



Broadcasting Notice of Consultation CRTC 2018-430

PDF version

Reference: 2017-179

Ottawa, 22 November 2018

Public record: 1011-NOC2018-0430

Notice of applications received

Deadline for submission of interventions/comments/answers: 9 January 2019

[\[Submit an intervention/comment/answer or view related documents\]](#)

The Commission has received the following applications:

Applicant/Licensee and Locality

1. **TELUS Communications Inc.**
Baie-Comeau, Montmagny, Mont-Tremblant, Sainte-Marie, Saint-Georges,
Sept-Îles and surrounding areas, Quebec
Application 2017-0866-1
2. **AEBC Internet Corp.**
Vancouver and Lower Mainland, British Columbia
Application 2018-0172-0

Preamble

The Commission has received applications from TELUS Communications Inc. (TELUS) and AEBC Internet Corp. (AEBC) relating to their respective broadcasting licences for terrestrial broadcasting distribution undertakings (BDUs) expiring 31 December 2018. In *Various terrestrial broadcasting distribution undertakings – Administrative renewals*, Broadcasting Decision 2018-431, 22 November 2018, also issued today, the Commission administratively renewed these licences from 1 January 2019 to 31 March 2019.

Accessibility

The Commission intends to consider whether TELUS and AEBC should be subject to a standard set of accessibility-related conditions of licence and expectations, on which both licensees had the opportunity to comment. This includes the condition of licence that BDUs offering community programming be required to caption 100% of original licensee-produced programming by the end of their next licence term, as set out in *Policy framework for local and community television*, Broadcasting Regulatory Policy

CRTC 2016-224, 15 June 2016. TELUS confirmed that it would adhere to this closed captioning requirement.¹

Wholesale Code, Television Service Provider Code and membership in the Commission for Complaints for Telecom-television Services Inc.

In Submission of renewal applications for broadcasting licences of terrestrial broadcasting distribution undertakings (BDUs) that will expire in 2016 and 2017; implementation of certain conditions of licence and review of practices in regard to the small basic service and flexible packaging requirements for all BDU licensees, Broadcasting Notice of Consultation CRTC 2016-147, 21 April 2016, the Commission indicated that it would impose three conditions of licence related to the Wholesale Code, the Television Service Provider Code and participation in the Commission for Complaints for Telecom-television Services Inc. to multiple licensees, including TELUS and AEBC. In response to that notice, both TELUS and AEBC confirmed adherence to the above-mentioned conditions and, accordingly, the Commission amended their licences to add these conditions of licence in *Licence renewal of broadcasting distribution undertakings – Review of practices relating to the small basic service and flexible packaging options and imposition of various requirements*, Broadcasting Decision CRTC 2016-458, 21 November 2016.

Compliance

All matters regarding the licensees for which the broadcasting licences will expire on 31 March 2019, including any issues with respect to compliance with regulatory obligations, are being dealt with as part of this licence renewal proceeding. This includes, but is not necessarily limited to, the specific compliance issues set out on the record of each application. Should the Commission make findings of non-compliance, it may apply measures such as a short-term licence renewal or the imposition of conditions of licence or mandatory orders, among other measures.

1. TELUS Communications Inc.

Baie-Comeau, Montmagny, Mont-Tremblant, Sainte-Marie, Saint-Georges, Sept-Îles and surrounding areas, Quebec
Application 2017-0866-1

Application by **TELUS Communications Inc.** (TELUS) to allow the broadcasting licence for its regional terrestrial BDUs serving the above-mentioned locations in Quebec to expire on 31 December 2018 and to pursue the operation of these undertakings pursuant to *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2017-319 and Broadcasting Order 2017-320, 31 August 2017.

¹ AEBC does not operate a community channel.

In the event that the Commission considers that a licence renewal is necessary for TELUS to continue operating in these areas in Quebec, TELUS requests the addition of the following condition of licence, which would apply to each of the above-noted service areas:

- The licensee shall be subject to the following condition of licence as an exception to the requirements set out in sections 34(2) and 34(3) of the *Broadcasting Distribution Regulations* (the Regulations):

If the licensee serves 20,000 or more subscribers in the licensed area of a broadcasting distribution undertaking (BDU) on 31 August of the previous broadcast year and distributes programming that qualifies as local expression on an on-demand service, the licensee shall make, in each broadcast year, a contribution to Canadian programming of not less than the greater of:

- a. 4.7% of its gross revenues derived from broadcasting activities in the licensed area in the previous broadcast year, less any contribution to local expression made by the licensee in the licensed area in the current broadcast year, and
- b. 3.2% of its gross revenues derived from broadcasting activities in the licensed area in the previous broadcast year.

If the licensee serves fewer than 20,000 subscribers in the licensed area of a BDU on 31 August of the previous broadcast year and distributes programming that qualifies as local expression on an on-demand service, the licensee shall make, in each broadcast year, a contribution of not less than 4.7% 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 31 August of the previous broadcast year and does not distribute programming that qualifies as local expression 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. 3.2% of its gross revenues derived from broadcasting activities in the licensed area in the previous broadcast year to Canadian programming, and
- b. 1.5% of its gross revenues derived from broadcasting activities in the licensed area in the previous broadcast year to the community programming undertaking.

