



## Broadcasting Decision CRTC 2021-203

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Reference: Part 1 application posted on 18 August 2020

Ottawa, 15 June 2021

**Canadian Association of Broadcasters**  
Across Canada

*Public record for this application: 2020-0492-7*

### **The Independent Local News Fund – Revision to the allocation method**

The Commission **approves** an application by the Canadian Association of Broadcasters to increase the maximum percentage of proceeds from the Independent Local News Fund that can be allocated to any one station or group of stations operated by the same licensee in a given market from 10% to 12% in any given year.

The change will be effective on 1 September 2021, which is the beginning of the 2021-2022 broadcast year.

#### **Background**

1. In Broadcasting Regulatory Policy 2016-224, the Commission established the Independent Local News Fund (ILNF) to support the production of locally reflective news and information by private independent television stations. The ILNF is funded by licensed broadcasting distribution undertakings (BDUs), which are required to contribute 0.3% of their gross revenues from broadcasting activities in the previous broadcast year to the ILNF.<sup>1</sup> All private conventional television stations that provide locally reflective news and information and that do not belong to a vertically integrated group are eligible to receive ILNF funding.
2. The Canadian Association of Broadcasters (CAB) administers the ILNF and distributes funds according to the following three guidelines, which are set out in Broadcasting Regulatory Policy 2016-224:
  - two thirds will be distributed in proportion to each eligible station's share of total expenditures on locally reflective news and information over the previous three broadcast years;<sup>2</sup>

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<sup>1</sup> See sections 35 and 53 of the *Broadcasting Distribution Regulations*.

<sup>2</sup> The broadcast year begins on 1 September and ends on the following 31 August.

- one third will be distributed in proportion to the total number of hours of locally reflective news and information broadcast by each eligible station over the previous three broadcast years; and
- no station or group of stations operated by the same licensee in a given market will receive more than 10% of the funding in any given year.

## **Application**

3. The CAB proposed to modify the third guideline set out above to increase the maximum amount of funding that any station or group of stations operated by the same licensee in a given market may receive from 10% to 12% in any given broadcast year.
4. The CAB noted that Bell Canada had acquired the over-the-air stations owned by Groupe V Média inc (the V Média stations).<sup>3</sup> As a result, those stations are no longer eligible for funding from the ILNF. Any funding that could have been allocated to those stations is now available to be redistributed to other ILNF recipients.
5. The CAB submitted that the policy rationale for the current 10% cap was to ensure that smaller independent television stations would receive a reasonable level of funding and that a disproportionate amount of funding would not go to larger independent stations. Before the sale of the V Média stations, there were three stations whose funding was capped at 10%. The CAB submitted that maintaining the existing 10% cap now that the former V Média stations are ineligible would mean that a majority of ILNF recipients would be subject to the funding cap in at least one market. It therefore proposed a 12% cap to ensure an equitable redistribution of the newly available funds while not increasing the number of stations whose funding was capped under the 10% guideline.
6. In advance of filing its application, the CAB held consultations with the currently eligible ILNF recipients to review its proposed approach. The CAB found that eight of the nine recipient groups were prepared to endorse the proposal set out in the present application. RNC MEDIA Inc. (RNC) dissented.
7. The CAB proposed that the change be effective 1 September 2020 to allow it to retroactively adjust payments made during the 2020-2021 broadcast year.

## **Interventions**

8. A collective intervention was filed in support of the CAB's application by Channel Zero, Newfoundland Broadcasting Company, Dougall Media, CHEK Media Group,

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<sup>3</sup> See Broadcasting Decision 2020-116.

Télé Inter-Rives ltée, Miracle Channel and The Jim Pattison Broadcast Group (Channel Zero et al.).

9. The Commission also received interventions commenting on the application from RNC; Quebecor Media Inc. on behalf of Videotron Ltd. (Quebecor); Telile: Isle Madame Community Television Association (Télile) / Association Télévision communautaire de l'Île Madame (Télile); the Canadian Association of Community Television Users and Stations (CACTUS); and St. Andrews Community Television Inc. The concerns of those interveners are addressed in the following sections of this decision.
10. The CAB did not reply to the interventions.

### **Commission's analysis and decisions**

11. After examining the public record for this application in light of applicable policies and regulations, the Commission has identified the following issues to be addressed in this decision:
  - Should the Commission conduct a broad review of the ILNF at this time?
  - What is the appropriate maximum percentage of total funding that a station or group of stations operated by the same licensee in a given market may receive in any given year?
  - When should the revised allocation method be implemented?

### **Should the Commission conduct a broad review of the ILNF at this time?**

#### **Positions of parties**

12. RNC proposed that the Commission launch a public process to review the ILNF as a whole. The review would include a re-evaluation of the criteria used to determine the allocation of funds taking into account the different linguistic considerations of the Canadian broadcasting system.
13. Quebecor submitted that the sale of V Média's stations has reduced the number of French-language conventional television stations in the private sector that can benefit from the ILNF. Quebecor also argued that BDUs have to deal with reduced revenues because of accelerating rates of "cord cutting" across Canada as consumers affected by the COVID-19 pandemic seek to reduce expenses. Accordingly, it called for a public consultation that would examine the ability of BDUs to contribute to the ILNF.
14. Telile, CACTUS, and St. Andrews Community Television Inc. submitted that the Commission should reassess the eligibility criteria of the ILNF to include low-power television and community stations.

