



Broadcasting Decision CRTC 2014-62

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Ottawa, 17 February 2014

BCE Inc.

Across Canada

Application 2013-1120-9

Astral broadcasting undertakings – Change of effective control – Follow-up to the Astral-BCE transaction

The Commission sets out its determinations in regard to directions and requests specified in Astral broadcasting undertakings – Change of effective control, Broadcasting Decision CRTC 2013-310, 27 June 2013.

Introduction

1. In Broadcasting Decision 2013-310, the Commission approved, subject to certain modifications, an application by Astral Media inc. (Astral) and its licensed broadcasting subsidiaries for authority to change the effective control of Astral's broadcasting undertakings to BCE Inc. (BCE) (the Astral-BCE transaction). In that decision, the Commission also set out various directions (some as conditions of approval) and requests for BCE to address.
2. In a letter dated 29 July 2013 (the application), BCE addressed the following Commission directions set out in that decision:
 - to file by no later than 29 July 2013 a revised tangible benefits package with a value of \$175,400,000 (rather than the originally proposed \$124,600,000), reflecting the value of the Astral-BCE transaction as revised by the Commission in Broadcasting Decision 2013-310; and
 - to file by no later than 29 July 2013 an application to revise the Astral group's Canadian programming expenditures (CPE) levels and programs of national interest (PNI) expenditure levels, measured as percentages of gross revenues for the preceding broadcast year, based on the remaining services within the Astral group and using the same methodology used to determine its current requirements.
3. BCE also addressed the Commission's requests to review or specify some of the proposed tangible benefits initiatives as well other issues raised in the decision.

4. Given the size and nature of the Astral-BCE transaction and the amount of tangible benefits resulting from it, the Commission determined that it was appropriate to initiate a public proceeding to examine the application. Accordingly, on 21 August 2013, the Commission posted the 29 July 2013 letter as well as other supporting documentation as a Part 1 application on its website for public comment.
5. The Commission received an intervention in support of the application from the Coalition pour la diversité culturelle, as well as a joint supporting intervention from the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the Directors Guild of Canada, the Canadian Media Production Association (CMPA), and the Writers Guild of Canada. It also received interventions offering general comments from Fondation Radio Enfant, the Centre d'études sur les médias, the Quebec English-language Production Council (QEPC), the Professional Music Publishers' Association (PMPA), the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink), and an individual. Finally, the Commission received a joint intervention in opposition to the application from the Public Interest Advocacy Centre, the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, the National Pensioners and Senior Citizens Federation, and Option consommateurs (hereafter, PIAC et al.). The licensee submitted a collective reply to the interventions. The public record for the application is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. The Commission notes that the intervention by the individual related to directing a portion of the tangible benefits from the Astral-BCE transaction to the digital conversion of an analog transmitter. In its reply to the interventions, BCE noted that such a redirection of benefits would be inappropriate, and that this issue was not raised in the public process that led to the approval of the transaction. Accordingly, the Commission considers that this issue lies outside the scope of the present proceeding.

Commission's analysis and decisions

7. After examining the application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - proposed modifications to tangible benefits for television;
 - the expenditure period for the proposed tangible benefits for television;
 - the distribution of tangible benefits for television to each linguistic market;
 - the distribution of tangible benefits for television to official language minority community (OLMC) producers;
 - the establishment of regional offices;
 - the mandate for the Programming Champions;

- proposed revisions to CPE and PNI expenditure requirements;
- adherence to terms of trade agreements;
- a revised proposal for the promotion of Canadian feature films;
- a revised governance structure for the Television Format Development Initiative;
and
- proposed modifications to tangible benefits for radio.

Modifications to tangible benefits for television

8. In Broadcasting Decision 2013-310, the Commission requested modifications to the proposed tangible benefits initiatives for television as they relate to Canadian film festivals and consumer education. In the application, BCE proposed to dedicate the revised amount of \$175,400,000 to various on-screen and social benefits, including regional film festivals and the Pôle Médias HEC initiative. The Pôle Médias HEC initiative is associated with the Université de Montréal and funds relevant and current research relating to the changing media landscape in the French-language market, at various education levels. It also funds a variety of other initiatives relating, among other things, to the history, creation, presentation and celebration of performing arts as well as training and development in the areas of emerging artists and audiovisual and musical creations. The Commission will address the Pôle Médias HEC initiative in the section of this decision that relates to consumer education.

