



## Broadcasting Decision CRTC 2024-314

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Reference: Part 1 application posted on 5 March 2024

Ottawa, 3 December 2024

**Accessible Media Inc.**  
Across Canada

*Public record: 2024-0082-8*

### **AMI-tv and AMI-télé – Application to increase the monthly per subscriber wholesale rates**

#### **Summary**

The Commission has received an application from Accessible Media Inc. (AMI) to increase the monthly per subscriber wholesale rates that broadcasting distribution undertakings are required to pay AMI to distribute the national discretionary services AMI-tv and AMI-télé.

The Commission acknowledges the important role that AMI's services play for the accessibility community and for Canadians with disabilities, which is reflected in these services benefiting from mandatory distribution. However, after considering the present application, the Commission finds that AMI has not demonstrated an immediate financial need for an increase to its monthly per subscriber wholesale rates for AMI-tv and AMI-télé before the end of the current licence term for the services. AMI did not propose clear and substantial programming changes that would significantly improve the services following a rate increase. The Commission considers that AMI will be able to continue to make exceptional contributions to the broadcasting system without the requested rate increases.

Accordingly, the Commission denies AMI's application.

The Commission notes, however, that it intends to consider broader regulatory and systemic issues regarding the broadcasting system in upcoming public consultations to modernize Canada's regulatory framework. At that time, the Commission will have an opportunity to review the support provided to services of exceptional importance, such as services that benefit from mandatory distribution, to help ensure the long-term viability of those services.

Further, in order to continue advancing the policy objectives under the *Broadcasting Act*, the Commission, through a series of public consultations focusing on accessibility, is currently looking at how the broadcasting system can better reflect the diverse experiences of all people in Canada. These consultations will be consistent with the

purposes of the *Accessible Canada Act* to make Canada free from barriers for persons with disabilities by 2040.

## Background

1. Accessible Media Inc. (AMI) is the licensee of the national discretionary services AMI-tv and AMI-télé. AMI-tv offers original English-language programming for, about and produced by Canada's disability community. All of the programming it broadcasts is made accessible to Canadians with disabilities. AMI-télé is the French-language equivalent to AMI-tv.
2. Both AMI-tv and AMI-télé are services that benefit from mandatory distribution under paragraph 9.1(1)(h) of the *Broadcasting Act*<sup>1</sup> (the Act) (9.1(1)(h) services). Under their respective mandatory distribution orders,<sup>2</sup> broadcasting distribution undertakings (BDU) must pay AMI monthly per subscriber wholesale rates of \$0.20 for AMI-tv and \$0.28 for AMI-télé.

## Application

3. AMI filed an application to increase the services' per subscriber monthly wholesale rates as follows:
  - an increase of \$0.01 (to \$0.21) for AMI-tv in anglophone markets, while continuing to be available at no cost in francophone markets; and
  - an increase of \$0.02 (to \$0.30) for AMI-télé in francophone markets, while continuing to be available at no cost in anglophone markets.
4. These new rates would remain in effect until the services' licences and mandatory distribution orders expire on 31 August 2026.<sup>3</sup>
5. According to AMI, over the next two years (the remainder of the licence terms for the services), the requested rate increases would generate approximately \$1.33 million in revenues for AMI-tv and approximately \$1.29 million in revenues for AMI-télé. The

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<sup>1</sup> The Commission granted licences and mandatory distribution to AMI-tv (originally known as The Accessible Channel) and AMI-télé (originally known as AMI-tv Français) in Broadcasting Decisions 2007-246 and 2013-386, respectively. At that time, mandatory distribution was granted under paragraph 9.1(h) of the *Broadcasting Act*. Under the amended *Broadcasting Act*, mandatory distribution is now granted under paragraph 9.1(1)(h).

<sup>2</sup> See Broadcasting Order 2018-321 for AMI-tv and Broadcasting Order 2018-322 for AMI-télé.

