



Broadcasting Decision CRTC 2024-133

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Reference: Part 1 application posted on 31 May 2023

Ottawa, 18 June 2024

Rogers Communications Inc.
Across Canada

Public record: 2023-0275-1

Fulfilment of conditions of approval set out in *Shaw Communications Inc. – Change of ownership and effective control*

Summary

In Broadcasting Decision 2022-76, the Commission approved Rogers Communications Inc. (Rogers) acquisition of Shaw Communications Inc.'s broadcasting undertakings.

The Commission approved that transaction on the condition that Rogers file certain documents and amend certain of its conditions of service¹. These requirements ensured that the transaction benefited Canadians and the Canadian broadcasting system.

Rogers filed the requested documents and applied to amend the required conditions of service. The Commission approves the application, with modifications to ensure that Rogers fully meets the requirements for the conditions of approval in Broadcasting Decision 2022-76.

The Commission also makes the orders necessary to give effect to these conditions of service.

Background

1. In Broadcasting Decision 2022-76, the Commission approved, subject to a number of modifications and the fulfilment of specific conditions of approval, an application (2021-0228-4)² by Rogers Communications Inc. (Rogers), on behalf of Shaw Communications Inc. (Shaw), for authority to transfer the effective control of the

¹ Previously known as conditions of licence.

² Application 2021-0228-4 was published via Broadcasting Notice of Consultation 2021-281 for consideration at a hybrid public hearing.

broadcasting undertakings licensed to Shaw or its subsidiaries to Rogers or its subsidiaries.³

2. As part of Broadcasting Decision 2022-76, the Commission required, as a condition of its approval, that Rogers file a signed agreement with the Canada Media Fund (CMF) relating to the allocation of tangible benefits. It also required that Rogers make a number of amendments to its conditions of licence (now conditions of service)⁴ to ensure that the transaction benefits Canadians and the Canadian broadcasting system.

Application

3. Rogers filed an application (2023-0275-1) on behalf of itself and its subsidiaries, namely, Rogers Communications Canada Inc. (RCCI), Rogers Media Inc. (RMI), Shaw Cablesystems Limited (SCL), Shaw Pay-Per-View Ltd., Shaw Satellite Services Inc. and Star Choice Television Network Incorporated (Shaw Direct)⁵, in which it proposed amendments to its conditions of service that would fulfil conditions of approval set out in Broadcasting Decision 2022-76.

Interventions and reply

4. The Commission received interventions from the Black Screen Office (BSO) and the Independent Broadcast Group (IBG) regarding this application as follows:
 - BSO commented on the portion of tangible benefits to be provided to the CMF; and
 - IBG commented on the minimum number of Canadian independent English- and French-language programming services to be distributed and also on the provision of set-top box (STB) data on the Cynch platform.
5. Rogers replied to these interventions.

Issues

6. After examining the record for this application in light of the direction given to Rogers in Broadcasting Decision 2022-76, and the applicable regulations and

³ The licensed undertakings, as well as their terms and conditions of service, are set out in Appendix 1 to Broadcasting Decision 2022-76.

⁴ Under the *Online Streaming Act*, which made amendments to the *Broadcasting Act*, conditions of licence are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act* or, in the case of expenditures, subsection 11.1(2).

⁵ On 1 January 2024, Rogers Communications Canada Inc. amalgamated with 7538375 Canada Inc., Crave Technologies Ltd., Mainland Telecom Inc., Shaw Cablesystems Limited, Shaw Envision Inc., Shaw Fiberlink Ltd., Shaw Pay-Per-View Ltd., Shaw Telecom Inc., and others to continue as Rogers Communications Canada Inc. On that same date, Shaw Satellite Services Inc. amalgamated with Star Choice Television Network Incorporated to continue as Shaw Satellite Services Inc.

policies, the Commission has considered each of Rogers' proposals, with modifications to the following issues:

- the appropriateness of the signed agreement between Rogers and the CMF;
- an amendment to expenditure-related reporting requirements;
- reporting on various commitments within its diversity report;
- the distribution of 45 English- and French-language independent services; and
- the provision of STB data on the Cynch platform.