Requested modifications relating to Canadian film festivals

9. In the application for the Astral-BCE transaction, Astral and BCE proposed to direct \$4.37 million to various Canadian film festivals, including the following:
- Atlantic Film Festival (Halifax, Nova Scotia)
 - Dreamspeakers Film Festival (Edmonton, Alberta)
 - Hot Docs (Toronto, Ontario)
 - ImagineNative (Toronto, Ontario)
 - Toronto International Film Festival (Toronto, Ontario)
 - Les Rendez-vous du cinéma québécois (Montréal, Quebec)
 - Les Rencontres internationales du documentaire de Montréal (Montréal, Quebec)
 - Regards sur le court métrage au Saguenay (Chicoutimi, Quebec)

- Festival international du cinéma French-language en Acadie (Moncton, New Brunswick)

10. In Broadcasting Decision 2013-310, the Commission noted the need to achieve a better balance among the different initiatives, and to address in an equitable way the regional disparity of initiatives across the country. Accordingly, it required BCE to file a proposal that would direct a portion of its tangible benefits for television resulting from the revised value of the transaction to regional festivals that it or Astral do not already sponsor. To address this, BCE proposed the following regional film festivals:

- Québec Cinéma – La tournée du cinéma québécois à travers le Canada (Moncton, New Brunswick; Summerside and Charlottetown, Prince Edward Island; Halifax, Nova Scotia; St. John's, Newfoundland and Labrador; Winnipeg, Manitoba; Orleans and Sudbury, Ontario; Nanaimo and Victoria, British Columbia; and Kuujuaq and Iqaluit, Nunavut)
- Festival du cinéma international en Abitibi-Témiscamingue (Rouyn-Noranda, Quebec)
- Victoria International Film Festival (Victoria, British Columbia)
- Calgary International Film Festival (Calgary, Alberta)

11. In addition, it proposed to direct all remaining amounts of the tangible benefits for television resulting from the revised value of the transaction to the following initiatives:

- The Spotlight Series (multimedia project to train emerging artists)
- Théâtre le Diamant, by Ex Machina
- Montréal en lumière
- Les journées de la culture
- Montréal en histoires
- Wapikoni Mobile
- The Coalition for Cultural Diversity

12. In its intervention, Eastlink requested that the Commission ensure that BCE cannot benefit from the promotional or material advantages that its contributions to the various proposed film festivals may provide. In reply, BCE stated that the financial support and sponsorships provided to film festivals would not be used to cover its self-promotion fees, and that sponsorship recognition through film festivals would not offset the marketing and promotional dollars that it normally spends to market its products and services. It further stated that the support would not be used to make exclusivity arrangements with the promoters of the festivals in question.

13. In Public Notice 1989-109, the Commission set out the following elements for assessing applications for the transfer of ownership or control of broadcasting undertakings:

- the onus is on the applicant to demonstrate to the Commission that the application filed is the best possible proposal under the circumstances;
- the applicant is expected to propose a specific package of significant and unequivocal benefits that will yield measurable improvements;
- the applicant must demonstrate that the proposed transaction is in the public interest;
- the benefits package must be commensurate with the size and nature of the transaction;
- only those initiatives that would not be realized without approval of the proposed transfer are viewed as acceptable benefits; and
- benefits should be incremental, that is to say not part of the normal responsibilities of the existing licensee.

14. These principles were reiterated and clarified in the Commission's 1999 policy framework for Canadian television (see Public Notice 1999-97). In that framework, the Commission stated that it "generally expects significant benefits to be offered to the community in question, and to the Canadian broadcasting system as a whole." Furthermore, as stated in Broadcasting Decision 2013-310, the Commission's general approach provides that the majority (approximately 85%) of the benefits should result in on-screen programming, and that the remaining 15% be allocated to social benefits.

