



Broadcasting Decision CRTC 2013-658

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Route reference: 2013-573

Ottawa, 5 December 2013

Canadian Broadcasting Corporation
Across Canada

Applications 2013-1304-8 and 2013-1306-4, received 25 September 2013

Espace Musique and Radio 2 networks and stations – Licence amendment

*The Commission **approves** applications by the Canadian Broadcasting Corporation (CBC) to amend the broadcasting licences for the Espace Musique and Radio 2 networks and stations in order to allow the broadcast of programs that are available only on a sponsored basis.*

In the same applications, the CBC also requested other licence amendments pertaining to advertising. The Commission is reviewing those proposed amendments and will issue a decision in this regard at a later date.

The applications

1. The Commission received applications by the Canadian Broadcasting Corporation (CBC) to amend the broadcasting licences for the Espace Musique and Radio 2 networks and stations in order to allow the broadcast of programs that are available only on a sponsored basis.
2. A sponsored program consists of a program that, in exchange for a direct or indirect financial contribution to the program, makes reference to a company in a voice accompaniment, such as: “This program has been made possible through the co-operation of (name of company)” or “This program was presented to you by (name of product).”
3. In *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263, 28 May 2013 (Broadcasting Decision 2013-263), the Commission renewed the broadcasting licences for the CBC services. In that decision, the Commission modified the condition of licence relating to advertising in order to allow a limited amount of paid national advertising. However, the decision did not carry over the exception that permitted advertising included in programs that are available only on a sponsored basis. The CBC requested that this exception be reinstated in order to allow the broadcast of such sponsored programs, for example, “The Metropolitan Opera,” on Radio 2 and Espace Musique.

4. Specifically, the CBC proposed to change condition of licence 11 as follows (change in **bold**):

The licensee shall not broadcast any advertising (category 5) except:

- a) paid national advertising;
- b) during programs that are available only on a sponsored basis;** or
- c) as required to fulfill the requirements of the legislation of the Parliament of Canada pertaining to elections.

For the purposes of this condition, the licensee may not broadcast more than four minutes of paid national advertising in any clock hour.

Programming may not be interrupted more than twice during any clock hour for paid national advertising.

5. In the same applications, the CBC also requested other licence amendments pertaining to advertising. The Commission is reviewing those proposed amendments and will issue a decision in this regard at a later date.

Interventions and replies

6. The Commission received an intervention in opposition to this portion of the applications from Durham Radio Inc. (Durham) as well as a joint comment from the Fédération nationale des communications and the Syndicat des communications de Radio-Canada (FNC/SCRC), to which the CBC replied. The public record for these applications can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
7. In its intervention, Durham stated that programming provided on a sponsored or barter basis is subsidized by the program supplier through arrangements with the sponsors. It argued that such sponsorship has an implied value and must be counted as part of the allowable 4 minutes of advertising per hour.
8. In its reply, the CBC stated that it is not attempting to surreptitiously expand the 4-minute limit. It argued that the embedded sponsorship advertising during such programs generates no revenue for the CBC and that it does not qualify as paid national advertising.
9. In the joint comment from FNC/SCRC, the parties argued that the CBC could arrange sponsorships for all of its Espace Musique and Radio 2 programs, if the applications were to be approved. FNC/SCRC expressed concern over the CBC's potential use of this exception to obtain sponsored programs created by private-sector producers at the request of the CBC in order to maximize advertising revenues. The advertising in such programs would escape the restrictions imposed on the CBC in respect to national advertising. FNC/SCRC therefore suggested that the exception apply solely to "The Metropolitan Opera."
10. The CBC responded that it is not seeking changes to the 4-minute advertising limit and that there is no need to limit the exception to "The Metropolitan Opera" specifically.

Commission's analysis and decision

11. With respect to the concern raised by the interveners that the CBC would use the exception to broadcast programs that are available only on a sponsored basis in order to expand its advertising limits, the Commission notes that the applicant stated that it receives no direct financial compensation from embedded sponsorships. Further, the Commission considers that it would be difficult to assess what value, if any, the licensee would ultimately receive from the provider of such programs. The Commission is of the view that the CBC will not significantly expand the use of programs with embedded sponsorship, given that its long-standing practice is to produce virtually all of the programs broadcast on Espace Musique and Radio 2 in-house.
12. Furthermore, the Commission notes that, for over 35 years, the conditions of licence for all four CBC radio networks have permitted the broadcast of programs available only on a sponsored basis and that the exception is still included in the conditions of licence for la Première Chaîne and Radio One. In all of those years, the CBC rarely, if ever, expanded its use of this exception.
13. In light of the above, the Commission considers it appropriate to reinstate the exception allowing the broadcast of programs that are available only on a sponsored basis for Espace Musique and Radio 2. Further, the Commission does not consider it necessary to limit the exception to the program "The Metropolitan Opera."

Conclusion

14. Accordingly, the Commission **approves** the applications by the Canadian Broadcasting Corporation to amend the broadcasting licences for the Espace Musique and Radio 2 networks and stations in order to reinstate the exception allowing the broadcast of programs that are available only on a sponsored basis in condition of licence 11 set out in Appendix 4 to Broadcasting Decision 2013-263.
15. The **condition of licence** shall now read as follows:

The licensee shall not broadcast any advertising (category 5) except:

- a) paid national advertising;
- b) during programs that are available only on a sponsored basis; or
- c) as required to fulfill the requirements of the legislation of the Parliament of Canada pertaining to elections.

For the purposes of this condition, the licensee may not broadcast more than four minutes of paid national advertising in any clock hour.

Programming may not be interrupted more than twice during any clock hour for paid national advertising.

Secretary General

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