



2024 04 18

Marc Morin
Secretary General
CRTC
Ottawa, ON K1A 0N2

Filed online

Dear Secretary General,

Re: Part 1 Broadcasting Application 2024-0125-6, Bell ExpressVu Part 1 Application to Amend Certain Conditions of Licence Applicable to Bell ExpressVu's Satellite Relay Distribution Undertaking (SRDU) Licence – Supplementary Brief – Letter and Supplementary Brief (18 March 2024) – FRPC – Procedural request

- 1 On 18 March 2024 Bell ExpressVu (Bell) asked the CRTC to amend the conditions of its SRDU broadcasting licence. In the covering letter of its application Bell asked the Commission to grant confidentiality to certain information in the application “pursuant to section 39 of the *Telecommunications Act* and the directions provided by the Commission in the Appendix to BTIB 2010-961”¹.
- 2 Taking the liberty of assuming that Bell intended to refer to section 25.3(1) of the current *Broadcasting Act*,² FRPC asks that the Commission to exercise its authority under section 25.3(4) to disclose or require the disclosure of the underlined text shown between the number signs (“#”) in the two items set out in Table 1, below:

Table 1

Item #	Paragraph #	Text
1	18	... In 2023, our SRDU contributed only # # towards the creation of Canadian programming – a large decline from the # # that our SRDU service contributed in 2016. ...

¹ *Bell ExpressVu Part 1 Application to Amend Certain Conditions of Licence Applicable to Bell ExpressVu's Satellite Relay Distribution Undertaking (SRDU) Licence – Supplementary Brief – Letter (18 March 2024)*, at paragraph 4.

² *Broadcasting Act*, s. 25.3 ([current to 1 April 2024 and last am. 22 June 2023](#)):
25.3 (1) A person who submits any of the following information to the Commission may designate it as confidential:
(a) information that is a trade secret;
(b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or
(c) information the disclosure of which could reasonably be expected
(i) to result in material financial loss or gain to any person,
(ii) to prejudice the competitive position of any person, or
(iii) to affect contractual or other negotiations of any person.

(Table 1, cont'd)

Item #	Paragraph #	Text
2	26	... We suspect that a single large exempt BDU # [REDACTED] #.

#

Content for which Bell seeks confidentiality

Underlining

 Text that does not appear to meet the *Broadcasting Act's* current position on confidentiality

- 3 In the case of item 1, the text that Bell has redacted apparently represents the amount that its SRDU paid with respect to Canadian programming in the 2023 calendar year.³
- 4 FRPC acknowledges that the amount that Bell's SRDU allocated to Canadian programming represents 5% of its SRDU's gross broadcasting revenues in 2023, as then-condition of licence 7 in [Broadcasting Decision CRTC 2019-385](#) required. Yet even assuming that knowledge of the actual dollar amount enabled precise estimation of the SRDU's 2022/23 broadcasting revenues (or its broadcasting revenues for the 2023 calendar year), Bell has also stated that its SRDU's "business has declined significantly since the Commission last considered" its licensing,⁴ that its SRDU business and all others "have been in decline for many years",⁵ that the Canadian SRDU "market has been in steady decline" for at least 12 years,⁶ that there has been a "significant decline"⁷ and, says Bell, that in "a rapidly changing business environment" its "SRDU revenues have declined *precipitously*" (italics added).⁸ Given ongoing declines whose scale is unknown but which Bell describes as 'precipitous' it is clear that knowing the SRDU's 2023 calendar or 2022/23 broadcast year revenues cannot allow any other party to make an accurate forecast about the SRDU's revenues in the preceding 2021/22 broadcast or 2022 calendar years, or in the coming 2023/24 broadcast or 2024 calendar years. FRPC submits that the statements Bell has made in its application establish that interested parties' knowledge of the specific amount paid by Bell in 2023 (or 2022/23 if that is the case) would be of no or very limited value in terms of affording a material financial loss or gain to any person, prejudicing any party's competitive position or affecting any person's contractual or other negotiations as the *Broadcasting Act* provides in section 25.3(1).
- 5 Knowledge of the specific amount that Bell describes as being immaterial to the achievement of Parliament's broadcasting policy is, however, necessary to enable the public in general and FRPC specifically to make its case to the Commission regarding Bell's application. Granting confidentiality to this figure prohibits interested parties

³ As neither Bell's covering letter nor its application states clearly that its references to years in paragraphs 5, 11, 12, 14, 17, 18 and 20 describe broadcasting or calendar years.

⁴ Bell, paragraph 17.

⁵ Bell, paragraph 22.

⁶ Bell, paragraph 26.

⁷ *Ibid.*

⁸ Bell, paragraph 31

from evaluating and challenging Bell's argument that its SRDU's Canadian programming payment is immaterial for the purposes of an exemption under section 9(4) of the *Broadcasting Act*. As preventing parties from being able to formulate an argument regarding the implementation of a Parliament's broadcasting policy for Canada responsive to basic facts does not serve the public interest, FRPC asks that the redacted text be disclosed at least one working day before 25 April 2024 (the deadline in this proceeding).

- 6 With respect to item 2, the text that Bell has redacted in paragraph 23 appears to represent Bell's suspicion, rather than a fact: "We suspect that a single large exempt BDU # [redacted] #."
- 7 The *Broadcasting Act* does not provide a basis for granting confidentiality to applicants' suspicions. FRPC submits that granting confidential treatment of Bell's suspicion does not reflect Parliament's intentions with respect to confidentiality, sets a novel and unsupported precedent and does not serve the public interest. FRPC therefore asks that the redacted text be disclosed at least one working day before 25 April 2024 (the deadline in this proceeding).



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