15. The Commission notes that the following proposed initiatives are already sponsored or supported by BCE and/or Astral:

- Québec Cinéma – La tournée du cinéma québécois à travers le Canada (presented by Super Écran, a subsidiary of Astral)
- Victoria International Film Festival (CTV, a subsidiary of BCE, is one of the major partners)
- Festival du cinéma international en Abitibi-Témiscamingue (sponsored by Télébec, a subsidiary of BCE, and NRJ, a subsidiary of Astral)
- Montréal en lumière (sponsored by BCE)
- Les journées de la culture (Astral is one of the media partners)

16. In response to a Commission request for information regarding these initiatives, BCE indicated that the Québec Cinéma initiative, the Victoria and Abitibi-Témiscamingue festivals, and Les journées de la culture initiative in fact represent new sponsorship

opportunities, involving either new or extended funding, or a commitment at a more significant sponsorship level. In regard to the Montréal en lumière initiative, it noted that the previous support was a one-time sponsorship contribution with no further commitment to support the organization afterwards. BCE therefore maintained that any tangible benefits directed to these initiatives would be incremental to what it currently spends on them.

17. In regard to Eastlink's concern regarding the risk of support for festivals being recovered for self-promotion purposes, the Commission is satisfied with BCE's reply.
18. In light of the above, the Commission **approves** the new initiatives proposed by BCE. In addition, it requires BCE to indicate in its annual report on tangible benefits the amounts that are incremental to its required annual contributions.

Requested modifications relating to consumer education

19. As stated in Broadcasting Decision 2013-310, Astral and BCE had proposed to direct \$2.73 million in tangible benefits to consumer education over five years, to be allocated to projects yet to be determined subject to further discussions with consumer groups. In that decision, the Commission considered that the consumer education tangible benefits should instead be directed to existing initiatives. Accordingly, the Commission required BCE to direct the \$2.73 million to three initiatives: the Broadcasting Accessibility Fund, MediaSmarts, and the Centre d'études sur les médias. It further required BCE to file proposals setting out the allocation of the \$2.73 million among the three initiatives as well as between the English-language and French-language markets.
20. In the application, BCE proposed to increase the funding to consumer education to \$3.025 million and allocate it among the above-noted initiatives as well as to the above-noted Pôle Médias HEC, as follows:¹
 - Broadcasting Accessibility Fund: \$545,000
 - MediaSmarts: \$1,230,000 (\$780,000 for the French-language market, \$450,000 for the English-language market)
 - Centre d'études sur les médias: \$625,000
 - Pôle Médias HEC: \$625,000
21. In its intervention, the Centre d'études sur les médias noted that the addition of the Pôle Médias HEC initiative would result in a reduction of the amount that it was to receive as a result of Broadcasting Decision 2013-310. PIAC et al. argued that BCE's description of

¹ The Commission notes that the total amount proposed for the first three initiatives would be \$2.4 million, of which 22.7% would be directed to the Broadcasting Accessibility Fund, 51.3% to MediaSmarts (32.5% to the French-language market and 18.8% to the English-language market), and 26.0% to the Centre d'études sur les médias.

how the funds would be used by the new initiative suggests that rather than benefiting consumers, these funds would be of greater benefit to the industry by helping the industry better target consumers. They recommended that the \$625,000 reserved for the Pôle Médias HEC initiative be directed instead to the Canadian Broadcasting Participation Fund.² In its reply to the interventions, BCE argued that Broadcasting Decision 2013-310 does not prohibit the addition of recipients to those already identified by the Commission as consumer education initiatives, and that Pôle Médias HEC would enable academia and industry to broaden their knowledge of consumer needs and interests.

22. In regard to the concern expressed by the Centre d'études sur les médias, the Commission notes that the proposed allocation of \$625,000 to Pôle Médias HEC is greater than the \$295,000 increase to the originally proposed \$2.73 million for consumer education in general. As a consequence, there would be reductions to the amounts originally slated for some or all of the three originally specified initiatives. In the Commission's view, it would not be appropriate to reduce the funding amounts set out in Broadcasting Decision 2013-310 to any (or all) of those initiatives. Accordingly, the Commission requires BCE to direct \$295,000 of the proposed \$625,000 to the Pôle Médias HEC initiative, and to allocate the remaining \$330,000 among the other three consumer education initiatives, in amounts corresponding to the percentages that BCE had originally proposed for each (see footnote 1). The amounts to be directed to each of the four initiatives shall therefore be as follows:

- Broadcasting Accessibility Fund: \$620,000;
- MediaSmarts: \$1,402,000 (\$890,000 for the French-language market, and \$512,000 for the English-language market);
- Centre d'études sur les médias: \$711,000; and
- Pôle Médias HEC: \$295,000

Expenditure period for the proposed tangible benefits for television

23. In Broadcasting Decision 2013-310, the Commission directed BCE to pay all tangible benefits over a period of seven years beginning in 2013, in equal installments. In response to a Commission request for information, BCE agreed to pay benefits over a period of seven years, with the exception of those to be directed to the Centre d'études sur les médias and Pôle Médias HEC initiatives. It submitted that due to the speed with which the industry evolves, these recipients should be able to dispose of the allocated amounts over a shorter period, which would enable them to quickly perform research in the area of media literacy and education. It noted, however, that it would adhere to the originally imposed seven-year expenditure period should the Commission not consider the new proposal appropriate.

