



Broadcasting Decision CRTC 2016-14

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Reference: Part 1 applications posted on 20 July 2015

Ottawa, 18 January 2016

Bell Media Inc.

Across Canada

2953285 Canada Inc.

Across Canada

Applications 2015-0729-5, 2015-0730-3, 2015-0731-0, 2015-0732-8, 2015-0734-4, 2015-0736-0, 2015-0737-8 and 2015-0738-6

Various Category A services – Licence amendments

*The Commission **denies** applications by Bell Media Inc. and 2953285 Canada Inc. (Bell) to convert several Category A services into Category B services.*

The Commission set out a specific timeline for the implementation of the policy changes resulting from the Let's Talk TV proceeding. Bell did not provide evidence as to how the broadcasting system would benefit by making an exception to the timeline.

Introduction

1. Bell Media Inc., on behalf of itself and 2953285 Canada Inc. (Bell), filed applications to convert the broadcasting licences for several Category A services into licences for Category B services. Bell made the request for the following services:
 - Bravo
 - The Comedy Network
 - Discovery Channel
 - E!
 - MTV Canada
 - Much (formerly MuchMusic)
 - M3 (formerly MuchMoreMusic)
 - Space
2. With respect to the above services, Bell proposed to:
 - adhere to the standard conditions of licence for Category B services and provide a description of each service;
 - reduce Canadian programming exhibition requirements to 35%;

- maintain the services' current Canadian programming expenditure (CPE) conditions of licence and continue to include them in the Bell group, which would also entail the flexibility to attribute 100% of their required CPE to any other qualifying specialty service, or to conventional television stations, within the same designated group; and
 - relinquish the access privileges associated with Category A services.
3. The applicant stated that it submitted these applications in light of the policy changes announced in Broadcasting Regulatory Policies 2015-86 and 2015-96. Bell submitted that its applications would resolve the regulatory imbalance between Category A and B services that was created due to the elimination of genre exclusivity.

Background

4. In Broadcasting Regulatory Policy 2015-86, the Commission eliminated genre exclusivity, which limited programming services to offering certain types of programming and precluded other services from offering that programming. In the policy, the Commission stated that existing programming services may apply to delete conditions of licence relating to their nature of service, and that, with certain narrow exceptions, such conditions would no longer be enforced.
5. In the same policy, the Commission announced that it will consolidate specialty and pay licence classes—including both Category A and B services—into a single licence type, to be referred to as “discretionary services.” It stated that discretionary services will operate under standard conditions of licence and that exhibition requirements (the number of hours of Canadian programming broadcast) will be set at a standard level of 35% over the broadcast day. The Commission stated that the new licence classes and requirements to adhere to standard conditions of licence will be introduced through the licence renewal process and will come into effect for each service at the beginning of its next licence term. The Commission specified that CPE requirements (the amount of money spent on Canadian programming) would also be reviewed at licence renewal. The next licence terms for large private ownership groups are set to begin on 1 September 2017.
6. In Broadcasting Regulatory Policy 2015-96, the Commission stated that access privileges¹ for Category A services will be phased out at the licence renewal for these services. In addition, the Commission set out a timeline to implement its determinations with respect to distributing and packaging television services.

Interventions and applicant's reply

7. The Commission received comments from the Canadian Media Production Association, the Quebec English-language Production Committee, the Writers' Guild of Canada, Blue Ant Media (Blue Ant) and On Screen Manitoba. It also received comments from the Canadian Independent Music Association and the Association

¹ Access privileges are enacted via regulations that require broadcasting distribution undertakings to distribute Category A services in the linguistic market of a given service and in official language minority community markets.

québécoise de l'industrie du disque, du spectacle et de la vidéo in regards to the applications for Much and M3, as well as an intervention from an individual opposing the application for Space. The applicant replied to the interventions. The public record for these applications can be found on the Commission's website at www.crtc.gc.ca or by using the application numbers provided above.

8. Several interveners argued that Bell is seeking to accelerate the implementation of certain aspects of the Let's Talk TV policies that will benefit Bell and its services without accepting many of the new obligations that these policies would correspondingly impose. Some interveners added that they were unable to assess the impact of the proposal on independent producers, including producers from official language minority communities, and on the support for the production of music video clips, given the lack of detail in the applications on these points.
9. Blue Ant suggested reducing exhibition requirements for all Category A services at the same time while maintaining access rights for independent services. The Commission considers that this is outside the scope of the proceeding.

Commission's analysis and decisions

10. In Broadcasting Regulatory Policy 2015-96, the Commission prioritized the implementation of certain aspects of its determinations when it determined that the implementation of the new distribution requirements would occur before some of the other policy changes. This timeline gives distributors time to make the changes that are needed to roll out new options to their subscribers. It is also intended to give broadcasters time to adapt to the new distribution environment before the Commission reviews their regulatory obligations at licence renewal. As well, it provides some short-term stability for the Canadian production sector as it also adjusts to the impact of the various policy changes. Further, maintaining regulatory obligations of the services in question until licence renewal allows the Commission to monitor the impact of the other policy changes.
11. Approval of Bell's applications would mean that key policy changes would occur ahead of the Commission's stated timeline. While the changes could be beneficial to Bell and its services, Bell has not provided evidence as to how the broadcasting system as a whole would benefit from the proposed accelerated timeline. Although Bell argued that Category B services are at an advantage over Category A services given their lower exhibition requirements, it did not specify or provide evidence as to what harm, if any, has been caused to its Category A services.
12. Bell's Category A services have strong brands and large audiences, due, at least in part, to their mandatory distribution. It appears that Bell does not consider Category A status necessary to ensure favourable distribution of these services. Bell has not, however, asked to relinquish access privileges (and reduce the exhibition requirements) for all of its Category A services. This is at odds with Bell's argument that its applications are an attempt to gain regulatory parity between Category A and B services. This suggests that the applications may be an attempt to better position Bell's most popular specialty services as soon as possible. Therefore, converting the eight Category A services into Category B services and reducing their regulatory

obligations at this time could confer upon Bell an advantage over other Category B services.

13. Further, while Bell stated that reduced exhibition requirements will result in higher quality original content and less incentive to repeat Canadian programming, it did not provide details as to how it would implement this change on each of its services. The Commission typically addresses Canadian programming commitments at licence renewal, which also provides the opportunity to assess the services' regulatory obligations as a whole. Given the lack of detail, the Commission finds that reduced exhibition requirements and the other changes requested by Bell should be addressed at licence renewal.

Conclusion

14. In light of the above, the Commission **denies** the applications by Bell Media Inc. and 2953285 Canada Inc. to convert the broadcasting licences for the Category A services Bravo, The Comedy Network, Discovery Channel, E!, MTV Canada, Much, M3 and Space into licences for Category B services.

Secretary General

Related documents

- *Let's Talk TV: A World of Choice – A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015
- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015