



Broadcasting Decision CRTC 2024-104

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Reference: Part 1 application posted on 1 June 2023

Ottawa, 13 May 2024

Quebecor Media Inc.
Québec, Quebec

Public record: 2023-0307-02

CFCM-DT Québec – Licence amendment

Summary

On 29 May 2023, Quebecor Media Inc. (Quebecor), on behalf of TVA Group Inc. (TVA), filed an application to obtain regulatory relief for the television station CFCM-DT Québec, Quebec. Specifically, the licensee asked to amend some conditions of service related to the broadcast of local news produced by the station.

In support of its application, TVA argued that the Québec station has higher requirements than other private broadcasters. It also noted the decreasing revenues, mainly due to competition from foreign undertakings. Finally, it stated that it must make difficult programming choices to maintain its network and some of its stations, while continuing to broadcast diversified, high-quality programming.

The Commission decided to consider TVA's application because of its limited scope. The application aims to alleviate certain requirements specific to the Québec station, not to modify the existing regulatory framework. After examining the application, the Commission considers that the arguments put forward by TVA are well-founded. However, it understands the importance of news and local programming for the Quebec City audience and has taken this into account in its decision.

Consequently, the Commission **approves** the application by Quebecor, on behalf of TVA, to amend the Québec station's conditions of service relating to local programming. As such:

- TVA will continue to broadcast 5 hours and 30 minutes per week of news produced in Québec, but will be able to determine the most appropriate time for broadcasting its newscasts. It will no longer be required to broadcast two newscasts produced in Québec on weekends;
- the number of hours of local programming required for the Québec station will be reduced from 18 hours to 16 hours per week; and

- the Québec station will no longer have to broadcast a certain number of hours of other programs that reflect this region.

The changes, which should have a modest impact on the Québec station's overall programming, will give the licensee greater flexibility while maintaining the number of hours of local news produced by the station. They will also enable it to maintain a production center in Québec, including the presence of journalists and editorial decision-making.

Application

1. On 29 May 2023, Quebecor Media Inc. (Quebecor), on behalf of TVA Group Inc. (TVA), filed an application to amend the conditions of service¹ of the television station CFCM-DT Québec, Quebec, relating to local programming. More specifically, TVA asked to amend condition of service 31, set out in Appendix 2 to Broadcasting Decision 2017-147, in order to:
 - reduce the number of hours of local programming per broadcast week from 18 to 16 hours; à
 - remove the requirement to broadcast two newscasts produced in Québec on the weekends; and
 - be relieved of the requirement to broadcast on the TVA network a certain number of hours of other programs that focus specifically on the Québec region.
2. In support of its application, TVA submitted the following arguments:
 - TVA's conditions of service have been administratively renewed since 2017² and require imminent adjustments;
 - TVA is the only private broadcaster to have such restrictive conditions of service, since the Commission granted greater regulatory flexibility to the Canadian Broadcasting Corporation (CBC) in Broadcasting Decision 2022-165;
 - given the difficult economic and competitive context, its revenues, like those of other private broadcasters, are decreasing, mainly as a result of competition from foreign companies. In this regard, Quebecor had to cut 140 positions on 17 February 2023, mainly at TVA; and

¹ Pursuant to subsection 49(1) of the *Online Streaming Act*, which made amendments to the old *Broadcasting Act*, the conditions of licence are deemed to be conditions of service imposed by an order made pursuant to section 9.1 of the new *Broadcasting Act*.

² See Broadcasting Decision 2022-180.

- TVA must make difficult choices regarding the programming of its network and some of its stations in order to ensure their sustainability while preserving the diversity and quality of the programming it broadcasts.

Interventions and reply

3. The Commission received five interventions in regard to this application, including one in support (the Canadian Association of Broadcasters [CAB]), two in opposition (Unifor and the Forum for Research and Policy in Communications [FRPC]) and two comments (Bell Media Inc. [Bell] and the Conseil provincial du secteur des communications [CPSC]). The interventions are detailed in the various sections of this decision.

Issues

4. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - TVA's financial situation;
 - the right time to consider the application;
 - the local programming exhibition requirement;
 - the broadcast of programs specifically reflecting the Québec region; and
 - the local news produced in Québec and broadcast on the weekends.