² This is an independent fund that helps public-interest and consumer groups offset the costs of participating in the Commission's broadcasting proceedings.

24. In its intervention, the QEPC noted that according to the Commission's general practice, tangible benefits are to be paid in equal installments over a seven-year period beginning in the year that the transaction is approved. It requested that the Commission not deviate from this practice.
25. The Commission notes that in Broadcasting Decision 2013-310 it did not consider it appropriate to depart from its long-standing practice regarding expenditure periods and therefore denied a request by BCE and Astral for a shorter expenditure period for certain initiatives. The Commission considers it appropriate to maintain the approach set out in Broadcasting Decision 2013-310 and require BCE to pay, in equal installments, all tangible benefits over a period of seven years beginning in the 2013-2014 broadcast year.

Distribution of tangible benefits for television to each linguistic market

26. In Broadcasting Decision 2013-310, the Commission stated that, to be consistent with its general practice, the guidelines followed for the breakdown of the tangible benefits should be the same for the social benefits as for the on-screen benefits. Accordingly, it expected BCE, in its revised tangible benefits package, to revise the percentage of expenditures to be allocated to each linguistic market such that the social benefits reflect the value of the assets to be acquired in each market (i.e., 69% in the French-language market and 31% in the English-language market). In the application, BCE stated that the revised tangible benefits package was an approximate reflection of the value of the assets acquired, as revised in that decision, in relation to each linguistic market.
27. The Commission **approves** the breakdown of the benefits package for the two linguistic markets as submitted by BCE.

Distribution of tangible benefits for television to official language minority community producers

28. In Broadcasting Decision 2013-310, the Commission directed BCE to provide, as part of its revised tangible benefits package for television, confirmation that 10% of the funding for French-language PNI would be dedicated to French-language OLMC producers in English-language markets, and that 10% of the funding for English-language PNI would be directed to English-language OLMC producers in Quebec. In the application, BCE stated that it would comply with the Commission's direction in this regard.
29. In its intervention, the QEPC noted that BCE did not specify whether the social benefits allocated to recipients in the province of Quebec would include a portion earmarked for English-language OLMCs. It argued that only the National Theatre School has a program specifically dedicated to English-language OLMCs, which represents 2.5% of the social benefits (and not the required 10%). It also requested that the Commission require the recipients of social benefits in the English-language market to allocate 10% of their funding to English-language OLMCs in Quebec.
30. Contrary to the QEPC's arguments, in Broadcasting Decision 2013-310, the Commission did not require BCE to dedicate a portion of the social benefits envelope to OLMCs. The Commission therefore finds that the benefits package proposed by BCE complies with

the requirements set out above. Accordingly, it **approves** the benefits package as submitted by BCE in regard to the dedication of PNI funding to OLMCs.

Establishment of regional offices

31. As indicated in Broadcasting Decision 2013-310, Astral and BCE submitted that, upon approval of the proposed transaction, they would develop new regional offices in Vancouver and Halifax to allow for an administration of programming funds that would benefit all Canadians. The Commission considered that a regional office should also be opened in Winnipeg. Accordingly, it directed BCE to establish regional offices in all three cities and provide additional information clearly articulating the mandate and budget for each regional office.
32. BCE confirmed that it will open regional offices in Vancouver (to serve British Columbia and the Northwest Territories), Winnipeg (to serve Alberta, Saskatchewan and Manitoba) and Halifax (to serve the Atlantic provinces), each with a regional administrator responsible for providing independent Canadian producers with the necessary opportunities and support, via in-person meetings, the transmission of up-to-date information about BCE's production requirements, and feedback on submitted initiatives.
33. In its intervention, the QEPC expressed the concern that the Montréal office would be responsible only for French-language producers, at the expense of English-language producers in Quebec. In reply, BCE confirmed that the Montréal regional office would address the needs of English-language producers in Quebec, and stated that it has already established firm contacts with them that it intends to pursue in the future. The Commission notes that BCE also provided in its reply the requested budget for each regional office.
34. The Commission is satisfied with BCE's reply to the QEPC's concerns and with the details that it has provided in regard to new regional offices. It considers, however, that there should be a reasonable allocation of the funds among the three regional offices. Accordingly, it **approves** BCE's proposal on the condition that the proposed budget is allocated reasonably among the three regional offices. Further, the Commission expects each regional office to be located in an area that is easy for producers that wish to visit them to reach.