<sup>3</sup> The original expiry dates for these services' licences and mandatory distribution orders was 31 August 2023. In Broadcasting Decision 2023-245, the Commission administratively renewed the licences and mandatory distribution orders until 31 August 2026.

licensee considered the increases to be minimal and submitted that they will not significantly affect BDUs given the important revenues they generate.<sup>4</sup>

6. AMI indicated that any additional revenues generated from the rate increases would be reinvested in Canadian content. More specifically, with the additional revenues, it would produce for broadcast on both services more Canadian content that promotes positive representation and inclusion of individuals with disabilities. This would include approximately 25 additional hours<sup>5</sup> of Canadian content that showcases stories from and by the disability community along with more scripted and dramatic programs, in addition to non-scripted lifestyle programs and documentaries.
7. The licensee added that it would also invest in research on accessibility technologies such as artificial intelligence for described video, closed captioning and sign language applications.
8. The licensee stated that its services are vital for fulfilling the objectives of the amended Act, which emphasize the provision of programming services without barriers to persons with disabilities.
9. Further, AMI described its situation as urgent, citing various financial challenges, such as decreases in its revenues and in BDU subscribers. AMI added that it restructured its operations in 2022 by cutting 30% of its workforce and shifting away from in-house production to daily live shows and outsourced independent productions. The licensee stated that it cannot wait until the licences for its services expire in 2026 before the rates are reviewed (which have not increased since the launch of AMI-tv in 2007 and of AMI-télé in 2013).

### **Interventions and reply**

10. The Commission received over 150 interventions in regard to AMI's application.
11. Many individuals, including viewers and listeners from the visually disabled community, and organizations representing members of the accessibility community highlighted the importance and impact of AMI's mission in advocating for inclusivity and representation in media and storytelling.
12. Many viewers noted that they rely on the services to be informed on matters of public interest and to connect with their community. They also recognized AMI's commitment to becoming a leader in offering accessible content and providing a voice for Canadians with disabilities.
13. Producers and production companies noted how AMI's services, as a partner, allowed them to offer unique stories of inclusion and acceptance through an accessibility lens.

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<sup>4</sup> In its application, AMI noted that BDUs earned \$833 million in operating income in 2022, which is 635 times greater than what would be generated by AMI if its application is approved.

<sup>5</sup> AMI did not specify how the additional 25 hours would be allocated between AMI-tv and AMI-télé and did not mention the schedule for producing this content.

14. The Commission also received interventions in opposition to AMI's application from the BDU operators Rogers Communications Canada Inc. (Rogers), Bell Canada (Bell), Quebecor Media Inc.<sup>6</sup> (Quebecor) and Cogeco Communications Inc. (Cogeco), and several individuals.<sup>7</sup>
15. The BDU operators submitted that they can no longer support additional costs to the provision of the basic service. In their view, any rate increase should not be assessed until the Commission has fully implemented the amended Act. They considered that, based on the evidence on the record, AMI-tv and AMI-télé can continue meeting their objectives and mandate without the requested rate increases.
16. According to Rogers, deferring the application until the end of the licence term would allow the Commission to develop and implement a new framework supporting and promoting Canadian and Indigenous content, including content that is broadcast by 9.1(1)(h) services. Quebecor added that it would be inappropriate for the Commission to approve AMI's application before the administrative licence renewal ends in 2026, as the main objective of this was to allow the Commission to implement the new regulatory framework.
17. Quebecor submitted that research on accessibility technologies, such as those noted by AMI, should not serve as a justification for a rate increase for a 9.1(1)(h) service. It argued that other entities such as the Broadcasting Accessibility Fund (BAF) or the Department of Canadian Heritage seem to be more appropriate partners for this kind of initiative.
18. In response to the argument by BDUs that the rate increase is not needed as there is neither an exceptional state of financial crisis nor an inability for AMI-tv and AMI-télé to meet their conditions of service, AMI submitted that its services are essential in the Canadian broadcasting landscape. The licensee added that it refuses to compromise its offerings to Canadians with disabilities by further reducing its workforce.
19. Finally, AMI noted that BDUs, aside from supporting 9.1(1)(h) services, have relatively minimal obligations when compared to programming services.

## **Legal and policy frameworks**

### **Accessibility and diversity**

20. The Act sets out, among other things, objectives for the Canadian broadcasting system in regard to providing accessible programming for persons with disabilities and increasing the diversity within the Canadian broadcasting system.<sup>8</sup> The

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<sup>6</sup> On behalf of Videotron Ltd. and VMedia Inc.

