



2024 04 21
Marc Morin
Secretary General
CRTC
Ottawa, ON K1A 0N2

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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 – Response to Bell's reply

- 1 FRPC is in receipt of Bell's 19 April 2024 reply to FRPC's' 18 April 2024 procedural request.
- 2 First, FRPC acknowledges that Table 1 in its 18 April request erroneously referred to paragraph 26 when it should have referred to paragraph 23, and apologizes for the inconvenience.
- 3 Second, FRPC appreciates Bell's agreement to disclose the redacted text following the words, "suspect that a large exempt BDU", in paragraph 23.
- 4 Third, FRPC notes that Bell offers three reasons why the CRTC should not grant FRPC's' request for the disclosure of Bell's SRDU payment in 2023 towards Canadian programming (redacted in paragraph 18 of Bell's application following the words, "our SRDU contributed only").
- 5 First, Bell states that disclosing its financial support for Canadian programming in 2023 would constitute the disclosure of its "SRDU's historic and current contributions to Canadian programming" (Bell Reply, paragraph 4). FRPC is in fact asking for the disclosure a single, 'historic' contribution made in 2023 – not the SRDU's "historic and current contributions".
- 6 Second, Bell argues that disclosure of its financial support for Canadian programming in 2023 will enable its "competitors and customers to reverse engineer" its "SRDU's overall broadcasting revenues" (Bell Reply, paragraph 4). Disclosure of the Bell SRDU's financial support for Canadian programming in 2023 will in fact only allow others to estimate the SRDU's gross annual broadcasting revenues for that one year. Parties have no way of knowing whether
 - a) as then-condition of licence 7 provides, the SRDU in fact chose to allocate *more* than the minimum 5% of gross broadcasting revenues to Canadian programming (meaning that any estimate based solely on 5% would underestimate the SRDU's revenues),
 - b) the SRDU remitted the 5% amount stipulated by then-condition of licence 7 (in which

case an estimate based on the 5% figure would overestimate the SRDU's revenues), or

c) the SRDU did not remit any payment towards this 5% amount (in which case the SRDU's revenues cannot be estimated).

- 7 FRPC acknowledges that if Bell's SRDU in fact provided the minimum financial support for Canadian programming required by then-condition of licence 7 others "*could*" (Bell's emphasis in paragraph 5 of its Reply) calculate the SRDU's annual gross broadcasting revenues for 2023, a figure that the CRTC has not published. Yet Bell did not refute the fact that its own application highlighted the volatility of Bell's SRDU, leaving unchallenged FRPC's point that knowing the SRDU's revenues in a single year is unlikely to enable others to develop accurate forecasts for any other year, past or future. Bell's Reply also did not explain how knowing a single year of its SRDU's revenues would specifically empower unidentified competitors to develop and implement new "business", "pricing and customer acquisition strategies". In particular, Bell did not address the fact that its SRDU operates as one half of a duopoly – the only other SRDU operating in Canada is licensed to Shaw Satellite Services (now owned by Rogers Communications Inc.): this duopoly makes it more reasonable than not to assume that the only SRDU competing with Bell already has and has long had a sufficiently clear understanding of the Bell SRDU's revenues and expenditure to enable it to develop effective business, pricing and customer acquisition strategies. Speculation that Rogers' knowledge of one year of revenue data *might* affect its strategies is insufficient, in our view, to tip the balance against disclosure that would serve the public interest.
- 8 Third, Bell argues that, given its confirmation that "the general range" of its "SRDU's broadcasting revenues ... is now below \$1.5 million", this information "should be more than sufficient for parties to formulate arguments regarding whether or nor [its] SRDU is currently making material contributions to the objectives of the *Broadcasting Act*" (Bell Reply, paragraph 5). FRPC's request for disclosure is not based on its inability to formulate arguments about the Bell SRDU's material contributions to the implementation of Parliament's broadcasting policy for Canada: it is based on the requirement in sections 26(2)(d) and (f) in the [Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure](#) for facts that support those arguments. Financial support for Canadian programming is at the core of Parliament's broadcasting policy for Canada: in this proceeding the absence of evidence on this point for even one year effectively precludes meaningful public discussion on this matter of public interest.



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