If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on 31 August of the previous broadcast year and does not distribute programming that qualifies as local expression on an on-demand service,

and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of 4.7 % 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 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 4.7% of its gross revenues derived from broadcasting activities in the licensed area in the previous broadcast year to Canadian programming.

TELUS offers community programming through an on-demand service, but also offers to its subscribers in Quebec a single complimentary linear community channel broadcasting community programming from all the undertakings under its regional licence. The licensee has indicated that it intends to continue this practice. As such, for the current licence term, TELUS is requesting that the Commission only assess its compliance with existing community channel exhibition requirements based on the community programming that it offers on an on-demand basis, and not based on the community programming that it offers through its linear community channel. TELUS is seeking relief from exhibition requirements for its linear community channel by requesting the addition of either one of the following conditions of licence:

- As an exception to the requirements set out in section 31(1) of the *Broadcasting Distribution Regulations*, the licensee may devote less than 60% of the programming distributed on the community channel in the licensed area in each broadcast week to the distribution of local community television programming so long as it only distributes community programming produced in another licensed area within the licensee's regional licence and that it continues to provide community programming on its related video-on-demand platform in accordance with *Standard requirements for video-on-demand undertakings – Provision of an outlet for local expression, measures to control the loudness of commercial messages and annual filing of aggregate statistical data*, Broadcasting Regulatory Policy CRTC 2011-59-1, 8 May 2012.

or

- Where the licensee offers community programming primarily on an on-demand basis, in accordance with the standard requirements for on-demand services set out in *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, the licensee is relieved from the requirements set out in sections 31(1) and 31(2) of the *Broadcasting Distribution Regulations* with respect to community programming offered to subscribers on a community channel.

TELUS also requests amendments to and the deletion of certain conditions of licence. Further details are available in the application.

Community programming and Local expression

The Commission intends to examine the compliance of TELUS in Quebec with its regulatory obligations related to local expression and community programming. The Commission will also determine whether it is appropriate to assess TELUS's compliance with these requirements based on the community programming that it offers on an on-demand basis, that it offers through its linear community channel, or both.

Contributions to Canadian programming

In a 2014 letter, the Commission informed Telus of the results of its audit of the annual returns for the 2009-2010 to 2012-2013 broadcast years. The Commission identified areas of non-compliance with the contribution requirements under sections 34 and 35 of the *Broadcasting Distribution Regulations* and directed the licensee to pay the shortfalls. While TELUS has since paid these shortfalls, the Commission is taking these instances of non-compliance, which took place during the current licence term, into consideration as part of this proceeding.

The Commission letter and the licensee's response to a request from Commission staff to indicate what measures it has taken to prevent further non-compliance relating to Canadian programming contributions have been placed on the public record for this proceeding.

Licensee's address:

215 Slater Street
Ottawa, Ontario
K1P 0A6

Email: regulatory.affairs@telus.com

Email to request electronic version of application: regulatory.affairs@telus.com

2. AEBC Internet Corp.

Vancouver and Lower Mainland, British Columbia

Application 2018-0172-0

Application by **AEBC Internet Corp.** (AEBC) to renew the broadcasting licence for its terrestrial broadcasting distribution undertaking (BDU) serving Vancouver and Lower Mainland, British Columbia, expiring 31 March 2019.

AEBC requests that this renewal be effected through an amendment to its regional broadcasting licence for terrestrial BDUs to serve various locations in British Columbia, as approved by the Commission in *Regional broadcasting licence for terrestrial broadcasting distribution undertakings to serve various locations in British Columbia*, Broadcasting Decision 2015-151, 16 April 2015. This would result in the Vancouver and Lower Mainland undertaking becoming part of the existing regional licence.

Licensee's address:

970 Burrard Street
 Floor B 11
 Vancouver, British Columbia
 V6Z 2R4
 Email: tony@ciphertv.com
 Email to request electronic version of application: tony@ciphertv.com

Procedure

Deadline for interventions, comments or answers

9 January 2019

The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations](#)." *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010, provides information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

An intervention or answer from a respondent must be received by the Commission and by the applicant on or before the above-mentioned date. An answer from a respondent must also be served on any other respondent.

Interventions and answers should clearly identify the application referred to and indicate whether parties support or oppose the application, or, if they propose changes to it, include the facts and grounds for their proposal.

The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

Pursuant to *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015, the Commission expects incorporated entities and associations, and encourages all

Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.

Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

A true copy of each intervention or answer from a respondent must be sent to the applicant and, in the case of a respondent to an application, to any other respondent.

Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.

The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and

will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and fax numbers, etc.

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

Electronic versions of the applications are available on the Commission's website at www.crtc.gc.ca by selecting the application number within this notice. They are also available from the applicants, either on their websites or upon request by contacting the applicants at their email addresses, provided above.

Electronic versions of the interventions and answers, as well as of other documents referred to in this notice, are available on the Commission's website at www.crtc.gc.ca by visiting the "Have your say!" section, then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.

Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782

Toll-free TTY: 1-877-909-2782

Secretary General