Commission's analysis

TVA's financial situation

5. In support of its application, TVA noted the difficult economic and competitive context, and the fact that its revenues, like those of other private broadcasters, are decreasing.
6. In this regard, the CPSC and FRPC considered that the evidence and difficulties specifically related to the Québec station are insufficient, and they questioned TVA's data on its difficult financial situation. The CPSC recognized that, although Quebecor's annual aggregate reports submitted to the Commission show that TVA's conventional television stations have been unprofitable since 2019 and that it reported a loss of \$51 million in 2022, if the profits reported for TVA's entire designated group (including discretionary services) are taken into account, the group's revenues only became unprofitable in 2022, not in 2019.
7. In its reply to the CPSC and the FRPC, TVA noted that the Commission has the data as evidence of TVA's financial difficulties and that this data is confidential information.

8. After examining the evolution of the private conventional television market in Quebec, the Commission notes that revenues in this sector were relatively stable from 2017-2018 to 2021-2022. However, no profitability was recorded during that time.
9. According to the cumulative financial reports submitted by TVA to the Commission as part of the Annual Broadcasting Survey, TVA's six conventional television stations recorded decreasing revenues and cumulative losses over the 2017-2018 to 2021-2022 broadcast years.
10. Over the same period, all of TVA's television services (conventional and discretionary, including LCN and TVA Sports) also reported cumulative losses.
11. In light of the above, the Commission finds that TVA's financial situation is indeed more difficult than it was at the time of establishing the requirements for its services in 2017. The Commission also finds that the station's financial situation is neither temporary nor transitory, as stated by the CPSC.

The right time to consider the application

12. Unifor argued that the new regulatory framework resulting from the *Online Streaming Act* and the *Act respecting online communications platforms that make news content available to persons in Canada* will lead to funding sources that will enable significant and considerable changes.
13. All stakeholders, including Bell, recognized that media companies have been facing difficult conditions for several years and that they are facing significantly decreased revenues. Specifically, the CAB stated that it will take a long time to fully implement the new regulatory framework and that greater regulatory flexibility is needed now.
14. In its reply, TVA restated its urgent need for flexibility in order to confront economic challenges. It also reiterated the consequences of not obtaining certain regulatory flexibility.
15. In connection with this application, the Commission also notes that on 30 June 2023, the FRPC and the Public Interest Advocacy Centre (PIAC) submitted a procedural request (the request) asking for the suspension of seven applications submitted by major private television ownership groups,³ including this application, so that they could be consolidated into a single proceeding that would respond to the concerns of the applicants and other interested parties.

³ More specifically, the request concerns the following Part 1 applications: 2023-0379-1 and 2023-0380-9), 2022-0946-0 and 2023-0300-9 (Corus Entertainment Inc.), 2022-0986-6 and 2023-0307-2 (TVA) and 2023-0373-3 (Rogers Media Inc.).

16. The Commission is of the view that, although the amended *Broadcasting Act* will lead to significant regulatory reforms within the broadcasting system, as pointed out by Unifor, the regulatory amendments will be made through various public processes that, taken together, will take some time to implement.
17. The Commission considers that there is no reason to delay reviewing TVA's application by processing it as part of the regulatory amendments relating to the implementation of the *Broadcasting Act* or by processing it as part of a proceeding combined with the other applications for relief covered by the FRPC and PIAC's application, for two reasons. First, the requirements in TVA's application are specific to its Québec station. Second, they exceed the boundaries of the regulatory framework established for conventional television stations in Broadcasting Regulatory Policy 2016-224. Specifically, the application focuses on obtaining a certain flexibility within the existing regulatory policy and framework, not on amendments to the established framework.
18. In light of the above, the Commission finds that it is appropriate to process TVA's application now, on an individual basis, thus separating it from the proceedings to implement the *Online Streaming Act*.

Local programming exhibition requirement

19. In its application, TVA proposed to reduce the local programming requirement for its Québec station (CFCM-DT) from 18 to 16 hours per broadcast week by replacing existing conditions of service 31(a)(i) and 31(a)(ii) with the following condition (changes affecting local programming are in bold):
 - (a) The licensee shall broadcast at least **16** hours of local programming in each broadcast week, of which
 - (i) at least **9 hours of programming** that focus specifically on the Québec region that may be broadcast on the TVA network, including at least 5 hours and 30 minutes of newscast produced in Québec.
20. Bell and the CAB stated that the approval of the proposed amendments would provide the licensee with some relief in managing expenditures for condition of service 31, adding that Canadian broadcasters need operational and regulatory flexibility now.
21. In its intervention, the CPSC recognized that CFCM-DT slightly exceeds the requirement imposed by its condition of service to broadcast at least 18 hours of local programming per week. However, the CPSC added that the station meets this requirement by broadcasting two hours of reruns and newscasts.
22. In support of its application, TVA stated that it is subject to stricter and more restrictive conditions than its competitors in the same market.

