



Broadcasting Decision CRTC 2019-209

PDF version

Reference: Part 1 application posted on 9 November 2018

Ottawa, 13 June 2019

Corus Entertainment Inc.

Across Canada

Public record for this application: 2018-0936-0

Corus Entertainment Inc. – Deletion of transmitters and reallocation of tangible benefits

At the request of Corus Entertainment Inc. (Corus), the Commission deletes 44 rebroadcasting transmitters from Corus's broadcasting licences for various over-the-air television stations across Canada.

*Further, the Commission, by majority decision, **approves with changes** Corus's request to reallocate the \$2,365,771 of tangible benefits that has not yet been expended on the digital conversion of its transmitters to a number of eligible initiatives. Of this amount, at least 80% shall be allocated to the Canada Media Fund, with the remaining 20% being distributed to educational institutions, the Ontario Association of Broadcasters and the Western Association of Broadcasters.*

Background

1. In Broadcasting Decision 2010-782, the Commission approved an application by Shaw Communications Inc. (Shaw) to change the effective control of Canwest Global Communications Corp.'s licensed broadcasting subsidiaries. In that decision, the Commission also approved a tangible benefits package of \$180.1 million, which included \$23 million for the conversion from analog to digital of 67 transmitters operating in non-mandatory markets by the end of the 2015-2016 broadcast year.
2. In December 2014, the Department of Industry (the Department) announced a moratorium on the processing of new applications for channels in the television broadcasting bands due to its repurposing initiative of the 600 MHz frequency band.¹ As a result, Shaw was unable to complete the conversion of its transmitters within the timeline set out in Broadcasting Decision 2010-782. Consequently, Shaw filed an application requesting that the deadline to complete the analog to digital conversion

¹ The Department has since rendered a decision regarding the repurposing of the 600 MHz frequency band that will require over-the-air broadcasters across the country to effect changes to the technical parameters of a significant number of their transmitters.

be extended until 31 August 2019. The Commission approved this request in Broadcasting Decision 2016-91.

3. In Broadcasting Decision 2016-110, the Commission approved an application by Shaw for authority to effect a multi-step corporate reorganization by transferring all of Shaw's shares in Shaw Media Inc. to Corus or one of its subsidiaries. Shaw's remaining tangible benefit obligations were thereby assumed by Corus.

Application

4. On 29 October 2018, Corus filed an application to delete 44 rebroadcasting transmitters from its broadcasting licences for a number of its over-the-air (OTA) television stations located across the country. The list of transmitters is set out in Appendix 1 to this decision.
5. In its application, Corus also requested that it be permitted to reallocate \$2,365,771 in tangible benefits that was to be expended on the digital conversion to a number of other initiatives.
6. The Commission received interventions in opposition to the application from the Writers Guild of Canada (WGC), the Canadian Media Producers Association (CMPA) and the Directors Guild of Canada (DGC), as well as a joint opposing intervention from the English-language Arts Network, the Quebec Community Groups Network and the Quebec English-language Production Council (the Coalition). The Commission also received opposing interventions and comments from individuals relating solely to the proposed deletion of transmitters from Corus's licences. Corus replied to the interventions.

Commission's analysis

Deletion of rebroadcasting transmitters

7. Corus proposed to shut down 44 transmitters that rebroadcast the signals of various stations across the country. None of these transmitters broadcast original content. The applicant stated that these transmitters do not generate any incremental revenue and generally attract little to no added viewership, due in part to their locations in smaller markets. Corus argued that the transmitters are costly to maintain and predicted that the expenses would increase as a result of the Department's repurposing initiative of the 600 MHz frequency band. In spite of the deletion of these transmitters, Corus argued that the programming offered in the affected markets would continue to be available through broadcasting distribution undertakings (BDUs), such as to cable and satellite subscribers, on the basic service in most of the affected markets.

Interventions

8. Five individuals opposed Corus's proposal to shut down these transmitters. The importance of local news and the affordability of accessing programming through a BDU were the main reasons cited.

Commission's analysis and decision

9. The Commission has carefully considered the interventions received in opposition to Corus's proposal. The Commission notes that, in the circumstances, there would not be any loss of local or other original programming in the Canadian broadcasting system under this proposal, given that no stations that originate their own unique programming would be shut down.
10. Further, terrestrial BDUs are generally required to distribute local and regional television stations within their licensed areas and are authorized to distribute, as part of their basic service, non-local Canadian stations where fewer than 10 local or regional stations are available over the air (to an overall maximum of 10 Canadian OTA stations).² Given the above, the Commission anticipates that Corus's television stations will continue to be made generally available on the basic service by BDUs operating in the markets served by the rebroadcasting transmitters at issue. The Commission also notes that the *Broadcasting Distribution Regulations* limit the price that may be charged to a customer for the basic service.
11. Finally, the Commission notes that licences, such as those held by Corus, are authorizations to broadcast, not obligations to do so. In other words, while the Commission has the discretion to refuse to revoke broadcasting licences, even on application from a licensee, it cannot generally direct a licensee to continue to operate its transmitters.
12. In light of the above, the Commission **deletes** the 44 rebroadcasting transmitters listed in Appendix 1 to this decision from Corus Entertainment Inc.'s broadcasting licences for various OTA television stations across Canada.