Agreement with the CMF relating to tangible benefits

7. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to file a signed agreement between Rogers and the CMF relating to the allocation of tangible benefits between the CMF's Northern Incentive Program (NIP) and its Pilot Program for Racialized Communities (PPRC).
8. In a letter dated 25 April 2022, Rogers stated that it had been advised by the CMF that the proposal to split the funds equally between the NIP and the PPRC could be problematic if those programs ceased to exist. The CMF noted that it would be better to ensure that all equity-seeking groups could benefit from these funds.
9. Rogers filed a signed agreement containing an alternate proposal regarding the allocation of expenditures to be devoted to the CMF's programs.
10. In its intervention, BSO submitted that the proposal by Rogers provided too much flexibility. It added that the agreement could specify that, if PPRC and NIP ceased to exist, the allocations that would have been directed to these programs could then be directed to other programs that benefit racialized communities and/or Indigenous peoples.
11. In its reply, Rogers indicated that it would work with the CMF to amend the agreement to specify that these allocations would be devoted to such programs, if eligible.
12. Rogers then filed an amended agreement. This agreement incorporated the Commission's requirement that funding be directed to the PPRC and NIP. It also included a new paragraph, which reads as follows:

Should the PPRC or NIP cease to exist, as an alternative, the CMF and Rogers agree that the funding that was going to be directed to that applicable Program will be directed to Eligible Applicants that are owned and controlled by individuals who are (i) First Nations, Métis and/or Inuit; (ii) members of racialized communities; (iii) 2SLGBTQ+; and/or (iv) Persons with disabilities/Disabled persons.

13. In light of the above, the Commission finds that the filed agreement between Rogers and the CMF relating to the allocation of tangible benefits, along with the alternative should the PPRC and NIP cease to exist, meets the condition set out in Appendix 2 to Broadcasting Decision 2022-76.
14. However, given the Commission's stated requirement, as set out in paragraph 63 of Broadcasting Decision 2022-76, that these tangible benefits must directly benefit equity-seeking groups, the Commission considers it appropriate that Rogers enter into a new agreement with the CMF. The agreement would outline that, if the PPRC or NIP cease to exist, Rogers would return to the Commission with a proposal for the use of any outstanding payment amounts by the CMF. In particular, clause 4 of the current agreement between Rogers and the CMF should be amended to read as follows:

Should the PPRC or NIP cease to exist, Rogers will return to the Commission with an alternate proposal that ensures that any outstanding payments on Rogers' part contribute towards CMF programs that directly benefit equity-seeking groups, consistent with Broadcasting Decision 2022-76.
15. In light of the above, the Commission finds it appropriate for Rogers to file a revised agreement with the CMF within 30 days of this decision reflecting the above clause. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Inc., by **condition of service**, to make the amendment to clause 4 of the agreement between Rogers and the CMF as set out above, and to file it with the Commission within 30 days. The specifics of this condition of service are set out at condition 1 in Appendix 2 to this decision.

Amendment to expenditure-related reporting requirements

16. The Commission also directed the licensee to apply to amend the conditions of licence imposed on all of its television programming undertakings to include a reporting requirement relating to tangible benefits expenditures.
17. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions imposed on the Citytv stations, Outdoor Life Network, FX, FXX, Sportsnet 360, Sportsnet, Sportsnet One, Rogers on Demand, Hockey Night in Canada (television network), OMNI stations and Rogers Sportsnet PPV. The amendment of these conditions would include a reporting requirement relating to contributions to discretionary initiatives and outlining how these allocations are incremental and benefit the Canadian broadcasting system.
18. Rogers noted that RMI currently operates several television programming undertakings but that, following the close of the transaction, RCCI is the licensee of the direct-to-home (DTH) pay-per-view (PPV) service Shaw Pay-Per-View.

19. Rogers proposed that the above-mentioned reporting requirements be imposed only on RCCI rather than on each programming undertaking. Rogers proposed imposing the condition below on RCCI:

The licensee shall submit to the Commission an annual report on its tangible benefits expenditures arising from Broadcasting Decision CRTC 2022-76 by no later than 30 November following the end of each broadcast year detailing all of the contributions that it has made to each of the discretionary initiatives, specifically indicating how the allocations are incremental in nature to any other expenditures made by itself or an affiliate to these same initiatives.

20. The Commission understands that the proposal above would be required for only one entity and simplify the reporting requirements. However, given the complexity of the tangible benefits package, the Commission considers it appropriate to require Rogers to file a report for any television programming undertaking operated by a Rogers-related entity⁶ obligated to make tangible benefits expenditures. Given that Rogers would have to calculate all the tangible benefits expenditures for each licensee before providing a total amount, the Commission is of the view that reporting these expenditures by licensee rather than in total would not be overly burdensome.
21. As specified in paragraph 67 of Broadcasting Decision 2022-76, the Commission's objective in imposing this requirement was also to ensure that it could verify that the allocation of tangible benefits coming from the transaction is incremental and truly benefits the Canadian broadcasting system. In the Commission's view, imposing a reporting requirement only on RCCI may not allow the Commission to meet this objective.
22. The Commission's approach in this instance is consistent with the approach that it took in Broadcasting Decision 2013-310, which addressed a similar transaction involving the acquisition of Astral Media Inc. by BCE Inc.
23. In light of the above, the Commission finds it appropriate to require Rogers to file a report for all television programming undertakings that are currently operated by a Rogers-related entity that would incur tangible benefits expenditures stemming from this transaction. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Canada Inc, Rogers Media Inc., 8064750 Canada Inc. and 8834776 Canada Inc., by **conditions of service**, to file the above-noted report, the specifics of which are set out at conditions 2 and 3 in Appendix 2 to this decision.