23. In general, Unifor, the FRPC and the CPSC are concerned that the reduction of local programming and the elimination of newscasts will have a negative impact on the creation, production and broadcast of local content.
24. Nevertheless, the CPSC suggested that the Commission approve TVA's request to reduce the number of hours of local programming to 16 hours per broadcast week, specifying however that these must be hours of original local programming and that newscasts must be maintained on the weekends.
25. On average, CFCM-DT offers over 18 hours of local programming per broadcast week. In its intervention, the CPSC stated that the station broadcasts a total of two hours of reruns. Even if these two hours are deducted from the number of hours of local programming declared by the station in its program logs, the Commission notes that CFCM-DT remains in compliance with its requirement to broadcast at least 18 hours of local programming per broadcast week.
26. The CPSC's proposal to reduce the number of hours of local programming to 16 hours per broadcast week (specifying that they must be hours of original local programming) has merit. However, the Commission notes that, as the requirement relates to the broadcast of newscasts, and that newscasts are broadcast, in whole or in part, several times during the day, it would be difficult for both the Commission and the licensee to distinguish between segments referring to original content and those broadcast earlier in the day.
27. The Commission also notes that the 16-hour threshold proposed by TVA would still be higher than the threshold established in Broadcasting Regulatory Policy 2016-224 for a market of approximately the same size as Québec City.
28. In addition, the Commission reviewed TVA's requirements and those of its two main competitors in the Québec market, CFAP-DT (Bell) and CBVT-DT (CBC), to determine whether TVA's arguments that it is subject to strict and unfair conditions are well-founded.
29. In Broadcasting Decision 2020-154, in which the Commission approved Bell's acquisition of V Interactions inc.'s stations, the Commission imposed on CFJP-DT Montréal and CFAP-DT Québec (now part of Bell's Noovo network) the requirement to broadcast at least eight hours and 30 minutes of local programming, including at least four hours and 15 minutes of locally reflective news per broadcast week, starting in the 2021-2022 broadcast year.
30. It is therefore fair to say, as TVA stated, that TVA's Québec station is subject to a local programming requirement that is higher than Bell's, even though Bell's requirement was imposed in a specific context (the acquisition of unprofitable local stations that did not produce in-house news programs).
31. For its part, the CBC is required, pursuant to Broadcasting Decision 2022-165, to broadcast at least five hours of local programming per broadcast week on its French-language conventional television stations in non-metropolitan markets. While

the CBC is not subject to a specific requirement as to the number of hours of news to broadcast, it is subject to a requirement to broadcast local news on a daily basis. However, this requirement is based on a different definition of what “news” should be, since the CBC and private broadcasters do not have the same mandate. As such, the Commission considers TVA’s comparison of its station’s requirements with those of the CBC to be invalid.

32. In light of the above, the Commission is of the view that TVA’s request to reduce the number of hours of local programming broadcast by its Québec station from 18 to 16 is reasonable, since the proposed condition of service would still exceed the requirement for stations operating in markets of a similar size, in accordance with Broadcasting Regulatory Policy 2016-224.
33. Moreover, the local programming hours requirement would remain higher than the requirement for Bell, the other private television broadcaster in the market. Furthermore, even assuming that TVA broadcasts two hours of reruns, as the CPSC indicated in its intervention, the proposed minimum requirement of 16 hours of local programming would still exceed the threshold established for stations operating in markets of the same size.
34. Finally, the Commission is of the view that the requested new threshold of 16 hours of local programming would provide the licensee with some relief, while ensuring that the station continues to offer a high level of local programming in the current context.
35. Consequently, the Commission **approves** the licensee’s request to reduce the local programming exhibition requirement for CFCM-DT from 18 to 16 hours per broadcast week.

Programs that focus specifically on the Québec region

36. TVA requested that the requirement to broadcast a certain number of hours of other programs that focus specifically on the Québec region and that may be broadcast on the TVA network be removed by replacing the current conditions of service 31(a)(i) and 31(a)(ii) with the following condition (the change affecting local reflection is in bold):
 - (a) The licensee shall broadcast at least 16 hours of local programming in each broadcast week, of which
 - (i) at least **9 hours of programming that focus specifically on the Québec region** that may be broadcast on the TVA network, including at least 5 hours and 30 minutes of newscast produced in Québec.
37. In its intervention, the CPSC noted its concern that the expertise of local news professionals would be lost or possibly displaced to larger centres. It noted that the jobs offered by the Canadian broadcasting system are more the responsibility of

Canadian broadcasters, and that the Commission should provide the conditions to create and maintain high levels of local news production and presentation.

