



Broadcasting Notice of Consultation CRTC 2018-80

PDF version

Ottawa, 27 February 2018

Public record: 1011-NOC2018-0080

Notice of application received

Reconsideration of the decision relating to the addition of QVC to the *List of non-Canadian programming services and stations authorized for distribution*

Deadline for submission of interventions/comments/answers: 29 March 2018

Deadline for submission of the applicant's reply: 9 April 2018

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

Introduction

1. In Broadcasting Decision 2016-122, the Commission denied an application by VMedia Inc. (VMedia), acting as the Canadian sponsor, to add the U.S.-based cable television shopping service QVC to the *List of non-Canadian programming services and stations authorized for distribution* (the List). The Commission determined that because the sale of products is an integral component of QVC's teleshopping service and because QVC's activities in Canada would involve the promotion, sale and distribution of products to Canadians on a continuous basis, QVC would be carrying on a broadcasting undertaking in whole or in part in Canada. The Commission stated that, as a result, the lawful distribution of the service in Canada was contingent upon QVC either obtaining a broadcasting licence or being otherwise authorized pursuant to a valid exemption order.
2. VMedia applied for and was granted leave to appeal the Commission's decision to the Federal Court of Appeal (FCA). In a 15 September 2017 decision, the FCA referred the matter back to the Commission for reconsideration. The FCA determined that the Commission's decision was not reasonable as it did not adequately explain why the Commission deviated from its general approach with respect to the authorization of non-Canadian services and instead based its decision on whether QVC would be carrying on a broadcasting undertaking in Canada.

Commission's general approach with respect to the authorization of non-Canadian services

3. The Commission's general approach with respect to the authorization of non-Canadian services aims to add diversity to the overall mix of programming services

available to Canadians, provided that the non-Canadian services contribute to and do not adversely affect the development of the Canadian broadcasting system. This is referred to as the competitiveness test. This approach is consistent with section 3(1)(i)(ii) of the *Broadcasting Act*, which specifies that the programming provided by the Canadian broadcasting system should be drawn from local, regional, national and international sources.

4. Generally, the Commission will approve the distribution of non-Canadian services in Canada, unless there is evidence that a service would be directly or partially competitive with a Canadian discretionary service or that the service would violate Canadian regulations.

Application

5. In a letter to the Commission dated 28 December 2017, VMedia stated that it wished to proceed with the application to add QVC to the List. VMedia also provided updated information, including a legal opinion in support of the application. The documents provided by VMedia as well as the public record for the previous application have been added to the public record for this proceeding.

VMedia Inc.

Application 2018-0077-2

Licensee's address:

5255 Yonge Street, Suite 1210
Toronto, Ontario
M2N 6P4

Email: george.burger@vmedia.ca

Email to request electronic version of application: george.burger@vmedia.ca

Call for comments

6. The Commission calls for comments on VMedia's request to add QVC to the List. The Commission also invites comments, along with rationale and supporting evidence, on the following issues:
 - whether, if added to the List, QVC would be carrying on a broadcasting undertaking, in part, in Canada; and
 - in light of the nature of teleshopping services, whether (and if so, how) the Commission should apply the competitiveness test or otherwise assess a request from a sponsor to add a non-Canadian teleshopping service to the List.

Procedure

Deadline for interventions, comments or answers

29 March 2018

7. 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](#)." Broadcasting and Telecom Information Bulletin 2010-959 provides information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
8. 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.
9. 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.
10. 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.
11. 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.
12. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, 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.
13. 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

14. 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.
15. 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.
16. 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.
17. 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

18. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, 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 facsimile numbers, etc.
19. 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.
20. 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.

21. 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

22. An electronic version of the application is available on the Commission's website at www.crtc.gc.ca by selecting the application number within this notice. It is also available from the applicant, either on its website or upon request by contacting the applicant at the email address provided above.
23. 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.
24. 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 TDD: 1-877-909-2782

Secretary General

Related documents

- *Addition of QVC to the List of non-Canadian programming services and stations authorized for distribution, Broadcasting Decision CRTC 2016-122, 4 April 2016*
- *Filing submissions for Commission proceedings in accessible formats, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015*
- *Guidelines on the CRTC Rules of Practice and Procedure, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010*