



Broadcasting Notice of Consultation CRTC 2019-67

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Ottawa, 11 March 2019

Public record: [1011-NOC2019-0067](#)

Call for comments on an amendment proposed by Bell Media Inc., Corus Entertainment Inc. and Rogers Media Inc. to their condition of licence that requires prime time programming to be broadcast with described video

The Commission calls for comments on an application by Bell Media Inc., Corus Entertainment Inc. and Rogers Media Inc., on behalf of their licensees (the Licensees), requesting that the Commission amend their condition of licence that requires prime time programming (7 p.m. to 11 p.m.) to be broadcast with described video effective 1 September 2019.

Specifically, the Licensees requested an exception to that condition of licence to be allowed to air non-Canadian programs received less than 72 hours prior to broadcast without described video. For such programming, repeat airings with described video would be scheduled in prime time at a time greater than 72 hours from delivery.

*The deadline for the receipt of interventions is **25 April 2019**. Only parties that file interventions may file a reply to matters raised during the intervention phase. The deadline to file replies is **13 May 2019**.*

Introduction

1. The Commission is committed to improving the accessibility of the broadcasting system for persons with disabilities. This objective of Canada's broadcasting policy is prescribed in section 3(1)(p) of the *Broadcasting Act*, which states that programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose.
2. Television plays an important role in shaping Canadian society. It is a primary source of news, entertainment and sports programming, and plays a critical role in making Canadians aware of the wide range of ideas and perspectives that make up the rich fabric of our society. As a result, it is important that all Canadians have access to what television has to offer.
3. Described video is a narrated description of a program's main visual elements, such as setting, costumes and body language. It helps to make television programming accessible for people with visual disabilities by allowing them to better understand what is occurring on the screen. Described video thus enables accessibility of broadcast information, entertainment, ideas and perspectives that all Canadians enjoy.

4. Recognizing the importance of described video, the Commission has incrementally increased the availability of programming with described video in the Canadian broadcasting system since 2001 to ensure the continual availability of a greater diversity of described video content.
5. In Broadcasting Regulatory Policy 2015-104, the Commission stated that it would implement a tiered approach to the provision of described video. This approach would ramp up described video requirements over time in accordance with the size and resources of broadcasters. Specifically, by 1 September 2019, broadcasters currently subject to described video requirements, as well as those that belong to vertically integrated entities, will be required to provide described video for their prime time programming (7 p.m. to 11 p.m.) that falls under the identified program categories¹ seven days per week.
6. In Broadcasting Regulatory Policy 2016-436, the Commission established standard conditions of licence to that effect that would be imposed during the subsequent television licence renewals. However, the Commission also noted in that regulatory policy that requirements relating to the provision of described video for undertakings for which more substantial levels are appropriate would be discussed with those undertakings at licence renewals and imposed on a case-by-case basis. Accordingly, when the Commission renewed the broadcasting licences for the English- and French-language stations and services belonging to large ownership groups in 2017, it imposed the described video requirement as a standard condition of licence, which reads as follows:

The licensee shall, by 1 September 2019, provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

Experience of Canadians

7. Users of described video have consistently expressed to the Commission the value of traditional and conventional television programming. Canadians who are blind or partially sighted have stated that television continues to be their primary source of media and that described video programming directly contributes to a higher quality of life.
8. In past proceedings, Canadians who are blind or partially sighted have requested that the Commission increase described video programming specifically during prime time hours, arguing that such programming aired solely at daytime and/or nighttime hours neither meets their viewing needs nor provides for an equitable level of

¹ Program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

programming available to other viewers. They stated that while they often pay the same price for programming as other television subscribers, they can access only a fraction of the programming.

Application requesting an exception to described video requirements

9. On 28 November 2018, Bell Media Inc. (Bell), Corus Entertainment Inc. (Corus) and Rogers Media Inc. (Rogers), on behalf of their licensees (the Licensees), filed a Part 1 application requesting that the Commission amend their condition of licence that requires prime time programming (7 p.m. to 11 p.m.) to be broadcast with described video effective 1 September 2019.
10. Specifically, the Licensees requested an exception to that condition of licence to be allowed to air non-Canadian programs received less than 72 hours prior to broadcast without described video. For such programming, repeat airings with described video would be scheduled in prime time at a time greater than 72 hours from delivery.
11. The Licensees argued that the exception is necessary because a significant amount of U.S. content arrives without embedded described video very close to the time of broadcast and that there is insufficient time to produce or outsource described video in these circumstances. They added that live described video is not a viable option.
12. Without being granted this amendment, the Licensees stated that they would be unable to meet the prime time described video requirements by 1 September 2019. They also proposed that broadcasters be required to keep a log detailing the receipt date of all U.S. programs received without described video and broadcast in prime time, and provided a template for that purpose.
13. The application includes letters from described video production houses and various U.S.-based production/distribution studios that specify timeframes for delivery to Canada for first-run television series. The [application and supporting letters](#) can be found on the Commission's website.