38. In Broadcasting Decision 2017-147, the Commission retained the requirement imposed in Broadcasting Decision 2012-242 to broadcast at least three hours and 30 minutes of other programs that focus specifically on the Québec region and that can be broadcast on the TVA network. To this condition of service, the Commission has added a new requirement to broadcast a minimum of three hours and 30 minutes of locally reflective news in accordance with the new regulatory framework for local television set out in Broadcasting Regulatory Policy 2016-224.
39. Neither Bell nor the CBC have such specific requirements concerning a focus on the Québec region.
40. In addition to these two requirements, CFCM-DT is subject to a requirement to broadcast at least five hours and 30 minutes of newscasts produced in Québec.
41. With the approval of the requested amendment, TVA could determine that its nine hours of programming that focus specifically on the Québec region are made up entirely of Category 1 news, and thus avoid the current requirement to broadcast “3 hours and 30 minutes [that] shall be other programs that focus specifically on the Québec region.”
42. Nonetheless, the approval of the application would not call into question the safeguards put in place by the Commission in Broadcasting Decision 2017-147 in response to the concerns of certain interveners with the goal of countering a “Montréalization” of the airwaves. In fact, the Commission notes that the station would continue to be subject to the requirement to broadcast five hours and 30 minutes of newscasts produced in Québec, as well as the requirement to broadcast at least three hours and 30 minutes of locally reflective news.
43. In light of the above, the Commission is of the view that the modified requirement, as proposed by TVA, would ensure the broadcast of programs that focus specifically on the Québec region and the maintenance of news production at the Québec station. Consequently, the Commission **approves** the licensee’s request and modifies the wording of condition 31 to eliminate the requirement to broadcast a certain number of hours of other programs that focus specifically on the Québec region and that may be broadcast on the TVA network.

Local news produced in Québec broadcast on the weekends

44. TVA is requesting to be relieved of its requirement to broadcast two newscasts produced in Québec on the weekends, by replacing the current condition of service 31 with the following condition (the change affecting newscasts is in bold):
 - (a) The licensee shall broadcast at least 16 hours of local programming in each broadcast week, of which

(i) at least 9 hours of programming that focus specifically on the Québec region that may be broadcast on the TVA network, **including at least 5 hours and 30 minutes of newscast produced in Québec.**

45. According to the program logs filed with the Commission for the period of 6 June 2022 to 22 August 2022, the Québec station is in compliance with the requirement to broadcast at least five hours and 30 minutes of newscasts produced in Québec during each broadcast week.
46. In general, Unifor, the FRPC and the CPSC noted their concerns about the consequences that may result from a reduction of local programming requirements and the number of newscasts broadcast by the licensee.
47. For its part, TVA indicated that its approach endeavours to reduce its administrative burden and preserve the richness of its programming, as well as to avoid abandoning its activities altogether.
48. At the time of the last licence renewal for the television services of the large private ownership groups, the Commission did not establish a requirement for the broadcast of a specific number of newscasts or for specific times for other licensees to broadcast these newscasts. In fact, neither CFAP-DT (Bell) nor CBVT-DT (CBC) have any obligation to broadcast newscasts produced in Québec on the weekends. In this regard, condition of service 31 concerning the broadcast of two newscasts produced in Québec on the weekends is specific to TVA and to CFCM-DT.
49. TVA's statement that it is the only licensee subject to a requirement to broadcast newscasts specifically produced in Québec on the weekends is therefore well-founded.
50. The Commission conducted an analysis of CFCM-DT's (TVA), CFAP-DT's (Bell) and CBVT-DT's (CBC) ratings to assess the possible impact of the withdrawal of weekend newscasts on TVA's audience.
51. For the 2021-2022 broadcast year, CFAP-DT (Bell) and CBVT-DT (CBC) recorded an average weekend audience that was slightly higher than the audience for CFCM-DT (TVA), which reached a higher weekday audience. TVA's two weekend newscasts are therefore watched by a smaller audience than the audience that watches the weekday newscasts.
52. Furthermore, although TVA requested the removal of its requirement to offer newscasts produced in Québec on the weekends, it did not state that it intends to stop the broadcast of newscasts on the weekends (e.g., network newscasts produced in Montréal).
53. The Commission is sensitive to Unifor's, the FRPC's and the CPSC's concerns about the possibility that the removal of weekend newscasts may cause the station to reduce staff on weekends. However, the Commission notes that TVA is not proposing to change the total number of hours of news produced in Québec, since the current

requirement to broadcast at least five hours and 30 minutes of news produced in Québec per broadcast week would be maintained.

