



18 August 2015

Mr. John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario K1A 0N2

Filed Electronically

Dear Mr. Traversy:

**Re: Part 1 Applications – Conversion of the licence from a Category A to a Category B service – Bell Media Inc. and 2953285 Canada Inc.
Bravo! – Application 2015-0729-5; The Comedy Network – Application 2015-0730-3; Discovery Channel – Application 2015-0731-0; E! – Application 2015-0732-8; MTV – Application 2015-0734-4; Much – Application 2015-0736-0; M3 – Application 2015-0737-8; Space – Application 2015-0738-6**

1. These are the comments of the Canadian Media Production Association (CMPA)¹ respecting the above-noted applications by Bell Media Inc. and 2953285 Canada Inc. (Bell) for earlier-than-planned reductions to the Canadian programming exhibition obligations of the identified programming services (the Bell Services).

Exhibition Obligations

2. In announcing in Broadcasting Regulatory Policy CRTC 2015-86² (BRP 2015-86) its intent to reduce Canadian programming exhibition obligations for licensees at their next licence renewals³, the Commission reasoned that content quotas for linear services “will be a less and less effective tool” for ensuring the presentation of Canadian programming “in an increasingly on-demand environment.”⁴

¹ The CMPA represents the interests of screen-based media companies engaged in the production and distribution of English-language television programs, feature films, and new media content in all regions of Canada. The CMPA’s member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing, producing and distributing original content for Canadian and international audiences.

² Broadcasting Regulatory Policy CRTC 2015-86, *Let’s Talk TV: The way forward - Creating compelling and diverse Canadian programming*, <http://www.crtc.gc.ca/eng/archive/2015/2015-86.htm>.

³ *Ibid.*, at pars 193 and 195.

⁴ *Ibid.*, at par. 190.

3. The Commission is also assuming that substantial reductions in Canadian programming exhibition obligations will eliminate “excessive repetition and recycling” of Canadian programming which “appears to do little to achieve the objectives of the [Broadcasting] Act.”⁵ In contrast, the Commission stated, “original first-run Canadian productions add more value to the system.”⁶
4. The CMPA agrees with the Commission regarding the value of original first-run Canadian productions. Still to be tested, however, is the Commission’s theory that the reductions in exhibition obligations it plans for the future will indeed have a net positive effect on the presentation of Canadian programming and on the broadcasting system overall.
5. In this respect, we note that Bell has made no commitment in its applications that approval will lead to a reduction of repeats and recycled programming on the Bell Services to the benefit of original first-run Canadian productions. We note, for example, that under Bell’s current Terms of Trade Agreement (which it is contractually bound to honour for the length of its current licence terms – ie., until 31 August 2017) its payment of a single program licence fee allows it to repeat and recycle the associated Canadian program as often as it wishes during the term of the program licence – thus Bell will still have an economic incentive to repeat and recycle Canadian shows on the Bell Services even with earlier-than-planned exhibition reductions.

Spending Obligations

6. In BRP 2015-86, the Commission linked its planned exhibition reductions to changes it also plans to Canadian programming expenditure (CPE) obligations – specifically to apply CPE requirements to all licensed services.⁷ As the Commission emphasized, “[spending] requirements are important tools to fulfil the objectives of the Act...particularly in light of the [Commission’s] determinations...relating to exhibition”⁸ [emphasis added].
7. It is because of this relationship between exhibition and expenditures that the Commission announced in BRP 2015-86 that “reductions in exhibition requirements will be implemented through conditions of licence at the next licence renewal for each service and will take place in conjunction with the changes to CPE requirements set out [later in the document].”⁹

⁵ *Ibid.*, at par. 191.

⁶ *Ibid.*

⁷ *Ibid.*, at par. 217.

⁸ *Ibid.*, at par. 214.

⁹ *Ibid.*, at par. 198.

8. The Commission made it clear that its decision to maintain (and extend) spending requirements

...takes into account the possible impacts of other changes to be implemented in the present regulatory policy and other determinations in the Let's Talk TV proceeding by stabilizing the CPE base for Canadian production. In doing so, [the Commission] recognizes that not all current Canadian programming services will be successful in the new television environment of the future.¹⁰

9. Accordingly, the challenges Bell identifies as the basis for these current applications, would not create grounds for reductions to the Bell Services' spending obligations, either now or in the future.
10. For this reason, we appreciate that, in applying for exhibition reductions, Bell has not sought to lower the Bell Services' current CPE requirements.
11. At the same time, however, we note that Bell has also not applied for new spending obligations for those of its Category B services which do not already have such obligations. In other words, Bell is seeking the benefits of the Commission's announced exhibition reductions without accepting the corresponding new spending obligations, which the Commission intended would be implemented simultaneously at licence renewal time.
12. This is a deficiency in the current Bell applications which we submit that Bell – or the Commission – needs to address. If Bell wants accelerated regulatory relief, then it should also assume the associated regulatory obligations on the same accelerated basis. Accordingly, should the Commission chose to approve the current Bell applications, we submit it should only do so if Bell also applies forthwith to establish the requisite new CPE obligations for those of its Category B which, per the Commission's announced policy, would otherwise be made subject to such obligations at their forthcoming licence renewals.

Need to Assess Impact

13. In the forthcoming Group Licence Renewal proceeding¹¹, the Commission and stakeholders will need to consider the impact of the planned exhibition reductions on both repeated/recycled and original first-run Canadian programming in order to assess the large Broadcaster Groups' renewal applications – particularly as they relate to support for original first-run Canadian programming.

¹⁰ *Ibid.*, at par. 216.

¹¹ To be announced prior to 31 August 2017: *ibid.*, at par. 7.

14. To that end, the CMPA submits that, should these Bell applications be approved, the Commission should 1) closely monitor the impact of the resulting reduced exhibition requirements on the level of repeats and recycled Canadian programs on the Bell Services; and 2) make this information available to interested parties in advance of the next licence renewals for the Bell Services.

Sincerely,

original signed by

Jay Thomson, LL.B, LL.M
Vice President, Broadcasting Policy & Regulatory Affairs

cc. David Spodek, david.spodek@bellmedia.ca

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