## **Commission's analysis**

15. The Commission recognizes that private television stations, especially at the local level, are important sources for the gathering and production of locally relevant and reflective news and information.
16. A public process to review the ILNF would serve as an opportunity to review all aspects of the ILNF, including linguistic issues, eligibility criteria, and allocation methods. However, conducting a full review at this time would delay dealing with the concerns raised by the CAB in the current application as the ILNF would continue to be allocated in accordance with the current 10% cap.
17. In Broadcasting Regulatory Policy 2016-224, the Commission indicated its intention to conduct a review of the ILNF in 2022. However, matters related to the production and broadcast of local news could be affected by the possible passage of Bill C-10 (*An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts*). Given that the ILNF is part of a suite of supports and requirements for the creation of local news and information in the private television sector, the Commission considers that conducting a review of the ILNF before there is certainty about the future regulatory framework could lead to incomplete results. The Commission is further of the view that the issue at hand with respect to the funding cap can be decided without a broad review of the ILNF.
18. Accordingly, the Commission considers that it is appropriate to conduct a review of broader issues related to the ILNF and other measures to support the production of local news and information at a later date.

## **What is the appropriate maximum percentage of total funding that a station or group of stations operated by the same licensee in a given market may receive in any given year?**

### **Positions of parties**

19. Channel Zero et al. supported the CAB's proposal to raise the maximum percentage of total funding that a station or group of stations operated by the same licensee in a given market may receive in any given year from 10% to 12%.
20. RNC indicated that, if the Commission were to decide not to conduct a broad review of the ILNF at this time, it would be satisfied with a cap of 11%. RNC submitted that an 11% cap would maintain the relative equitability of disbursed funds, assuming that BDU contributions to the fund would consistently decrease.

### **Commission's analysis**

21. The CAB presented its proposal to increase the maximum amount of funding that a station or group of stations operated by the same licensee in a given market may receive in any given year from 10% to 12% as the most equitable way to distribute

available funding following the sale of the V Média stations. This proposal was supported by all but one recipient of ILNF funding.

22. Assuming that the remaining recipients maintain their respective performance and contributions to the overall funding and broadcast of locally reflective news, the Commission considers that the CAB's proposal would provide all recipients with the opportunity to receive increased funding from the ILNF. It is also of the view that, under the CAB's proposal, the expected increase would be reasonably distributed across all fund recipients and variance of that increase between the recipients would be minimized. The Commission further notes that a 12% cap would affect the same three stations that are affected by the current 10% cap. This means that the remaining six groups of stations, by virtue of remaining under the cap, would still have an incentive to receive additional funding by increasing the production and broadcast of locally reflective news in order to potentially receive additional funding from the ILNF.
23. While RNC's proposal for an 11% cap would partially mitigate its own concerns about equitable distribution, it would increase the number of stations at the funding cap from three to eight. This would discourage additional expenditures on and increased broadcast of local news by those stations. The Commission also notes that a 12% cap does not prevent other stations, such as those owned by RNC, from receiving additional funding by expending more on the production of locally reflective news or increasing the number of hours of such programming that they broadcast.
24. In light of the above, the Commission considers that the CAB's proposal to increase the maximum percentage of proceeds from the ILNF that can be allocated to any one station or group of stations operated by the same licensee in a given market from 10% to 12% in any given year is appropriate.

### **When should the revision be implemented?**

25. When the CAB filed its application, it proposed that the increase in the funding cap be implemented retroactively on 1 September 2020, which was the beginning of the 2020-2021 broadcast year.
26. The Commission notes that the 2019-2020 [ILNF Annual Report](#), which the CAB files with the Commission each year, indicates that the funds for the 2020-2021 broadcast year would be disbursed according to the existing 10% cap, pending the Commission's decision. Given that we are now in the final quarter of the 2020-2021 broadcast year, implementing the change as proposed by the CAB raises the possibility of retroactive payments or stations having to return funds already received. The Commission therefore considers that it would be appropriate to implement the CAB's proposal effective on 1 September 2021, which is the beginning of the 2021-2022 broadcast year.

## **Conclusion**

27. In light of all of the above, the Commission **approves** the application by the CAB to increase the maximum percentage of proceeds from the Independent Local News Fund that can be devoted to any one station or group of stations operated by the same licensee in a given market from 10% to 12% in any given year.
28. The change will be effective on 1 September 2021, which is the beginning of the 2021-2022 broadcast year, rather than on 1 September 2020 as proposed by the CAB.

Secretary General

## **Related documents**

- *V interactions inc. – Change in ownership and effective control*, Broadcasting Decision CRTC 2020-116, 3 April 2020
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016