



13 October 2015

John Traversy
Secretary General
CRTC
Ottawa, ON K1A 0N2

Via CRTC online filing system

Dear Secretary General,

Re: Part 1 Application 2015-1061-0 by Shaw Communications Inc. (1 September 2015)

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established to undertake research and policy analysis about communications, including broadcasting. The Forum supports a strong Canadian broadcasting system that serves the public interest.
- 2 We wish to comment briefly on the 1 September 2015 application by Shaw Communications Inc. (Shaw) to change the description of its regional news service, BC News + 1 (BC1) from a regional to a national service.
- 3 Shaw is asking the CRTC to change the condition of its licence describing its service

From this

2. (a) The licensee shall provide a regional, English-language specialty Category B service that will offer a mix of local and regional news, traffic, weather, business, sports and entertainment information devoted to serving residents of British Columbia, with a special focus on the Vancouver/Victoria Extended Market, as defined by the Broadcast Bureau of Measurement¹ (BBM) Canada

To this

The licensee shall provide a national English-language discretionary service primarily focused on News programming.

- 4 We also note that on 18 September 2015 Shaw answered queries from the CRTC by saying that “BC1 will continue to focus on local and regional news and will remain primarily devoted to serving residents of British Columbia”. Shaw explained that

¹ Presumably this reference was to the Bureau of Broadcast Measurement, known as Numeris since June 2014.

The proposed use of the word “national” is to support efforts for wider distribution across Canada. However, the proposed description of service is not intended as a means to achieve status as a Category C mainstream national news service with the associated regulatory privileges and obligations.

... if the Commission considers it necessary, we are not opposed to a description as a “regional” service”

- 5 Shaw has not proposed alternative wording for the condition it is now proposing in lieu of existing condition of licence 2(a), leaving it unclear what programming would and would not be offered by BC1 if the CRTC approved its current application. In our view, the absence of evidence on the record on this point at this time means that Shaw’s application is incomplete and does not provide the CRTC with sufficient evidence on which to base a reasoned decision. FRPC respectfully suggests that the applicant should clarify this point to permit the CRTC to give the application its due consideration.
- 6 We also note that Shaw applied to the CRTC on 3 July 2015 for amendments to the BC1 licence to permit closed captioning tests and add BC1 to Shaw’s group licence.
- 7 FRPC offered qualified support for Shaw’s closed captioning proposal² based in part on Shaw’s evidence on 3 July 2015 that there would be no programming changes if Shaw’s application were granted.³ Shaw then said on 20 August 2015 that “BC News 1 is a Category B regional all-news service [that] ... offers valuable local and regional news and information programming to residents of BC” (paras. 45-46), appearing to support Shaw’s previous statement that programming would not change (because the existing programming was “valuable”).
- 8 Just eleven days later, however, on 1 September 2015, Shaw said that BC1’s programming will change.⁴
- 9 Shaw’s representative has declared that both statements are “true in all respects” and that the “estimates given” in the application, “are (will be) based on facts as known to me.”⁵

² FRPC, *Re: Amendments to conditions of licence related to closed captioning and group-based licensing (Application 2015-0701-3, 3 July 2015)*, intervention 3, (Ottawa, 10 August 2015).

³ Shaw Communications Inc., *Form 301 Amendment requests – Television*, (3 July 2015), at 3-4:
[3.1]e. If this amendment is approved, will there be any programming changes as a result of this amendment?
No

⁴ Shaw Communications Inc., *Form 301 Amendment requests – Television*, (1 September 2015), at 3-4:
[3.1]e. If this amendment is approved, will there be any programming changes as a result of this amendment?
Yes

- 10 The conflict of evidence now on the CRTC's public record about the same programming service raises specific concerns about the programming that BC1 will actually be offering, and more general concerns about the integrity of the licensing process. The CRTC is only able to base its decisions on the evidence before it and at this point, the evidence from the same applicant about the same programming service – on the critical issue of the programming it plans to offer – is contradictory. The applicant should amend either or both applications to correct inconsistencies before either application is considered by the Commission. If the applicant chooses to amend either of its applications, however, procedural fairness would require that interveners be given an opportunity to amend their interventions, if they so desire.
- 11 Currently, however, FRPC is unable to support the current application (being application 2015-1061-0) due to the evidentiary inconsistencies that have been introduced to the record about Shaw's plans for BC1, as well as the absence of clear evidence about the programming that BC1 would or would not offer if the current (1 September 2015) application were approved,

We look forward to the opportunity of reviewing other submissions made in this proceeding. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely yours,



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⁵ Application 2015-0701-3 (3 July 2015) at 2 (“1.6 Declaration of the applicant or its designated representative”); Application 2015-1061-0, (1 September 2015) at 2 (“1.6 Declaration of the applicant or its designated representative”).