⁶ As in footnote 2 of Broadcasting Decision 2022-76, this refers to the following: "The licences for its Citytv stations, Outdoor Life Network, FX, FXX, Sportsnet 360, Sportsnet, Sportsnet One, Rogers on Demand, Hockey Night in Canada (Television network), OMNI stations and Rogers Sportsnet PPV."

Amendments to conditions of service imposed on undertakings operated by Rogers, Shaw or their subsidiaries

Dealings involving Rogers and Corus

24. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions of licence imposed on its broadcasting distribution undertakings (BDUs) to ensure that dealings involving Rogers and Corus do not unduly advantage Rogers, Corus or their subsidiaries.

25. In its application, Rogers proposed the condition below:

The licensee shall ensure that: (a) Corus Entertainment Inc. (Corus) will not be unduly advantaged in its dealings with Rogers Communications Canada Inc. or its affiliated distribution undertakings going forward, and vice versa; (b) the licensee and Corus will not act as a single entity when it works in their favour; and (c) the licensee will not deprive either directly or indirectly other BDUs or industry participants of Corus' content.

26. The Commission is satisfied that the proposed condition of service is consistent with the direction provided in Broadcasting Decision 2022-76. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Canada Inc. and Shaw Satellite Services Inc., by **condition of service**, to ensure that dealings involving Rogers and Corus do not unduly advantage Rogers, Corus or their subsidiaries as set out above. The specifics of this condition of service are set out at condition 4 in Appendix 2 to this decision.

Shaw Broadcast Services and requirements relating to dispute resolution, the standstill rule and the Wholesale Code

27. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions of licence imposed on the satellite relay distribution undertaking Shaw Broadcast Services to include requirements relating to dispute resolution, the standstill rule and the Wholesale Code.

28. In its application, Rogers proposed to amend the conditions of service imposed on Shaw Broadcast Services to include the above-mentioned conditions.

29. The Commission is satisfied that the proposed conditions of service are consistent with the direction provided in Broadcasting Decision 2022-76. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Shaw Satellite Services Inc., by **condition of service**, to adhere to the requirements relating to dispute resolution, the standstill rule and the Wholesale Code, the specifics of which are set out in conditions 9 to 11 in Appendix 2 to this decision.

Citytv stations and requirements relating to certain annual prime time locally reflective news specials

30. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions of licence imposed on the Citytv stations to include a requirement relating to the production of prime time locally reflective news specials.

31. In its application, Rogers proposed that the conditions imposed on RMI's Citytv stations be amended to include a requirement that:

The licensee shall, in each broadcast year beginning September 1, 2023, produce 48 original, locally reflective prime time news specials, that are over and above the current regulated expenditure and hour requirements imposed on the licensee for locally reflective news programming.

32. The Commission is satisfied that the proposed condition of service is consistent with the direction provided in Broadcasting Decision 2022-76. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Media Inc., by **condition of service**, to produce locally reflective prime time news specials as set out above. The specifics of this condition of service are set out at condition 12 in Appendix 2 to this decision.

Diversity report for the Citytv stations

33. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions of licence that apply to its Citytv stations so that its diversity report would include additional reporting requirements relating to the creation and funding of the following:

- the Indigenous news content team;
- Western Canada journalists to be added to Parliament Hill team;
- growing investment in the Western news markets; and
- mentorship opportunities for Indigenous content creators.

34. In its application, Rogers noted that, with respect to the fourth bullet above, the commitment made to the Commission concerned a mentorship program for Indigenous content creators associated with its community channels, Rogers Television (including former Shaw Spotlight channels), not the Citytv stations.

35. Rogers was of the view that this initiative should not be included in the same condition of service as the other three initiatives related to Citytv content and operations. Instead, it proposed that the conditions imposed on the Citytv stations be amended to specify the following:

The licensee shall include in the annual diversity report it files with the Commission details specifying how the following three initiatives contribute incrementally to the Canadian broadcasting system and serve the public interest:

- Indigenous news content team;
- Western Canada journalists to be added to Parliament Hill team in Ottawa; and
- growing investment in the Western news markets.

36. As part of the access and local programming report that it must file,⁷ Rogers also included a description of its Indigenous community programming initiatives. Rogers noted that it provides mentorship opportunities for Indigenous content creators through the Indigenous Community Ambassador program and committed to outlining that program in detail in that report.

37. The Commission notes that what Rogers has proposed differs from what the Commission directed it to provide. For example, Rogers has not proposed to outline exactly how the initiatives are funded through incremental expenditures. It has proposed only to report on mentorship opportunities for Indigenous content creators as part of its one-time access and local programming report and not as part of its annual diversity report.