Mandate for the Programming Champions

35. As indicated in Broadcasting Decision 2013-310, Astral and BCE proposed, as part of the Astral-BCE transaction, the appointment of two new regional Programming Champions, one of whom would be an English-language in Toronto, the other a French-language in Montréal, each overseeing the development of new programs. The Commission directed BCE to file a proposal clearly articulating the mandate for the Programming Champions, setting out expected outcomes and how results would be measured.
36. BCE indicated that it would appoint Ms. Corrie Coe, currently Senior Vice-President, Independent Production for Bell Media, and Mr. Mario Clément, currently Vice-President, Content of Bell Media in Québec, as champions for the English-language and

French-language markets, respectively. It stated that these two experienced managers would lead a team dedicated to independent production in their respective markets. The Programming Champions would take part in various events involving independent producers and ensure that independent producers in their regions have access to BCE for submitting their initiatives. They would continue to work closely with the CMPA and the Association québécoise de la production médiatique (AQPM) to foster excellent relations with individual producers and with their associations to ensure maximum opportunities to engage with independent producers across the country. BCE noted that audience success would be used as a measurement to evaluate the Programming Champions' roles. It further noted that results would be measured based on whether it has engaged a wide range of Canadian independent producers in the development and production of high quality Canadian programming.

37. In its intervention, the QEPC stated that since the Montréal regional office would be responsible only for French-language independent production, the Commission must ensure that the English-language Programming Champion pays particular attention to the needs of English-language OLMCs in Quebec. In reply, BCE indicated that it would ensure that the English-language Programming Champion addresses the needs of those OLMCs.
38. ADISQ submitted that BCE's proposal restricts the Programming Champions' roles to television, and does not involve radio. It requested assurance that a decision-making centre will be maintained for radio in Quebec. In reply BCE noted that the Programming Champions would only be responsible for audiovisual content, and that its proposal therefore does not cover the radio sector, which has different needs.
39. In the Commission's view, BCE's proposal meets the requirements set out in Broadcasting Decision 2013-310, in that the proposed initiative falls under benefits relating to the television sector. Accordingly, the Commission **approves** BCE's proposal as submitted.

Proposed revisions to Canadian programming expenditure and programs of national interest expenditure requirements

40. In Broadcasting Decision 2012-241, the Commission approved a request by Astral to be considered a "designated ownership group" (designated group) so that it could benefit from the flexibility of the group-based approach set out in Broadcasting Regulatory Policy 2010-167. It also renewed the broadcasting licences for various Astral pay and specialty services as a group and imposed conditions of licence requiring the licensee to reach a minimum CPE level of 30% and a minimum PNI expenditure level of 16% of the gross revenues for the preceding broadcast year for all the services in that group.
41. The Commission notes that prior to the Astral-BCE transaction, the Astral group of services included the following thirteen services: Canal D, Canal Vie, Cinépop, Historia, Mpix, MusiMax, MusiquePlus, Séries+, Super Écran, The Family Channel, The Movie Network, Vrak.TV and Ztélé. Following the divestiture of certain services as part of the transaction, the five services Historia, MusiMax, MusiquePlus, Séries+ and The Family Channel no longer form part of that group.

