



October 19, 2020

VIA Intervention Comment Form

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

Dear Mr. Doucet,

**Subject: Broadcasting Notice of Consultation CRTC 2020-336: Call for comments on an application by the Canadian Association of Broadcasters requesting regulatory relief for Canadian broadcasters in regard to the COVID-19 pandemic**

**Reference: CRTC File 1011-NOC2020-336**

1. The Canadian Communication Systems Alliance (“CCSA”) speaks for independent communications distributors – smaller broadcasting distribution companies, telephone companies and ISPs – across Canada. CCSA represents more than 110 companies operating from sea to sea to sea, including across the North.
2. CCSA wishes to comment upon certain aspects of CAB’s application, especially the relationship of discretionary services to CAB’s application in the context of the operations of the large, vertically-integrated media companies.
3. CAB’s members are not alone in their commitment to provide necessary broadcasting and communications services to Canadians in spite of the severe economic impacts of the COVID-19 pandemic.
4. The BDUs that CCSA represents have, in fact, undertaken a number of voluntary initiatives

to support their customers' needs despite the costs added by the pandemic. Those initiatives include:

- voluntary suspension of Internet data caps and overage billing;
- continued service calls with heightened safety precautions at significant cost to the BDU;
- waiver of late payment fees; and
- in partnership with the programmers, offers of free TV channel previews.

5. In the face of the continuing pandemic, CCSA's members continue to be concerned about their customers' on-going ability to pay for their broadcasting and communications services.
6. To date, CERB has largely alleviated this concern. However, the BDUs face increasingly uncertain subscriber revenues as the pandemic progresses and intensifies while the costs of network operation, maintenance and improvement and the costs of programming continue unabated.
7. CCSA members continue to provide their services to Canadians without any request for regulatory relief and hope to be able to continue to do so.
8. At paragraph 28 of its application, CAB states: "Virtually all other production, including live sports, non-news in-house production and independent production ceased in mid-March, is only now beginning to restart, and will not resume to normal levels for the remainder of the broadcast year."
9. That reduced spending on content production is reflected in a greatly diminished value of the content that BDUs purchase, at wholesale, from the programmers. With original content production essentially shut down for several months, both the conventional broadcast and discretionary services have had little new, original content to offer and have filled the gap with low-cost repeat programming from their existing libraries.
10. CCSA, on behalf of its members, has sought wholesale fee relief from the discretionary

services to reflect the diminished value of the content provided and to assist the BDUs' retail customers in managing their costs at a time when Canadians are losing their jobs and many are experiencing new, sometimes drastic, economic pressures.

11. The discretionary services have uniformly denied CCSA's requests.
12. Rather, the wholesale rates charged by the discretionary services continue to rise, despite the diminished value of their programming.
13. Those increases include dramatically increasing rates for live sports programming from the major broadcasting groups despite the fact that, for several months, as CAB notes, no such content was available. The programmers' ability to offer live, major league sports content continues to be highly uncertain.
14. With respect to the conventional television broadcasting services, CCSA members continue to pay wholesale fees for access to the online "Go" versions of those services. Again, no rate relief has been made available to the BDUs despite the diminished value of the content on those services.
15. The Commission's analysis of this matter must account for the fact that the vertically-integrated companies, as major private broadcasting groups, operate both conventional and discretionary broadcasting undertakings.
16. CCSA appreciates the concerns of the conventional television stations and does not expressly oppose the premise that some regulatory relief may be appropriate, especially as required to maintain local news and social imperatives such as access for people with disabilities and public safety.
17. However, any such relief should be as narrow and targeted as possible.
18. The Commission has asked, at Q.4 of BNC 2020-336:

To which entities should these solutions be applied, and under what circumstances would broadcasters be eligible to make use of the proposed flexibilities?

19. As CCSA understands the CAB application, the relief sought, with respect to television operations, is intended primarily to support private conventional television stations.
20. CCSA submits that a narrow, targeted approach should provide relief, if any, solely to those private, conventional television stations. Such relief should not extend to discretionary services operated by the major private broadcasting groups.
21. CCSA is deeply concerned with the precedent which may be set by a Commission decision to permit regulatory relief in this matter. CCSA's concern is that any such precedent might be used by the major private broadcasting groups to attack other, existing regulatory frameworks that protect independent BDUs from anti-competitive behavior.
22. Specifically, the discretionary services operated by the major private broadcasting groups should not be permitted to use any of the Commission's findings regarding the economic challenges faced by the those groups as a basis for imposing more onerous terms or increased rates upon BDUs and the consumers they serve.
23. CCSA submits that protections, such as prohibitions against veto rights by programming undertakings of BDU packaging changes and against minimum penetration, revenue or subscription levels under the *Wholesale Code* and the Standstill Rule under the *Discretionary Services Regulations* remain vital to independent BDUs.
24. The Commission should be careful to avoid setting any precedent which would allow the major private broadcasting groups to attack such protections and should state that its decision in this matter, whatever that may be, may not be used as a precedent or ground for any such future regulatory claims.



25. CCSA thanks the Commission for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "C. J. Edwards", written in a cursive style.

Christopher J. Edwards  
Vice-President, Regulatory Affairs

cc. Lenore Gibson, Chair, Canadian Association of Broadcasters, [lenore.gibson@bell.ca](mailto:lenore.gibson@bell.ca)

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