38. When providing details regarding the above-noted initiatives, the Commission considers that Rogers should include evidence that the initiatives are funded through incremental expenditures.

39. As mentioned in paragraph 116 of Broadcasting Decision 2022-76, the Commission acknowledges that Rogers committed to a mentorship program clearly tied to its community channels. This included, among other things, “consulting with Indigenous communities, hiring 10 Indigenous community ambassadors and developing mentorship opportunities for Indigenous content creators.”

40. The Commission considers it appropriate to separate the reporting requirement related to the above-mentioned mentorship program from that related to Citytv content and operations. Instead, it would require that the BDUs operating community channels report on the Indigenous Community Ambassador program. The Commission finds that the following condition of service should be imposed on Rogers BDUs:

⁷ As in Appendix 2 to Broadcasting Decision 2022-76, this one-time report must be filed no later than 60 days following the close of the transaction. This report is intended to demonstrate the progress Rogers has made in ensuring that the access and local programming requirements for each of the licensed and exempt BDUs currently operated by SCL are met.

The licensee shall include in the annual diversity report it files with the Commission details regarding the mentorship opportunities offered to Indigenous content creators by the licensee.

41. However, the Commission notes that the proposal by Rogers to make this reporting requirement part of the one-time access and local programming report, would not achieve the same results as making it part of the annual diversity report. The Commission is of the view that the mentorship program should be assessed on an ongoing basis, as a part of the diversity report.
42. The Commission is satisfied that the proposed condition of service is consistent with the direction provided in Broadcasting Decision 2022-76. Therefore, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Media Inc., by **condition of service**, to provide the specified information in its annual diversity report as set out above. The specifics of this condition of service are set out at condition 13 in Appendix 2 to this decision.
43. Additionally, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Media Inc., by **condition of service**, to provide details regarding the mentorship opportunities offered to Indigenous content creators in its annual diversity report, as set out in paragraph 40 of this decision. The specifics of this condition of service are set out at condition 14 in Appendix 2 to this decision.

Distribution of independent programming services on terrestrial and direct-to-home BDUs

44. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions of licence imposed on its BDUs to include a requirement relating to the distribution of Canadian independent English- and French-language services from independent programmers other than Corus Entertainment Inc.
45. In its application, Rogers proposed the condition below:

The licensee shall distribute to the extent that such programming services are available, a minimum of 45 Canadian English- and/or French-language programming services of an independent programming undertaking, for a three-year period beginning April 3, 2023.
46. Rogers added that RCCI and Shaw Direct already comply with the proposed condition above and that SCL would be in compliance by 1 September 2023.
47. In its intervention, IBG submitted that the proposed condition should specify that the services to be distributed should be those other than Corus services. IBG added that the Commission had not included a three-year sunset when specifying the requirements to fulfil this condition of approval, and so this sunset should be removed. IBG added that, in its view, extending this commitment beyond three years would create a long-term access right, and that the Commission should instead impose the condition below on all of the BDUs operated by Rogers:

The licensee shall distribute to the extent that such programming services are available, a minimum of 45 Canadian English- and/or French-language programming services of an independent programming undertaking other than Corus Entertainment Inc.

48. In its reply, Rogers revised its proposed condition of service to exclude independent programming undertakings owned by Corus Entertainment Inc. However, Rogers disagreed that the condition should apply permanently. It submitted that the condition was intended to be temporary until the Commission launched a public proceeding on the status of Corus and the existing regulatory mechanisms supporting independent programming services.
49. Rogers added that it had committed to a three-year period, both at the public hearing and in its final reply on the record of the proceeding initiated by Broadcasting Notice of Consultation 2021-281. Rogers submitted that its commitment was clearly stated, understood by all parties during the hearing and reflected in the final determination. For instance, this commitment was mentioned in paragraphs 89, 93 and 126 of Broadcasting Decision 2022-76.
50. Rogers noted that the Commission had rejected requests from other parties during that proceeding to extend that period, specifically, that it would be five to seven years long. Rogers added that, in its view, this permanent requirement would be a difficult commitment.
51. With respect to the proposed start date of 3 April 2023, the Commission notes that this date was proposed due to capacity concerns that have since been resolved (as confirmed in a letter from Shaw dated 31 August 2023).
52. The Commission notes that Rogers proposed a three-year sunset, and that this proposal was discussed in Broadcasting Decision 2022-76. However, no three-year sunset was included in what the Commission set out as necessary to fulfil this condition of approval. Instead, the Commission indicated that it would launch a public proceeding to establish a modernized regulatory framework for broadcasting and that it would examine supports for independent services as part of that process.
53. The implementation of a new framework may not be complete within three years. Therefore, including a three-year sunset could create a gap between the end of that period and the coming into effect of measures to support independent services. As such, the Commission considers it appropriate not to include a three-year limit but instead to leave this condition in place until the above-mentioned process concludes and the new, modernized framework can be implemented.
54. In light of the above, the Commission finds it appropriate to impose a condition of service on the BDUs operated by Rogers which contains no time limit. This condition

of service can be revisited after the Commission has completed its review of the role of independent services as part of the modernized broadcasting framework.

55. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Canada Inc. and Shaw Satellite Services Inc., by **condition of service**, to distribute, to the extent that such programming services are available, a minimum of 45 Canadian programming services, which may be English- and/or French-language, of an independent programming undertaking, excluding those owned by Corus Entertainment Inc. The specifics of this condition of service are set out at condition 5 in Appendix 2 to this decision.

Dispute resolution and the standstill rule

56. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to amend the conditions of licence relating to dispute resolution and the standstill rule imposed on its BDUs. The goal of this was to expand Rogers' standstill obligations (applying to Rogers' BDUs and Shaw's satellite relay distribution undertakings) if there were a dispute with independent programmers, enabling the standstill rule to apply to all independent services.
57. In its application, Rogers proposed a condition with identical wording to that set out by the Commission in Appendix 2 to Broadcasting Decision 2022-76.
58. The Commission is satisfied that the proposed condition of service is consistent with the direction provided in Broadcasting Decision 2022-76. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Canada Inc. and Shaw Satellite Services Inc., by **condition of service**, to refer a matter to the Commission for dispute resolution within 90 days of the initiation of negotiations for an affiliation agreement between Rogers and an independent programmer thus triggering the standstill rule. The specifics of this condition of service are set out at condition 6 in Appendix 2 to this decision.

Providing set-top box data on the Cynch platform

59. In Appendix 2 to Broadcasting Decision 2022-76, the Commission directed the licensee to apply to add a condition of licence relating to providing data on the Cynch platform.
60. In its application, Rogers proposed the condition below:

Where the licensee collects set-top box data regarding programming services it distributes, it shall, upon the written request of an independent Canadian programming service that has entered into an agreement to participate in the CYNCH program, provide the operator of that programming service with the set-top box data regarding that programming service, in the form of raw data or reports, within 30 days,

- i. at no cost; and

- ii. up to a maximum of two times per broadcast year, unless otherwise agreed to by the parties.

For the purposes of this condition of licence, “set-top box data” means viewership data that is obtained by the licensee through a set-top box or by comparable means for use on the CYNCH platform, but does not include any portion of such data that would allow the recipient of the data to identify a particular subscriber or household.

- 61. In its intervention, IBG requested that this condition also be imposed on Shaw Direct. IBG also submitted that the condition proposed by Rogers duplicates requirements that are already in place⁸ and providing data only twice per year and with a delay of up to 30 days does not meet the needs of independent programmers. In IBG’s view, this does not fulfil the Commission’s requirement that this data be provided in a timely manner. It considers that independent programmers cannot effectively compete without near real-time access to data, which is currently only available to vertically integrated (VI) and formerly VI programmers.
- 62. IBG proposed that the following condition be imposed on each of the BDUs operated by RCCI, SCL and Shaw Direct:

Where the licensee collects set-top-box data regarding programming services it distributes, it shall, upon the written request of an independent Canadian programming service that participates in the CYNCH program, provide the operator of that programming service with the set-top box data regarding that programming service, in the form of raw data or reports, in a timely manner and at no cost, consistent with the format, frequency and timelines with which programming services affiliated with Rogers receive such data.

For the purposes of this condition of licence, “set-top box data” means viewership data that is obtained by the licensee through a set-top box or by comparable means for use on the CYNCH platform, but does not include any portion of such data that would allow the recipient of the data to identify a particular subscriber or household.

- 63. In its reply, Rogers confirmed that it would provide data, separated by postal code, for the service or services of a given programmer, upon written request and at no cost. However, it stated that programmers would first need to enter into a commercial agreement with Cynch as well as pay licensing fees and other costs. Programmers would then be required to enter into a commercially reasonable STB data licensing agreement with RCCI and any third party hired by RCCI to manage data access.
- 64. Rogers added that the timelines within which it had proposed providing STB data (that is, up to two times per broadcast year and within 30 days of the submission of

⁸ See paragraph 116 in Broadcasting Decision 2018-263.

a request) were consistent with the “universally used metrics” that the Commission set out in paragraph 116 of Broadcasting Decision 2018-263 and restated in paragraph 145 of Broadcasting Decision 2022-76.