Call for comments

14. The Commission calls for comments on the Licensees' proposal to amend the condition of licence on described video,² as follows (changes are in bold):

The licensee shall, by 1 September 2019, provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age) **with the exception of non-Canadian programs that are received less than 72 hours prior to air. Such programs will be broadcast with described video for repeat airings scheduled in prime time greater than 72 hours from delivery.**

² The existing described video condition of licence for the licensees of Bell, Corus and Rogers is set out in Broadcasting Decisions 2017-149, 2017-150 and 2017-151, respectively.

15. Further, the Commission is seeking comments regarding issues raised by the application, such as:

- the specific first-run prime time programs that are at issue in this application;
- the impact on viewers;
- the manner in which viewers could find accurate information concerning the scheduling of repeat airings of the programming at issue;
- the reason(s) why a significant amount of non-Canadian programming arrives without embedded described video;
- the commercial arrangements that the Licensees have with their suppliers of non-Canadian programming to procure first-run prime time programming with embedded described video;
- alternative approaches that would allow the Licensees to meet their described video requirements; and
- measures the Commission should take, if any, to be satisfied that the Licensees would be compliant with the proposed exception, should the Commission grant it.

Though the specific questions are set out in the appendix to this notice, interventions may address any issue relevant to the proposed amendment.

Disposal of application

16. The Commission considers that the requests made by the Licensees would be better addressed through this notice of consultation. Bell, Corus and Rogers are therefore made parties to this proceeding, and their 28 November 2018 application and supporting letters referenced above are made part of the [record](#) of this proceeding.

17. Consequently, the application is closed, and the matters raised therein will be dealt with according to the procedure set out in this notice.

Procedure

18. 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](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information

to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

19. The Commission invites interventions that address the issues and questions set out in the appendix to this notice. The Commission will accept interventions that it receives on or before **25 April 2019**. Only parties that file interventions may file a reply to matters raised during the intervention phase. The deadline for the filing of replies is **13 May 2019**. The Commission may request information, in the form of interrogatories, from any party to the proceeding.
20. 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.
21. 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.
22. 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.
23. 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

24. 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.

25. 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.
26. 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

27. 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.
28. 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.
29. 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.
30. 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

31. Electronic versions of the interventions and 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.
32. 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, Room 206
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

Related documents

- *Rogers Media Inc. – Licence renewals for English-language television stations, services and network*, Broadcasting Decision CRTC 2017-151, 15 May 2017
- *Corus Entertainment Inc. – Licence renewals for English-language television stations and services*, Broadcasting Decision CRTC 2017-150, 15 May 2017
- *Bell Media Inc. – Licence renewals for English-language television stations and services*, Broadcasting Decision CRTC 2017-149, 15 May 2017
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Let's Talk TV – Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

Appendix to Broadcasting Notice of Consultation CRTC 2019-67

Questions regarding described video requirements

Questions for Canadian viewers

Q1. In a scenario in which the Commission grants the amendment proposed by the Licensees, what would be the impact on your viewing experience? Include in your answer any steps that the Licensees could take to address these impacts.

Q2. How would granting the proposed amendment affect your ability to find out about when and how the programming at issue will be rebroadcast with described video? Include in your answer any actions that the Licensees could take to address this concern.

Questions for Bell, Corus and Rogers

Q3. This application raises what appears to be a procurement issue that could be resolved through amendments to existing procurement/licensing agreements with suppliers or in future negotiations. As such, the need for an exception as proposed by the Licensees would appear to be temporary in nature. Provide comment on the period of time required for the proposed exception, with supporting rationale.

Q4. Should the Commission agree with the need for an exception, the amended condition of licence, as proposed, would exclude “non-Canadian programs that are received less than 72 hours prior to air.” The proposed wording would, in theory, include non-Canadian programming that contains embedded described video. Provide comment on whether the proposed wording of the condition of licence accurately reflects the exception sought and, if not, propose alternative wording.

Q5. In a scenario in which the Commission grants the proposed amendment:

- a. Describe the approach that your organization would take to schedule the repeat programming at issue during prime time. In your response, specify the proximity of the repeat airing with described video to the first-run airing without described video in hours, days, weeks or months, as applicable for each program.
- b. Describe how you will clearly communicate the repeat airings of the programming with described video to your customers who rely on described video to ensure that they know when and how they can access this programming.
- c. Identify the reporting requirements, if any, that in your view would be appropriate to satisfy the Commission and Canadians that you have met the scheduling and communication commitments that you have detailed in your response to 5a. and b.

Q6. Provide your assessment of the impact of the proposed amendment on the viewing experience of your customers who rely on described video in accessing and enjoying first-run prime time programming. Include in your response input from consultations held with these customers.