Reallocation of tangible benefits

13. In its application, Corus proposed to reallocate the \$2,365,771 that has not yet been expended on the digital conversion to a number of eligible initiatives, as set out in the table below.

Benefits recipients	Amount	Percentage
Canada Media Fund	\$892,771	38%
Broadcasting and news industry associations	\$550,000	23%
Industry events and related activities	\$500,000	21%
Colleges and universities	\$423,000	18%
Total	\$2,365,771	100%

² See section 17(6)(a) of the *Broadcasting Distribution Regulations*.

14. Corus indicated that the amounts would support the Canadian screen-based media industry through programs/initiatives that meet the business needs of industry constituents, content creators and producers. Further, it stated that the contributions would be incremental to any contributions already made and would be expended by 31 August 2019. Corus also proposed to allocate the amounts in a manner that would support these organizations for a five-year period.

Interventions

15. The CMPA submitted that Corus is seeking an exception to the Tangible Benefits Policy set out in Broadcasting Regulatory Policy 2014-459. It argued that the contributions should be made to funds and discretionary initiatives in a manner that is consistent with that policy. As such, the CMPA stated that 80% of the benefits should be allocated to on-screen initiatives and that 20% of the benefits should be allocated to discretionary/social initiatives.
16. The DGC submitted that Corus's proposal diverges from the spirit of the Tangible Benefits Policy and argued that by diverging from the formula in that policy that helps to ensure contributions are made to production funds, approval of the proposal could set a precedent that would impact tangible benefits allocations in future transactions.
17. The Coalition, for its part, urged the Commission to follow the Tangible Benefits Policy and stated that the proposal to distribute the funds over five years is unwarranted given that the Commission initially approved the tangible benefits package in 2010.

Corus's reply

18. Corus replied that its tangible benefits proposal does not require an exception to the Tangible Benefits Policy. It argued that its tangible benefits obligation should be considered in its proper context, that is, as a carry-over amount stemming from a tangible benefits package already approved by the Commission in 2010 under a previous policy. The applicant submitted that if the Commission were to apply the now-standard 80/20 allocation ratio whenever a reallocation is sought to a benefits package approved prior to 2014, that allocation should be applied retroactively to the amount of the entire original package, not only to the outstanding amount.
19. However, in light of the interventions filed, Corus proposed to increase the amount of funds allocated to the Canada Media Fund (CMF) from \$892,771 to \$1,142,771.³ As such, Corus stated that the revised allocation to the CMF, combined with the \$142.1 million spent on on-screen initiatives prior to 2014, would account for roughly 80% (78.9%) of the original \$180 million package.

³ Corus proposed to effect this increase by means of an equivalent reduction to the amount to be devoted to broadcasting and news industry associations.

20. Corus added that should the Commission determine that the proposed reallocation does not meet the requirements of the Tangible Benefits Policy, it would adhere to a requirement whereby 80% of the \$2,365,771 must be allocated to the CMF and 20% must be allocated to the educational institutions listed in its application, the Ontario Association of Broadcasters (OAB) and the Western Association of Broadcasters (WAB).
21. Finally, Corus clarified that the proposed recipient organizations would receive the funds in full by 31 August 2019. However, it indicated that it would request that certain organizations utilize the funds to establish a five-year commitment to initiatives to ensure there is sustainable support for those organizations over time.

Commission's analysis and decision

22. In the Tangible Benefits Policy, the Commission stated that to ensure that future tangible benefits for television transactions are streamlined and directed mainly to the production of Canadian programming, it would generally require that at least 80% of such benefits be allocated to the CMF and certified independent production funds (CIPFs), unless a compelling case is made that other measures could better meet the public interest. Of that amount, at least 60% should be directed to the CMF.
23. The Tangible Benefits Policy is founded on the principle that benefits contributions should at all times be incremental to other regulatory obligations and not be self-serving. To that end, the Tangible Benefits Policy provides a list of eligible discretionary initiatives to which the remaining 20% of tangible benefits could be allocated, including:
 - independent production, which may include contributions to the CMF, any CIPF or regional production initiatives;
 - direct grants and contributions to schools that offer educational programs focusing on broadcasting-related studies, including communications and journalism, so long as these grants and contributions are unrelated to the training of persons employed by either the purchaser or the undertaking to be purchased;
 - broadcasting industry-related training and conferences operated by third parties so long as the contributions are not used to subsidize the attendance of persons employed by the purchaser or the undertaking to be purchased; and
 - other broadcasting-related social benefits such as initiatives that support the participation of the four identified employment equity groups in the broadcasting industry (women, visible minorities, persons with disabilities and Indigenous Peoples) including, for example, film festivals and contributions to organizations such as Women in Communications and Technology and the Foundation for Women in Film.