42. Certain interveners to the Astral-BCE transaction proceeding expressed concern that the change in the composition of the Astral designated group following the proposed divestiture of certain services could result in a net loss of CPE and PNI to the system, particularly if the future buyers of the proposed divestitures request a reduction of these requirements from the Commission.
43. In Broadcasting Decision 2013-310, the Commission confirmed that the proposed divestiture of some of Astral's services would substantially change the composition of the Astral group of services. In that decision, the Commission also noted that Astral's CPE requirement was determined based on the individual CPE requirements for various Astral services that were in place prior to the renewal of their broadcasting licences under a group-based approach. Consistent with that approach, an average of the three previous broadcast years (i.e., 2009-2010 through 2011-2012) was used to determine the appropriate CPE requirement. Similarly, the group's PNI expenditure requirement was determined based on the average PNI expenditures of the three previous broadcast years of the services within the group. Based on the above, the Commission set out the preliminary view that a minimum CPE requirement of 32% and a minimum PNI expenditure requirement of 18%, instead of the requirements imposed in Broadcasting Decision 2012-241, would be appropriate.
44. Accordingly, in Broadcasting Decision 2013-310, the Commission directed BCE to propose revised minimum CPE and PNI expenditure levels for the Astral group services. The revised percentages were to be based on the remaining services within the Astral group, and calculated "using the same methodology" used to determine its current requirements.
45. BCE submitted that the Commission's intention in Broadcasting Decision 2013-310 in regard to CPE and PNI expenditure levels was to replicate, by using the same methodology and data (i.e., for the 2008-2009 through 2010-2011 broadcast years) used in the group-based licence renewal, the expenditure levels from the last licence renewal for the Astral services acquired by BCE, had those services been taken separately from the Astral services that were divested by BCE. Accordingly, it calculated a CPE level of 31.9% and a PNI expenditure level of 16.1% for the Astral group of services. BCE stated that it was therefore willing to accept the CPE level of 32% proposed by the Commission, but submitted that imposing a PNI expenditure level greater than the current level of 16% would not be appropriate. It therefore requested that the PNI expenditure level not be amended.
46. In their interventions, ADISQ and ACTRA argued that the minimum CPE and PNI expenditure levels proposed by the Commission are justified, and that the calculations used are appropriate, given that the creation of a new bilingual Astral group of services requires a re-evaluation of the requirements. They submitted that in light of the policy establishing the basis of the group-based approach, the Commission clearly intended to use the average of the previous three broadcast years to calculate the necessary CPE/PNI expenditure levels. They further submitted that while this is not stated word-for-word in the group-based approach, the Commission's general practice is to use the average of the data for the previous three broadcast years (or, when such data are not available, the most

recent broadcast year) when establishing the minimum CPE thresholds for specialty Category B services.

47. In reply, BCE argued that the intent of Broadcasting Decision 2013-310 was to determine the PNI expenditure requirements that would have applied to the services it wished to acquire (i.e., excluding the services being divested) in the current licence term had those services not been grouped with the services divested. It submitted that any attempt to modify the established levels or the methodology used during the licence renewal would run counter to the Commission's decision to approve the Astral-BCE transaction.
48. The Commission notes that the group-based approach sets out that a designated group's CPE and PNI expenditure requirements are determined based on the average expenditures of the group during the previous three broadcast years.
49. Notwithstanding BCE's claims regarding a modification of the expenditure levels, the Commission is of the view that BCE's arguments for using the 2008-2009 through 2010-2011 broadcast years do not take into account the substantial changes to the composition of the Astral group and, consequently, to its portfolio. Consequently, the Commission considers that it would be more accurate and therefore appropriate to base the new group's CPE and PNI expenditure levels on the average gross revenues for the 2009-2010 through 2011-2012 broadcast years (i.e., the three broadcast years preceding the Astral-BCE transaction), and that the new Astral group's CPE and PNI expenditure levels should reflect the group's portfolio.
50. In light of all of the above, the Commission considers it appropriate to adopt its preliminary view set out in Broadcasting Decision 2013-310. It has therefore amended the CPE and PNI expenditure levels established in Broadcasting Decision 2012-241 for the Astral group of services, to impose a CPE level of 32% and PNI expenditure level of 18% of the previous year's gross revenues of the undertaking. Accordingly, conditions of licence 4 and 6 set out in Appendices 2 (Canal D), 3 (Canal Vie), 8 (Vrak.TV), 9 (Ztélé), 12 (Super Écran) and 15 (Cinépop) to Broadcasting Decision 2012-241 are replaced by the following **conditions of licence 4 and 6**:

4. Except as provided for in conditions 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall, in each remaining broadcast year of the licence term, devote to the acquisition of or investment in Canadian programming 32% of the previous year's gross revenues of the undertaking.

6. Except as provided for in conditions 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall, in each remaining broadcast year of the licence term, devote to the acquisition of or investment in programs of national interest, namely programs drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 8(a) Music and dance other than music video programs or clips, 8(b) Music video clips, 8(c) Music video

programs and 9 Variety, 18% of the previous year's gross revenues of the undertaking.

