposal to reallocate, depending on program submissions and program needs, up to 20% of the funds that would otherwise be allocated to local expression in each of the Calgary, Edmonton and Vancouver licensed areas to programming of broader community interests produced in other licensed areas, to programming produced outside the licensed areas or to programming covering provincial events within the respective provinces. As proposed by the applicant, this approach would ensure that each community receives an appropriate share of expenditures on local expression.
6. Accordingly, the Commission **approves** the applications by TELUS Communications Inc. and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company, for licence amendments recognizing the licensee's expenditures on local expression for the purposes of the contribution scheme set out in section 29 of the Regulations. Consistent with the licensee's commitments, **conditions of licence** specifying the various requirements relating to the funding of and the programming to be offered on the outlet for local expression are set out in the appendix to this decision.

Secretary General

Related documents

- *Licence amendments related to the funding and provision of an outlet for local expression*, Broadcasting Decision CRTC 2007-86, 16 March 2007
- *Licence amendments related to the funding and provision of an outlet for local expression*, Broadcasting Decision CRTC 2006-490, 8 September 2006

This decision is to be appended to the licence. It is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.

Appendix to Broadcasting Decision CRTC 2008-136

Terms and conditions of licence applicable to the Class 1 regional licences for the broadcasting distribution undertakings serving various locations in Alberta and British Columbia

Terms

The licensee shall continue to be subject to the appropriate conditions set out in Appendices 2 and 3 of *Acquisition of assets – Corporate reorganization*, Broadcasting Decision CRTC 2007-33, 26 January 2007, in addition to the following conditions :

Conditions of licence

1. The licensee shall be subject to the following conditions of licence as an exception to the requirements set out in section 29 of the *Broadcasting Distribution Regulations*:
 - If the licensee has 20,000 or more subscribers in the licensed area of a broadcasting distribution undertaking (BDU) on August 31 of the previous broadcast year and distributes programming that qualifies as local expression on a video-on-demand or pay-per-view service, the licensee shall make, in each broadcast year, a contribution to Canadian programming of not less than the greater of
 - a) 5% of its gross revenues derived from broadcasting activities in the licensed area in the year, less any contribution to local expression made by the licensee in the licensed area in that year, and
 - b) 3% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year.
 - If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and distributes programming that qualifies as local expression on a video-on-demand or pay-per-view service, the licensee shall make, in each broadcast year, a contribution of not less than 5% of its gross revenues derived from broadcasting activities in the licensed area in the year to Canadian programming, less any contribution to local expression made by the licensee in the licensed area in that year.
 - If the licensee has 20,000 or more subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of not less than:

- a) 3% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to Canadian programming, and
 - b) 2% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to the community programming undertaking.
- If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if a 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 licensed area in the broadcast year to the community programming undertaking.
 - If the licensee does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if no community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of not less than 5% of its gross revenues derived from broadcasting activities in the licensed area in the year to Canadian programming.
 - For the purpose of calculating the licensee's contribution to local expression for each of the Calgary and Edmonton licensed areas, the licensee may include the contributions to local expression made for programming produced in other licensed areas within the province of Alberta, for programming produced outside the licensed areas within the province of Alberta, or for programming covering provincial events within the province of Alberta, up to a maximum of 20% of the total contribution to local expression applicable for each of the Calgary and Edmonton licensed areas.
 - For the purpose of calculating the licensee's contribution to local expression for the Vancouver licensed areas, the licensee may include the contributions to local expression made for programming produced in other licensed areas within the province of British Columbia, for programming produced outside the licensed areas within the province of British Columbia, or for programming covering provincial events within the province of British Columbia, up to a maximum of 20% of the total contribution to local expression applicable for the Vancouver licensed areas.

For the purposes of these conditions:

“video-on-demand service” means the video-on-demand programming undertaking authorized in *National video-on-demand service*, Broadcasting Decision CRTC 2003-453, 9 September 2003, as amended from time to time;

“pay-per-view service” means the pay-per-view programming undertaking authorized in *Pay-per-view service*, Broadcasting Decision CRTC 2006-491, 8 September 2006, as amended from time to time;

“contribution to local expression” means the eligible expenses for local expression made in accordance with *New Regulatory Framework for Broadcasting Distribution Undertakings*, Public Notice CRTC 1997-25, 11 March 1997, as amended from time to time;

“local expression” refers to programming that qualifies as local expression in accordance with the conditions of licence applicable to the programming service; and

“contribution to Canadian programming” shall have the meaning set out in section 29(1) of the *Broadcasting Distribution Regulations*.