65. However, in response to IBG’s intervention, and to provide more clarity, Rogers proposed that the Commission impose a revised condition, which reads as follows:

Where the licensee collects set-top box data regarding programming services it distributes, it shall, upon the written request of an independent Canadian programming service that has entered into an agreement to participate in the CYNCH program, enter into a separate agreement with the operator of that programming service and a third party (selected at the licensee’s discretion) to arrange for the provision of set-top box data regarding that programming service, in the form of raw data or reports, by the third party to the programmer, within 30 days and at no cost. The format, frequency and timelines for the provision of the set-top box data will be consistent with the manner by which this data is provided to other participants in the CYNCH program, in respect of their programming services, for use on the CYNCH platform.

For the purposes of this condition of licence, “set-top box data” means viewership data that is obtained by the licensee through a set-top box or by comparable means for use on the CYNCH platform, but does not include any portion of such data that would allow the recipient of the data to identify a particular subscriber or household.

66. Rogers submitted that Shaw Direct should not be subject to the above condition because it is not currently subject to the condition imposed in paragraph 116 of Broadcasting Decision 2018-263. This is due to challenges with STB data collection in the case of DTH video distribution (specifically, the inability of satellite companies to collect STB data).
67. The Commission considers that access to STB data is crucial to ensuring fairness in negotiations between programmers and BDUs, and that this data should be provided for free and in a timely manner.
68. Currently, Rogers remains subject to the requirement to provide STB data outside the Cynch platform. Until the Enhanced Television Audience Measurement (ETAM) system is ready, the Commission considers that it is acceptable to require Rogers to provide STB data to programming services it distributes that have entered into agreements with Cynch. This includes agreements that require the payment of licence fees.
69. However, the Commission also notes that pre-existing barriers to collecting STB data in the case of DTH video distribution have not been resolved. Therefore, the Commission considers it appropriate to require only the terrestrial BDUs owned and operated by Rogers to provide STB data by condition of service.

70. In light of the above, the Commission finds it appropriate to impose a condition of service on the terrestrial BDUs owned and operated by Rogers which requires them to collect set-top box data. These BDUs must provide that data, upon written request, to an independent Canadian programming service that has entered into an agreement to participate in the Cynch program in the form of raw data or reports via a third party within 30 days at no cost, up to a maximum of two times per broadcast year.
71. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Canada Inc., by **condition of service**, to provide set-top box data as outlined above. The specifics of this condition of service are set out at condition 7 in Appendix 2 to this decision.

Providing assistance to independent services developing online distribution applications or free ad-supported streaming television channels

72. In paragraph 153 of Broadcasting Decision 2022-76, the Commission required Rogers to apply to amend the conditions of licence imposed on its BDUs to include a requirement relating to providing assistance to independent programming undertakings developing applications or free ad-supported streaming television (FAST) channels for the online digital distribution of independent services.
73. In its application, Rogers proposed that the conditions imposed on the BDUs operated by RCCI and SCL be amended to include the following:

The licensee shall assist an independent programming undertaking that is being distributed by the licensee, upon receiving a written request from the undertaking, in the development of an app or free ad-supported streaming television (FAST) channel for the online digital distribution of the independent programming undertaking's service(s), provided that the independent programming undertaking that made the request agrees to pay all costs associated with the development of these applications and channels.

74. The Commission is satisfied that the proposed condition of service is consistent with the direction provided in Broadcasting Decision 2022-76. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Rogers Communications Canada Inc., by **condition of service**, to assist independent programming undertakings in developing apps or FAST channels as set out above. The specifics of this condition of service are set out at condition 8 in Appendix 2 to this decision.

Conclusion

75. In light of all of the above, and subject to the refiling of an agreement between Rogers and the CMF that meets the Commission's requirements, the Commission finds that Rogers has fulfilled the conditions of approval set out in Broadcasting Decision 2022-76. Throughout this decision, the Commission makes the orders necessary to give effect to the conditions of service relevant to fulfilling those conditions of approval. The specifics of these conditions of service are set out in Appendix 2 to this decision.

76. For the conditions of service imposed in Appendix 2 of this decision, the Commission notes that this application, including the proposed conditions of service, were subject to a public proceeding which provided interested parties notice of, and an opportunity to make representations, in respect of those conditions of service. The Commission is satisfied that, in this case, the present Part 1 proceeding was sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act*.
77. Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*, or subsection 11.1(2) in the case of expenditures. As such, the conditions of licence, for the licensees that are the subject of this decision, became conditions of service and continue to apply to the licensees, except to the extent they have been amended by this decision.
78. Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensees shall also continue to adhere to any such requirements set out in the broadcasting licence for the undertaking.

Secretary General

Related documents

- *Shaw Communications Inc. – Change of ownership and effective control*, Broadcasting Decision CRTC 2022-76, 24 March 2022
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2021-281, 12 August 2021, as amended by Broadcasting Notice of Consultation CRTC 2021-281-1, 22 October 2021
- *Renewal of licences for various terrestrial broadcasting distribution undertakings that will expire in August 2018 – Introductory decision*, Broadcasting Decision CRTC 2018-263, 2 August 2018
- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2024-133

List of broadcasting undertakings currently licensed to subsidiaries of Rogers Communications Inc.

