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October 19, 2020

**Filed via GCKey**

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

Dear Mr. Doucet:

**Re: *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***

1. TELUS Communications Inc. (“TELUS”) is pleased to provide these comments in response to the Commission’s Broadcasting Notice of Consultation CRTC 2020-336 (“BNOC 2020-336”).
2. In its application dated July 13, 2020, the Canadian Association of Broadcasters (“CAB”) requested regulatory relief on an emergency basis for private Canadian broadcasters due to the exceptional negative effects of COVID-19.
3. To recognize that non-compliance would be unavoidable and unintentional, the CAB requested that the Commission provide certainty to broadcasters by way of emergency regulatory flexibility and forbearance for the broadcast year ending August 31st, 2020, including:
  - a. deeming private Canadian broadcasters to be compliant with their individual Canadian content expenditures for the broadcasting year 2019-2020, without requiring any shortfalls or under-expenditures to be carried forward or made up in any way; and
  - b. providing flexibility on exhibition requirements, particularly as related to local news and local programming.

2. TELUS does not seek to make any alternate proposals concerning the appropriate relief to grant during these times, but rather has limited its submissions to the issue of which entities should benefit from the Commission’s approach proposed in BNOC 2020-336, and under what circumstances entities would be eligible to make use of the flexibilities proposed.<sup>1</sup>

***Providing certainty during uncertain times***

3. The CAB states that, as a result of COVID-19, broadcasters have suffered declines in advertising revenues, while also facing shifting production costs and a decrease in the availability of programming. As such, private broadcasters expressed grave concerns regarding their ability to meet their specific obligations with regard to Canadian content, both from a programming expenditure and exhibition standpoint. The CAB argues that, without relief, virtually all private broadcasters will fall short of certain requirements codified in their conditions of licence and the regulations.
4. As noted in the CAB application, Commission staff have made it clear that it is “fully aware of COVID-19’s inevitable impact on broadcasters’ staffing, revenues, and programming, and hence their ability to comply with certain conditions of licence and other regulatory requirements”,<sup>2</sup> and that “[o]n issues of compliance, the Commission has indicated that it will be monitoring the situation and be understanding and flexible in its approach”.<sup>3</sup>
5. TELUS recognizes that the Commission and its staff are working hard to address the extraordinary circumstances affecting all stakeholders in the broadcasting sector, and that Commission staff have indicated to the licensees that the Commission will review non-compliance during licence renewals with a sympathetic approach given the extenuating circumstances.
6. Nevertheless, TELUS agrees with the CAB’s statement that licensees are operating under significant uncertainty in regard to how their compliance with regulatory obligations will ultimately be treated, and that more formal guidance would be helpful to allow licensees to better navigate the challenges posed by COVID-19.

***Access to programming has been strained during isolation***

7. TELUS recognizes that COVID-19 has affected the broadcasting industry as a whole. Television viewership increased with the pandemic, as Canadians seek news and COVID-related television coverage, and indeed, entertainment needs have increased while Canadians are quarantined or in self-isolation. With many people working from

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<sup>1</sup> Q4 posed by the Commission at paragraph 27 of BNOC 2020-336.

<sup>2</sup> CAB Application, dated July 13, 2020, at para 10.

<sup>3</sup> *Ibid*, at para 11.

home, and with schools shuttered from March through to September, Canadians watched television and streamed programming like never before. Unfortunately, this increase in viewership did not translate into additional advertising revenues for Canadian broadcasters.

8. While production expenses have increased in light of safety and contact considerations and news and information reporting has become a focus for Canadians and broadcasters, it is also important to acknowledge that access to programming itself has become strained and uncertain.
9. While the CAB application was filed on behalf of Canada's private broadcasters and addresses the issues those parties faced, it recognizes that community and campus radio stations faced "...some of the same issues, and therefore need for relief, would also apply to them".<sup>4</sup>

***Flexibility should be extended to community programming outlets***

10. TELUS submits that similar issues have occurred with regards to programming available to community programming undertakings operated by broadcasting distribution undertakings ("BDUs"), due to the lack of content being produced within the communities they serve.
11. More specifically, due to mandatory social distancing and lockdown requirements, many of the access programming initiatives expected during the 2019-2020 broadcast year were either halted completely or delayed, and as a result that programming was not delivered within the broadcasting year. Most community events, festivals, and parades were cancelled, and crowd limiting initiatives made it next to impossible for community producers to continue to create community programming. Such delay is likely to result in BDUs not meeting their obligations with regard to access spending and exhibition requirements.
12. As the COVID pandemic severely decreased the ability of community members to produce access programming, TELUS sought new means of providing opportunities to its community members to both partake in the community broadcasting system, and to access some of the services that were no longer available during these times.
13. Live in-person events such as concerts, artistic performances, and theatrical performances were postponed indefinitely. Celebrations such as Canada Day festivities, which would normally result in an influx of access programming, became

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<sup>4</sup> See CAB Application, at footnote 1. While the footnote specifically mentions community and campus radio stations, the CAB's comment is equally true of BDU-operated community channels.

“virtual” celebrations. As a result, Canadians were increasingly seeking new ways to connect with their communities.

***Exceptional measures to ensure local programming is available during COVID-19***

14. TELUS responded by providing opportunities for its subscribers to stream programming from the Vancouver Opera and Vancouver Symphony Orchestra, and Theatre Calgary, and by livestreaming events from the Aga Khan Museum Lapis Digital Benefit, the HR MacMillan Space Centre, and the TELUS World of Science. We ensured community members would not miss out on virtual events like the Edmonton Fringe Festival and Vancouver Pride.
15. TELUS provided access opportunities to ministers, pastors, and places of worship to stream religious services, ensuring that its subscribers would have access to such services while under self-isolation and social distancing.
16. Though much of this programming would be considered local community access programming if presented on a linear channel basis, such programming has a limited use when provided on an on-demand basis, as it is no longer “fresh” to subscribers. As a result, and with the goal of providing timely access to local programming to its communities, TELUS provided programming on a streaming basis to its Optik TV subscribers, and thus is not able to count these programming hours as local community programming exhibition. Furthermore, TELUS is not able to claim the expenditures associated with the provision of this community programming as community programming expenditures.
17. Thus, in the event the Commission determines that it would be appropriate to grant regulatory flexibility, or any other form of relief, to private broadcasters, TELUS respectfully requests that similar regulatory flexibility and relief be granted to BDU-operated community channels in connection with their regulatory obligations.

***Carrying over under-expenditures to future broadcasting seasons***

18. In addition, considering the restrictions associated with managing the spread of COVID-19, *i.e.* social distancing measures, personal protective equipment, etc., TELUS expects that community content production expenses will increase throughout the upcoming broadcasting year. In light of this unprecedented circumstance, TELUS proposes that the Commission consider allowing BDUs to carry over a reasonable portion of any unused expenditures from the 2019-2020 broadcast year to the current broadcasting year.
19. TELUS submits that its proposal is consistent with the Commission’s proposed approach outlined in BNOC 2020-336. In particular, community channel compliance

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with required expenditures could be measured over a longer time frame, and thus the carried over contribution funding would not be lost to the system.

20. TELUS thanks the Commission for the opportunity to provide these comments in connection with the CAB's request for relief in light of the negative consequences of the COVID-19 pandemic.

Yours truly,

A handwritten signature in cursive script, reading "Lecia Simpson".

Lecia Simpson  
Director, Regulatory Affairs

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