51. Further, conditions of licence 4 and 6 set out in Appendices 11 (Mpix) and 13 (The Movie Network) to Broadcasting Decision 2012-241 are replaced by the following **conditions of licence 4 and 6**:

4. Except as provided for in conditions 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall, in each remaining broadcast year of the licence term, devote to the acquisition of or investment in Canadian programming 32% of the previous year's gross revenues of the undertaking.

6. Except as provided for in conditions 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall, in each remaining broadcast year of the licence term, devote to the acquisition of or investment in programs of national interest, namely programs drawn from program categories 2(b) Long-form documentary and 7 Drama and comedy, as well as eligible Canadian award shows, 18% of the previous year's gross revenues of the undertaking.

Adherence to terms of trade agreements

52. In Broadcasting Decision 2013-310, the Commission directed BCE and Astral, as a condition of approval, for all the services that would be operated by BCE once the transaction with Astral was complete, to apply by no later than 29 July 2013 for conditions of licence requiring BCE to adhere to terms of trade agreements, with the CMPA for English-language services and with the AQPM for French-language services. The Commission also set out an expectation that BCE promptly reach a terms of trade agreement with the Association des producteurs French-langues du Canada (APFC). Finally, it directed BCE to file, also by no later than 29 July 2013, a report on the progress of the negotiations with the APFC, and to apply to add conditions of licence in this regard to the broadcasting licences for its television programming undertakings once the agreement is concluded.

53. The Commission notes that BCE requested the addition to the broadcasting licences for the affected services, of conditions of licence relating to terms of trade agreements with the CMPA and the AQPM. Accordingly, each of the television programming services now operated by BCE following the close of the transaction shall be subject to the following **conditions of licence**,³ as appropriate:

The licensee shall adhere to a terms of trade agreement with the Canadian Media Production Association for English-language services.

³ These are set out as conditions of licence 11 and 12, respectively, in Appendix 2 to Broadcasting Decision 2013-310.

The licensee shall adhere to a terms of trade agreement with the Association québécoise de la production médiatique for French-language services.

54. In a letter dated 13 December 2013, Bell Media informed the Commission that it had entered into a terms of trade agreement with the AQPM on 4 December 2013.
55. The Commission also notes that BCE indicated in the application that it entered into terms of trade negotiations with the APFC on 18 July 2013, and that it expects to reach an agreement soon. Accordingly, the Commission finds that BCE has satisfied the direction in this regard set out in Broadcasting Decision 2013-310. The Commission reminds BCE that it must submit an application to add, to the broadcasting licences for its television programming undertakings, conditions of licence relating to a terms of trade agreement with the APFC once an agreement is concluded.

Revised proposal for the promotion of Canadian feature films

56. In the context of the Astral-BCE transaction, Astral and BCE proposed to promote Canadian feature films by creating, in conjunction with the Canadian Association of Film Distributors and Exporters (CAFDE), the CAFDE Promotion Fund. It further proposed to allocate \$3 million to that fund over five years. In Broadcasting Decision 2013-310, noting that the broadcasting system lacks funds for the promotion of Canadian feature films, the Commission found that BCE's proposal did not properly address this problem. Consequently, the Commission directed BCE to file, as part of its revised tangible benefits package, a proposal for another initiative for the promotion of Canadian feature films.
57. In the application, BCE proposed to direct the \$3 million to the Telefilm Promotion Fund, for the support and promotion of Canadian feature films in the French-language market, and noted that this amount would be incremental to what it already contributes to that fund. BCE submitted that Telefilm Canada is the natural partner to administer this fund, as it already supports Canadian filmmakers in the promotion of their theatrical feature films.
58. The Commission notes that the Telefilm Promotion Fund is certified as an independent fund with the Commission and has an independent board of directors to serve third parties. Further, it is an established funding agency that is well-known to the film industry and has an infrastructure in place to appropriately and effectively administer funding to best support the promotion of a range of Canadian feature films for theatrical release. Accordingly, the Commission **approves** BCE's proposal as submitted.