Terrestrial broadcasting distribution undertakings

Licensee	Location
Rogers Communications Canada Inc.	Coquitlam, British Columbia
	Kelowna, British Columbia
	Langford, British Columbia
	Nanaimo, British Columbia
	New Westminster, British Columbia
	Vancouver (North and West), British Columbia
	Vancouver (Richmond), British Columbia
	Victoria, British Columbia
	White Rock, British Columbia
	Calgary, Alberta
	Edmonton (first undertaking), Alberta
	Edmonton (second undertaking), Alberta
	Red Deer, Alberta
	Saskatoon, Saskatchewan
	Winnipeg (first undertaking), Manitoba
	Winnipeg (second undertaking), Manitoba
	Barrie, Hamilton, Kitchener, London, Newmarket, Oshawa, Ottawa and Toronto, and surrounding areas, Ontario
Allardville, Clair, Fredericton, Moncton, Rogersville and Saint John, and surrounding areas, New Brunswick; Deer Lake and St. John's, and surrounding areas, Newfoundland and Labrador	

National direct-to-home broadcasting distribution undertaking Shaw Direct

Licensee	Location
Shaw Satellite Services Inc.	Across Canada

Satellite-to-cable educational television service Citytv Saskatchewan

Licensee	Location
Rogers Media Inc.	Saskatchewan

Satellite relay distribution undertaking Shaw Broadcasting Services

Licensee	Location
Shaw Satellite Services Inc.	Across Canada

English-language television stations (Citytv stations)

Licensee	Call sign / Location
Rogers Media Inc.	CKVU-DT Vancouver, British Columbia, and its transmitters CKVU-DT-2 Victoria and CKVU-TV-1 Courtenay
	CKAL-DT Calgary, Alberta, and its transmitter CKAL-DT-1 Lethbridge
	CKEM-DT Edmonton, Alberta, and its transmitter CKEM-TV-1 Red Deer
	CHMI-DT Portage La Prairie/Winnipeg, Manitoba
	CITY-DT Toronto, Ontario, and its transmitters CITY-DT-2 Woodstock and CITY-DT-3 Ottawa
	CJNT-DT Montréal, Quebec

English-language discretionary services

Licensee	Name of service
Rogers Media Inc.	OMNI Regional
	Outdoor Life Network
	Sportsnet 360
8064750 Canada Inc.	FX
8834776 Canada Inc.	FXX

Multilingual multi-ethnic television stations (OMNI stations)

Licensee	Call sign / Location
Rogers Media Inc.	CHNM-DT Vancouver, British Columbia (OMNI BC) and its transmitter CHNM-DT-1 Victoria
	CJCO-DT Calgary, Alberta
	CJEO-DT Edmonton, Alberta
	CFMT-DT Toronto, Ontario (OMNI.1) and its transmitters CFMT-DT-1 London and CFMT-DT-2 Ottawa
	CJMT-DT Toronto, Ontario (OMNI.2) and its transmitters CJMT-DT-1 London and CJMT-DT-2 Ottawa

English-language mainstream sports services

Licensee	Name of service
Rogers Media Inc.	Sportsnet
	Sportsnet One

On-demand service

Licensee	Name of service
Rogers Communications Canada Inc.	Rogers on Demand

Direct-to-home pay-per-view service Shaw Pay-Per-View

Licensee	Location
Rogers Communications Canada Inc.	Edmonton, Alberta

Terrestrial pay-per-view service

Licensee	Name of Service
Rogers Communications Canada Inc.	Sportsnet PPV

Television network

Licensee	Name of program
Rogers Media Inc.	Hockey Night in Canada

Appendix 2 to Broadcasting Decision CRTC 2024-133

Conditions of service for various broadcasting undertakings currently licensed to subsidiaries of Rogers Communications Inc.

Conditions of service applicable to Rogers Communications Inc.

1. Rogers Communications Inc. shall file a revised agreement with the Canadian Media Fund (CMF) within 30 days of this decision including an amendment to clause 4 of their current agreement. The amendment should read as follows:

Should the PPRC or NIP cease to exist, Rogers will return to the Commission with an alternate proposal that ensures that any outstanding payments on Rogers' part contribute towards CMF programs that directly benefit equity-seeking groups, consistent with Broadcasting Decision 2022-76.

Conditions of service applicable to the television programming undertakings operated by Rogers Communications Canada Inc., Rogers Media Inc., 8064750 Canada Inc. and 8834776 Canada Inc.