54. Therefore, should the request be approved, TVA would still be required to maintain a production centre in Québec, including the presence of journalists and editorial decision-making, which would ensure that the staff working on program production would remain at the Québec station.
55. The Commission also notes that, in the event that TVA were to replace the newscasts produced by the Québec station on the weekends with another type of programming or news from the TVA network, the licensee would nonetheless have to compensate for the broadcast of newscasts produced in Québec on the weekends by the broadcast of a greater number of hours of news produced in Québec during the week.
56. In light of the above, the Commission is of the view that the removal of the requirement to broadcast two newscasts produced in Québec on the weekends on CFCM-DT would have a limited impact on news programming and on the workforce of the Québec station, while providing the licensee with certain relief enabling it to cope with a difficult financial situation. Consequently, the Commission **approves** the licensee's request to be relieved of its requirement to broadcast two newscasts produced in Québec on the weekends.

Adherence to the requirements

57. On 2 June 2023, following the Commission's publication of this application, TVA announced its intention to cease broadcasting its two weekend newscasts on CFCM-DT as of 19 June 2023, without waiting for the Commission's decision on its application. Commission staff then sent a letter to the licensee reminding it that it must comply with its regulatory requirements at all times, failing which, corrective measures could be taken by the Commission. In its reply, TVA indicated that it would make every effort to continue to meet its requirements until a decision was issued.
58. In its intervention, Bell stressed that the Commission should impose an administrative monetary penalty on TVA if CFCM-DT stopped broadcasting weekend newscasts without the Commission's approval.
59. The Commission considers that it is not necessary to impose an administrative monetary penalty on TVA, as it has complied with its regulatory requirements. However, the Commission reminds the licensee that it must comply with its regulatory requirements at all times, failing which, corrective measures may be taken by the Commission.

Conclusion

60. In light of all of the above, the Commission **approves** the application filed by Quebecor Media Inc., on behalf of its subsidiary TVA Group Inc., to amend the conditions of service of the television programming undertaking CFCM-DT Québec relating to local programming.

61. Accordingly, the Commission replaces condition of service 31, set out in Appendix 2 to Broadcasting Decision 2017-147, and, pursuant to subsection 9.1(1) of the *Broadcasting Act*, **orders** Quebecor Media Inc. to adhere to the following **condition of service** for CFCM-DT:

Consistent with *Policy framework for local and community television*,
Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016:

(a) The licensee shall broadcast at least 16 hours of local programming in each broadcast week, of which

(i) at least 9 hours shall be programming that focuses specifically on the Québec region and that may be broadcast on the TVA network, including at least 5 hours and 30 minutes of newscast produced in Québec; and

(ii) at least 3 hours and 30 minutes shall be locally reflective news in each broadcasting week.

62. Other conditions of service applicable to the licensee for CFCM-DT set out in Appendix 2 of Broadcasting Decision 2017-147 remain unchanged and the licensee continues to be subject to those conditions.

63. Since the amended condition of service was published by the licensee as part of its application and the licensee and interveners had an opportunity to provide comments in this regard, the requirements pursuant to subsection 9.1(4) were met, in the circumstances.

Secretary General

Related documents

- *Various large English-language and French-language television ownership groups – Administrative renewals*, Broadcasting Decision CRTC 2022-180, 4 July 2022
- *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165 and Broadcasting Orders CRTC 2022-166 and 2022-167, 22 June 2022, modified by Broadcasting Decision CRTC 2022-165-1, 20 June 2023
- *V Interactions inc. – Change in ownership and effective control*, Broadcasting Decision CRTC 2020-154, 19 May 2020
- *Quebecor Media Inc. – Group-based licence renewals for French-language television stations and services*, Broadcasting Decision CRTC 2017-147, 15 May 2017

- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016
- *TVA Group Inc. – Licence renewals*, Broadcasting Decision CRTC 2012-242, 26 April 2012

This decision is to be appended to the licence.