Revised governance structure for the Television Format Development Initiative

59. In the context of the Astral-BCE transaction, Astral and BCE proposed to allocate \$4 million over seven years to a Television Format Development Initiative for independent producers, directors, writers and actors, to stimulate the development of new talent from the ideas stage to producing the pilot. In Broadcasting Decision 2013-310, the Commission expressed the concern that this initiative could be self-serving, and considered that the board of directors should be independent from BCE/Astral to ensure

that the benefits flow to third parties. It accordingly required BCE to propose a governance structure demonstrating that the board of directors would be independent.

60. In the application, BCE proposed instead to direct the \$4 million to a separate envelope within the Harold Greenberg Fund, an independent fund with an independent committee structure in place for the distribution of funding to third parties, under its current independent governance structure. BCE noted that this fund's French-language committee is currently comprised of seven members, with a minimum of four and a maximum of six members being independent, and with a maximum of three members being elected by BCE. Consequently, independent members would always form a majority on the committee. BCE further noted that where potential BCE-affiliated projects are being considered, all BCE employee members would abstain from voting.
61. The Commission is satisfied with the details of BCE's proposal and accordingly **approves** the proposal as submitted.

Modifications to tangible benefits for radio

62. In Broadcasting Decision 2013-310, the Commission stated that BCE should increase its level of tangible benefits for radio as a result of the Astral-BCE transaction to 7% of the value of the transaction relating to radio, so as to take into account the size and nature of the transaction, the aggregate profitability of the stations acquired, and the inadequacy of the proposed intangible benefits. It accordingly calculated the value of the tangible benefits for radio to be \$71.5 million. Of that amount, 35% must be directed to French-language initiatives and 65% to English-language initiatives.
63. Further, the tangible benefits for radio must be expended as follow: 3.5% to Radio Starmaker or Fonds Radiostar, 1.75% to FACTOR or MUSICACTION, 0.58% to the Community Radio Fund of Canada, and 1.17% to discretionary Canadian content development initiatives, with an emphasis on the direct support of Canadian artists, including emerging artists, and the production by independent parties of new spoken word content devoted to the promotion of Canadian artists, including emerging artists. In regard to discretionary initiatives, BCE proposed the following contributions:
- English-language initiatives
 - Breakthrough Canada Showcase Series: \$2,190,000
 - Canadian Music Week: \$1,590,000
 - MusiCounts: \$850,000
 - National Music Centre: \$720,000
 - Emerging Artist Development Program: \$700,000
 - Canadian Council of Music Industry Associations: \$700,000

- MegaMusic Canada: \$500,000
- Canadian Country Spotlight: \$280,000
- English-language Journalism Scholarships: \$240,000
- French-language initiatives
 - Festivals de musique: \$1,895,000
 - Breakthrough Canada Showcase Series: \$1,040,000
 - Top Musique Québec Application: \$750,000
 - French-language Journalism Scholarships: \$500,000

64. In its intervention, ADISQ, supported by the PMPA, noted that music festivals are the only initiatives benefiting from the discretionary portion of the tangible benefits relating to French-language stations, and submitted that BCE has not explained in detail how and to whom the sums will be directed. It requested that greater detail be provided in regard to these initiatives. Fondation Radio Enfant requested that BCE be required to grant a contribution to the development of radio for children, and that it should be included in BCE's list of initiatives.

65. In reply to ADISQ, BCE stated that the level of information provided to the Commission is consistent with that for other initiatives, and with industry practice. It submitted that the annual returns it files with the Commission will allow both it and the public to ensure that the discretionary benefits are being spent in accordance with Commission policy. It further submitted that its proposal relating to a spoken word component at French-language music festivals addresses the Commission's specific direction to put an emphasis on spoken word programming by independent parties devoted to the promotion of Canadian music artists, including emerging artists. Finally, BCE submitted that the concerns expressed by Fondation Radio Enfant lie outside the scope of the present proceeding.

66. In the Commission's view, BCE has filed the required information relating to discretionary initiatives. Further, the proposed initiatives satisfy the criteria relating to tangible benefits set out in Broadcasting Decision 2013-310. Finally, BCE has respected the Commission's requirements by directing its contributions to eligible initiatives that support emerging artists and spoken word content that promotes Canadian artists. Accordingly, the Commission **approves** BCE's proposal as submitted.

Secretary General

Related documents

- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013

- *Astral Media inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2012-241, 26 April 2012
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999
- *Elements assessed by the Commission in considering applications for the transfer of ownership or control of broadcasting undertakings*, Public Notice CRTC 1989-109, 28 September 1989

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