2. The licensee shall file an annual report on its tangible benefits expenditures by 30 November of each broadcast year. The report must be in an Excel or Word document and must include:
 - the total amount of benefits to be expended;
 - the amount spent that broadcast year, with a breakdown of the expenditures for each recipient; and
 - the remaining amount of benefits left to be expended.
3. The licensee shall file a report by 30 November of each year detailing all of the contributions that it has made to each of the discretionary initiatives, specifically indicating how the allocations are incremental in nature, so that the Commission can verify that the allocation of tangible benefits stemming from this transaction truly benefits the Canadian broadcasting system.

Conditions of service applicable to the terrestrial broadcasting distribution undertakings operated by Rogers Communications Canada Inc. and the direct-to-home distribution undertaking operated by Shaw Satellite Services Inc.

4. The licensee shall ensure that:
 - a) Corus Entertainment Inc. (Corus) will not be unduly advantaged in its dealings with Rogers Communications Canada Inc. or its affiliated distribution undertakings going forward, and vice versa;
 - b) the licensee and Corus will not act as a single entity when it works in their favour; and

- c) the licensee will not deprive either directly or indirectly other broadcasting distribution undertakings or industry participants of Corus' content.
5. The licensee shall distribute to the extent that such programming services are available, a minimum of 45 Canadian programming services which may be English- or French-language, of an independent programming undertaking, excluding those owned by Corus Entertainment Inc.
6. The licensee shall ensure that:
- a) in any dispute with an independent programming service, the standstill rule will be extended to all of the services belonging to that ownership group; and
 - b) if an affiliation agreement is not concluded within 90 days of the initiation of a negotiation with an independent programming service or services, the matter will be automatically referred to the Commission for dispute resolution.

For greater certainty, the Commission notes that this condition will trigger the application of the standstill rule set out in section 15.01 of the *Broadcasting Distribution Regulations*.

Conditions of service applicable to the terrestrial broadcasting distribution undertakings operated by Rogers Communications Canada Inc.

7. Where the licensee collects set-top box data regarding programming services it distributes, it shall, upon the written request of an independent Canadian programming service that has entered into an agreement to participate in the Cynch program, provide set-top box data regarding that programming service, in the form of raw data or reports, to the programmer via a third party retained by the licensee to manage the delivery of, and access to set-top box data, within 30 days and at no cost, up to a maximum of two times per broadcast year, unless otherwise agreed to by the parties.

For the purposes of this condition of service, "set-top box data" means viewership data that is obtained by the licensee through a set-top box or by comparable means for use on the Cynch platform, but does not include any portion of such data that would allow the recipient of the data to identify a particular subscriber or household.

8. The licensee shall assist an independent programming undertaking that is being distributed by the licensee, upon receiving a written request from the undertaking, in the development of an app or free ad-supported streaming television (FAST) channel for the online digital distribution of the independent programming undertaking's service(s), provided that the independent programming undertaking that made the request agrees to pay all costs associated with the development of these applications and channels.

Conditions of service applicable to the satellite relay distribution undertaking operated by Shaw Satellite Services Inc.

9. If there is a dispute between the licensee and a distribution undertaking, whether operating by licence or by exemption order, concerning the terms under which discretionary programming services are or may be provided, one or both parties to the dispute may refer the matter to the Commission and the licensee shall submit to a dispute resolution process if the Commission so requires.
10. During any dispute between the licensee and a person licensed to carry a distribution undertaking or the operator of an exempt distribution undertaking concerning the carriage or terms of carriage of programming services or concerning any right or obligation under the *Broadcasting Act*, the licensee shall continue to distribute those programming services at the same rates and on the same terms and conditions as it did before the dispute.

For the purposes of this condition of service, a dispute exists from the moment that written notice of the dispute is provided to the Commission and served on the other undertaking that is party to the dispute and ends when an agreement settling the dispute is reached by the concerned undertakings or, if no such agreement is reached, when the Commission renders a decision concerning any unresolved matter.

11. The licensee shall adhere to the *Wholesale Code*, set out in the appendix to *The Wholesale Code*, Broadcasting Regulatory Policy CRTC 2015-438, 24 September 2015, in its dealings with any licensed or exempt broadcasting undertaking.

Conditions of service applicable to the Citytv stations operated by Rogers Media Inc.

12. The licensee shall, in each broadcast year beginning 1 September 2023, produce 48 original, locally reflective prime time news specials, that are over and above the current regulated expenditure and hour requirements imposed on the licensee for locally reflective news programming.
13. The licensee shall include in the annual diversity report it files with the Commission details specifying how the following three initiatives contribute incrementally to the Canadian broadcasting system and serve the public interest:
 - Indigenous news content team;
 - Western Canada journalists to be added to Parliament Hill team in Ottawa; and
 - growing investment in the Western news markets.
14. The licensee shall include in the annual diversity report it files with the Commission details regarding the mentorship opportunities offered to Indigenous content creators by the licensee.