24. The Tangible Benefits Policy was issued in 2014, approximately four years after the initial tangible benefits obligation was imposed on Shaw. Approximately two years after the Tangible Benefits Policy was issued, the Commission published Broadcasting Decision 2016-91. In that decision, the Commission provided directions to Shaw regarding any potential reallocation of tangible benefits it might seek, in the event that the 600 MHz repurposing initiative affected its ability to spend the entirety of its 2010 tangible benefits obligations. In particular, the Commission indicated that Shaw should submit an alternate proposal to expend the required tangible benefits contributions in a manner consistent with the tangible benefits policy in place at the time of the alternate proposal's submission. Also in 2016, Corus acquired Shaw's television undertakings and inherited the remaining associated tangible benefits obligations.
25. Given this sequence of events and the direction provided in Broadcasting Decision 2016-91, the current Tangible Benefits Policy applies to the present application. Further, it only applies to the specific portion of tangible benefits currently at issue, rather than to the entire amount imposed in 2010. The Commission is also not convinced that the other measures proposed by Corus could better meet the public interest.
26. Viewed in this light, Corus's proposed reallocation plan is not fully consistent with the Tangible Benefits Policy. Corus's reallocation plan, as amended in its reply to the interventions, would result in only approximately 48% of the reallocated funds being directed to programming (i.e. the CMF), with the remainder of the funds being allocated to initiatives and organizations that are eligible and incremental.
27. Directing more than a majority of tangible benefits allocations to the CMF and independent funds in the absence of compelling rationale not to do so, consistent with the Tangible Benefits Policy, helps to safeguard the public interest as it ensures that contributions are streamlined, incremental, not self-serving and directed mainly to the production of Canadian programming.
28. Accordingly, the Commission, by majority decision, **approves with changes** Corus Entertainment Inc.'s request to reallocate the \$2,365,771 that has not yet been expended on the digital conversion of its transmitters to a number of eligible initiatives. Of this amount, at least 80% shall be allocated to the CMF, with the remaining 20% being distributed to educational institutions, the OAB and the WAB. Given that the amounts proposed by Corus to be allocated to the educational institutions, the OAB and WAB represent approximately 18.7% of the \$2,365,771, the Commission has determined that it would be appropriate to allocate an additional 1.3% of the funds (\$30,154) proportionally among these educational institutions and the OAB and WAB. The exact amounts to be allocated to each initiative are set out in Appendix 2 to this decision.
29. The Commission **directs** Corus to fully expend the \$2,365,771 by no later than **31 August 2019**.

30. Finally, in Broadcasting Decision 2010-782, the Commission required that Shaw submit annual reports to the Commission by 30 November of each year detailing its progress in fulfilling its tangible benefits. In line with this goal of transparency, the Commission considers that Corus should file a report attesting that the reallocated benefits have been fully spent in accordance with the Commission's decision and detailing to whom and in what amounts expenditures were directed, as well as demonstrating how those expenditures are incremental to Corus's other obligations. The Commission **directs** Corus to report on these expenditures by no later than **30 November 2019**.

Secretary General

Related documents

- *Various television services and stations – Corporate reorganization (transfer of shares)*, Broadcasting Decision CRTC 2016-110, 23 March 2016
- *Reallocation of tangible benefits and extension of deadline to complete analog to digital conversion*, Broadcasting Decision CRTC 2016-91, 9 March 2016
- *Over-the-air transmission of television signals and local programming*, Broadcasting Regulatory Policy CRTC 2015-24, 29 January 2015
- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *Change in the effective control of Canwest Global Communications Corp.'s licensed broadcasting subsidiaries*, Broadcasting Decision CRTC 2010-782, 22 October 2010

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2019-209

List of rebroadcasting transmitters to be shut down

Corus Television G.P. Inc. (the general partner) and Corus Sales Inc. (the limited partner), carrying on business as Corus Television Limited Partnership