<sup>7</sup> These included an AMI viewer who expressed dissatisfaction with the services and a podcast hosting organization that previously had business relationships with AMI.

<sup>8</sup> See subparagraph 3(1)(d)(iii) and paragraphs 3(1)(p) and (p.1) of the Act.

mandatory distribution of AMI's services is just one way the Commission is advancing those objectives.

21. Since 2009, the Commission has implemented and strengthened regulations that require broadcasters to provide closed captioning and described video, helping enhance access to content for Canadians with hearing or visual disabilities.<sup>9</sup>
22. Over the years, the Commission has expanded these policies and has incorporated various accessibility requirements into services' conditions of service, reinforcing broadcasters' obligations relating to accessibility measures.
23. In order to continue advancing the policy objectives under the Act, the Commission, through a series of public consultations, is currently looking at how the broadcasting system can better reflect the diverse experiences of all people in Canada.<sup>10</sup> These consultations will be consistent with the purposes of the *Accessible Canada Act* to make Canada free from barriers for persons with disabilities by 2040.

#### **Wholesale rate for 9.1(1)(h) services**

24. Under paragraph 9.1(1)(h) of the Act, the Commission has the authority to impose conditions on distribution undertakings requiring them to carry programming services and to set the terms and conditions for distribution.
25. The Commission has used this important regulatory tool to require the distribution of services that contribute in an exceptional manner to the objectives of the Act. Mandatory distribution ensures that more diverse programming is produced and made available to Canadians, and helps to ensure that smaller and diverse audiences benefit from having access to content that is relevant to, and reflective of them, but may not be available to them. For a service to be granted mandatory distribution, an applicant must demonstrate that the service is of exceptional importance to the achievement of the objectives of the Act, by meeting the criteria set out in Broadcasting Regulatory Policy 2010-629.
26. The Commission sets the wholesale rate for 9.1(1)(h) services when it grants them mandatory distribution. The Commission generally assesses requests to increase rates at licence renewal, as this allows it to review at the same time the service's contributions and its requirements.

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<sup>9</sup> See Broadcasting and Telecom Regulatory Policy 2009-430 relating to accessibility of telecommunications and broadcasting services; Broadcasting Regulatory Policies 2011-741 and 2011-741-1 relating to quality standards for French-language closed captioning; and Broadcasting Regulatory Policy 2019-308 relating to quality standards for English-language closed captioning.

<sup>10</sup> For example, the Commission launched two public consultations: one on the closed captioning of programming by online streaming services (see Broadcasting Notice of Consultation 2024-137), and another on the policy development for described video and audio description (see Broadcasting Notice of Consultation 2024-138). With these consultations, the Commission aims to enhance accessibility to programming on traditional and online platforms for Canadians with hearing or visual disabilities.

27. The Commission also considers if the rate increase is necessary for the service to meet its programming commitments and remain of exceptional importance to the Canadian broadcasting system. Additionally, the Commission evaluates whether the service contributes appropriately to the fulfilment of the policy objectives of the Act.
28. The Commission has historically considered declining BDU subscription levels as a factor justifying the approval of a rate increase.<sup>11</sup> However, this factor is always weighted against the ability of a 9.1(1)(h) service to continue contributing in an exceptional manner to the broadcasting system. Beyond simply exposing the challenges faced by traditional players within the current broadcasting system, an applicant requesting a rate increase outside of the licence renewal process should be able to demonstrate its inability to meet its requirements without the rate increase. Alternatively, the applicant should clearly establish that the requested rate increase would add sufficient value to the broadcasting system to justify approval of the increase.

## **Issues**

29. In light of the above and the information on the public record, the Commission considers that it must address issues relating to the following:
- whether AMI has demonstrated an immediate financial need for the requested rate increases; and
  - whether AMI's proposal to reinvest any additional revenues from the requested rate increases into Canadian content would significantly contribute to the broadcasting system.