Province	Call sign and location
British Columbia	CHAN-DT-2 Bowen Island
	CHAN-DT-3 Squamish
	CHAN-DT-5 Brackendale
	CHAN-DT-6 Wilson Creek
	CHAN-DT-7 Whistler
	CHBC-TV-3 Oliver
	CHBC-TV-4 Salmon Arm
	CHBC-TV-5 Enderby
	CHBC-TV-7 Skaha Lake (Ni'kwalla) / Penticton
	CHBC-TV-8 Canoe
	CHBC-TV-9 Apex Mountain
	CHKL-DT-3 Revelstoke
	CHKM-DT-1 Pritchard
	CHRP-DT-2 Revelstoke
	CISR-DT Santa Rosa
	CISR-DT-1 Grand Forks
	CITM-DT 100 Mile House
	CITM-DT-1 Williams Lake
	CITM-DT-2 Quesnel
	CKKM-TV Oliver
	CKTN-DT-2 Taghum
	CKTN-TV-1 Castlegar
	CKTN-TV-3 Nelson
CKTN-TV-4 Creston	

Alberta	CICT-TV-1 Drumheller
	CICT-TV-2 Banff
	CISA-TV-1 Burmis
	CISA-TV-2 Brooks
	CISA-TV-3 Coleman
	CISA-TV-4 Waterton Park
	CISA-TV-5 Pinchere Creek
Saskatchewan	CFRE-TV-2 Fort Qu'Appelle
New Brunswick	CIHF-DT-11 Woodstock
	CIHF-DT-12 St. Stephen
	CIHF-DT-13 Miramichi
Nova Scotia	CIHF-DT-4 Truro
	CIHF-DT-6 Bridgewater
	CIHF-DT-8 New Glasgow
	CIHF-DT-9 Shelburne
	CIHF-DT-10 Yarmouth
	CIHF-DT-15 Antigonish
	CIHF-DT-16 Mulgrave

591987 B.C. Ltd.

Province	Call sign and location
Ontario	CHEX-TV-1 Bancroft
	CKWS-TV-3 Smiths Falls

Appendix 2 to Broadcasting Decision CRTC 2019-209

Detailed allocation plan

Recipient	Amount
Canada Media Fund	\$1,892,616.80
Ontario Association of Broadcasters	\$10,680.67
Western Association of Broadcasters	\$10,680.67
BCIT (Vancouver) - <i>Broadcast and Online Journalism Diploma (2yr)</i>	\$32,042.14
Okanagan College (Okanagan) - <i>Diploma in Journalism Studies (2yr)</i>	\$10,680.67
Mount Royal University (Calgary) – <i>Bachelor of Communication-Journalism (2yr)</i>	\$10,680.67
Southern Alberta Institute of Technology (Calgary) – <i>Diploma in Journalism (2yr)</i>	\$21,361.35
MacEwan University (Edmonton) – <i>Bachelor of Communication – Journalism (4yr)</i>	\$10,680.67
Northern Alberta Institute of Technology (Edmonton) – <i>Radio & Television (2yr)</i>	\$21,361.35
Lethbridge College (Lethbridge) – <i>Digital Communications and Media (2yr)</i>	\$32,042.14
University of Regina (Regina) – <i>Bachelor of Journalism (4yr) + Master’s</i>	\$21,361.35
Red River College (Winnipeg) – <i>Creative Communications (2yr)</i>	\$21,361.35
Carleton University (Ottawa) – <i>Bachelor of Journalism (4yr) + Master’s</i>	\$18,157.15
Algonquin College (Ottawa) - <i>Diploma in Journalism (2yr)</i>	\$10,680.67
Trent University (Peterborough) - <i>Bachelor of Journalism (4yr)</i>	\$16,021.01
UOIT (Durham) - <i>Communications and Digital Media Studies (4yr)</i>	\$21,361.35
Durham College (Durham) - <i>Journalism (2yr/3yr) / Broadcasting (2yr)</i>	\$10,680.67
Ryerson University (Toronto) – <i>RSJ & RTA</i>	\$18,157.15
Centennial College (Toronto) - <i>Advanced Diploma in Journalism (3yr)</i>	\$16,021.01
Humber College (Toronto) - <i>Advanced Diploma in Journalism (3yr)</i>	\$21,361.35
Seneca College (Toronto) - <i>Diploma (2yr) and joint degree with York (4yr)</i>	\$21,361.35
Mohawk College (Hamilton) - <i>Journalism (3yr) / Broadcasting</i>	\$21,361.35
Conestoga College (Kitchener) - <i>Diploma in Journalism (2yr)</i>	\$14,952.94
Fanshawe College (London) - <i>Diploma in Journalism – Broadcast (2yr)</i>	\$21,361.35
Concordia University (Montréal) - <i>Journalism BA (4yr)</i>	\$32,042.14*
University of King's College (Halifax) - <i>Bachelor of Journalism (4yr) + Master’s</i>	\$10,680.67
Nova Scotia Community College (Halifax) - <i>Diploma in Radio Television Journalism (2yr)</i>	\$16,021.01
TOTAL	\$2,365,771

*Montréal contribution earmarked for Concordia Investigative Journalism Institute