### **Has AMI demonstrated an immediate financial need for the requested rate increases?**

30. In support of its requests, AMI cited declines in its annual BDU subscription revenues over the past five years<sup>12</sup> and submitted that without reliable and sustainable sources of revenue, it would not be able to continue serving Canada's disability community in the medium-to-long term.
31. The Commission notes, however, that in 2023, AMI-télé reported its highest profit before interest and taxes (PBIT) margin (7.6%) since 2016, while the PBIT margin for AMI-tv in the same year was closer to profitability than in 2022 (-0.8% versus -5.6%). This may result from AMI's 2022 strategic review aimed at finding efficiencies and cost savings in original content creation.

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<sup>11</sup> See Broadcasting Decisions 2018-307, 2018-329 and 2018-340.

<sup>12</sup> The Commission notes that BDU subscription revenues for AMI-tv were approximately 10.6% lower in 2023 than they were in 2018, and for AMI-télé, approximately 6.9% lower over the same period.

32. Further, according to its audited financial statements, AMI's cash surplus increased substantially from 2018 to 2023. In addition, as a not-for-profit media organization with the primary objective of entertaining, informing and empowering Canadians with disabilities, AMI must reinvest any revenues generated by its services to further that objective. In the Commission's view, for additional short-term support, it may be more appropriate for AMI to draw upon these surpluses to offset the decrease in subscription revenues rather than rely on increases to the services' wholesale rates.
33. In addition, the 2024 Federal budget (which was tabled after AMI filed its application) announced funding to be provided to the Department of Canadian Heritage in the 2024-2025 fiscal year to support public interest programming services, including AMI's services. This temporary funding will allow the Commission to focus its regulatory efforts on developing the frameworks for the distribution of services in light of the authorities and objectives outlined in the amended Act while providing temporary funding to a number of services, including those owned by AMI.
34. Moreover, given that the financial factors mentioned by AMI impact all 9.1(1)(h) services, the Commission considers that it would be more appropriate to explore measures to address the financial challenges of these services as part of a new framework under the Act.
35. In the Commission's view, AMI will continue to have sufficient financial resources to meet the conditions of service for AMI-tv and AMI-télé at their current monthly per subscriber wholesale rates, and to continue furthering their existing exceptional contributions to the broadcasting system.
36. In light of the above, the Commission finds that AMI has not demonstrated an immediate need for the requested rate increases and has not demonstrated that the services will be unable to meet their requirements if the application is not approved.

**Would AMI's proposal to reinvest any additional revenues from the requested rate increases into Canadian content significantly contribute to the broadcasting system?**

37. AMI is committed to broadcasting stories by and about people with disabilities, which aligns with the Act. The current exceptional importance of AMI's services for the broadcasting system has been recognized by the Commission through the granting of mandatory distribution. The numerous interventions in support of the application also demonstrate that both services serve the public interest by playing a crucial role for the accessibility community.
38. While the licensee proposed to produce 25 hours of Canadian content that tells stories from the disability community by the disability community, putting emphasis on new scripted and dramatic programs, it has not proposed any changes to its conditions of service that would formalize changes in programming, and has not provided detailed plans and evidence regarding the type and quantity of content to be produced.

39. Further, as noted above, AMI did not provide any details on the timing and allocation of the additional 25 hours of programming. However, if AMI intends to produce the additional programming over the remaining years of the current licence terms for AMI-tv and AMI-télé (ending 31 August 2026), to be split between the two services, the proposed rate increases (which would yield an estimated \$2.62 million) would result in an average of 6.25 hours of new programming per service per broadcast year. These modest programming changes would likely not have a significant impact on furthering the policy objectives outlined in the Act.
40. Moreover, the Commission notes that AMI did not provide details regarding its proposed investments on accessibility technologies. As noted above, any profit AMI generates must be reinvested in furthering its primary objective of entertaining, informing and empowering Canadians with disabilities. Research would be considered a standard business expense in the course of achieving this objective. Further, the Commission considers that the research proposed by AMI falls squarely within the mandate of the BAF (as noted by Quebecor in its intervention), which is eligible to receive a portion of the base contributions that audio-visual online streaming services must make to support Canadian and Indigenous content.<sup>13</sup>
41. In light of the above, the Commission finds that the additional programming AMI proposed to provide through increased revenues would have a minimal impact on further achieving the policy objectives set out in the Act, and therefore does not justify the requested rate increases.

## **Conclusion**

42. The Commission recognizes the role and importance of AMI to go beyond the requirements of the Act in regard to prioritizing Canadians with disabilities, both on and off screen. However, as noted above, the Commission considers that AMI did not demonstrate an immediate financial need for the requested rate increases and that approval of the rate increases would significantly contribute to the broadcasting system.
43. In light of all of the above, the Commission denies the application by AMI to increase the monthly per subscriber wholesale rates that BDUs are required to pay AMI to distribute AMI-tv and AMI-télé.

## **Concerns regarding the timing and scope of the application**

44. The Commission acknowledges that issues raised by AMI regarding BDU subscription declines are valid, structural in nature and of relevance to all 9.1(1)(h) services.
45. As the Commission works to modernize the broadcasting system to reflect the amended Act, the Commission will have an opportunity to review the support

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<sup>13</sup> See Broadcasting Regulatory Policy 2024-121.

provided to services of exceptional importance, such as 9.1(1)(h) services. The Commission invites interested persons to participate in any future proceeding regarding such a review, during which they will have an opportunity to present their views on measures to help ensure the long-term viability of those services.

Secretary General

## Related documents

- *Call for comments – Development of a regulatory policy for the distribution of described video and audio description*, Broadcasting Notice of Consultation CRTC 2024-138, 25 June 2024, as amended by *Call for comments – Development of a regulatory policy for the distribution of described video and audio description – Extension to the deadlines for the submission of interventions and of replies*, Broadcasting Notice of Consultation CRTC 2024-138-1, 19 September 2024
- *Call for comments – Development of a regulatory policy for closed captioning provided by online streaming undertakings*, Broadcasting Notice of Consultation CRTC 2024-137, 25 June 2024, as amended by *Call for comments – Development of a regulatory policy for closed captioning provided by online streaming undertakings – Extension to the deadlines for the submission of interventions and of replies*, Broadcasting Notice of Consultation CRTC 2024-137-1, 10 September 2024, and *Call for comments – Development of a regulatory policy for closed captioning provided by online streaming undertakings – Extension to the deadlines for the submission of interventions and of replies*, Broadcasting Notice of Consultation CRTC 2024-137-2, 18 November 2024
- *The Path Forward – Supporting Canadian and Indigenous content through base contributions*, Broadcasting Regulatory Policy CRTC 2024-121, 4 June 2024, as finalized by *The Path Forward – Supporting Canadian and Indigenous content through base contributions – Finalization of conditions of service*, Broadcasting Regulatory Policy CRTC 2024-121-1 and Broadcasting Order CRTC 2024-194, 29 August 2024
- *Various television programming services and networks, and broadcasting distribution undertakings – Administrative renewals*, Broadcasting Decision CRTC 2023-245, 8 August 2023
- *English-language closed captioning mandatory quality standards relating to the accuracy rate for live television programming*, Broadcasting Regulatory Policy CRTC 2019-308, 30 August 2019
- *APTN – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-340, 31 August 2018

- *Cable Public Affairs Channel – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-329, 29 August 2018
- *Distribution of AMI-télé by licensed broadcasting distribution undertakings*, Broadcasting Order CRTC 2018-322, 27 August 2018
- *Distribution of AMI-tv by licensed broadcasting distribution undertakings*, Broadcasting Order CRTC 2018-321, 27 August 2018
- *Canal M – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-307, 23 August 2018
- *AMI-tv Français – Specialty Category A service*, Broadcasting Decision CRTC 2013-386, 8 August 2013
- *Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning Working Group*, Broadcasting Regulatory Policy CRTC 2011-741-1, 21 February 2012
- *Quality standards for French-language closed captioning*, Broadcasting Regulatory Policy CRTC 2011-741, 1 December 2011
- *Criteria for assessing applications for mandatory distribution on the digital basic service*, Broadcasting Regulatory Policy CRTC 2010-629, 27 August 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *New digital specialty described video programming undertaking; Licence amendments; Issuance of various mandatory distribution orders*, Broadcasting Decision CRTC 2007-246, 24 July 2007