



19 August 2024

Marc Morin
Secretary General
CRTC
Ottawa, ON K1A 0N2

Filed online

Dear Secretary General,

Re: Blue Ant Media Inc., Part 1 Application 2024-0385-6 (21 June 2024¹)

The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including broadcasting. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in the 1991 *Broadcasting Act*.

The Forum's intervention opposing approval of the Part 1 application filed by Blue Ant Media Inc. is attached.

We look forward to reviewing the applicant's reply if any. Should the CRTC decide to hold an appearing public hearing in this matter the Forum respectfully asks to participate in that process.

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¹ The Blue Ant Media Inc. cover letter (DM#4668352) is dated 20 June 2024; the application (DM#4668353) was signed 21 June 2024). FRPC relies on the later date in this intervention.



Blue Ant Media Inc.
Part 1 Application 2024-0385-6

Intervention of the Forum for Research and Policy in Communications (FRPC)

Monica L. Auer
Executive Director

19 August 2024



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Executive Summary

- ES 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013. It undertakes research, legal analysis and quantitative research about communications including broadcasting. FRPC believes that the public interest is served when it meets Parliament’s objectives for the broadcasting system, as set out in section 3 of the 1991 *Broadcasting Act*, as amended by the *Online Streaming Act*.
- ES 2 Blue Ant applied to the CRTC to amend the level of expenditures it is required to devote to programs of national interest (PNI). The CRTC set this level in 2018 when it last considered a renewal application from the company. Condition of licence 7 requires Blue Ant to allocate 13.5% of each undertaking’s previous year’s gross revenues to acquire or invest in PNI programming; condition of licence 9 requires 25% of these expenditures to be made on independent production companies. PNI programming consists of documentaries (CRTC television program category 2(b)) dramas (category 7) and award shows (category 11(a)).
- ES 3 FRPC **opposes** approval of Blue Ant’s application due to the absence of facts to support its arguments. The missing facts include
- evidence about Blue Ant’s actual PNI and CPE expenditures for each broadcast year since 2016/17 to the present (partial) 2023/24 broadcast year
 - estimates of the impact that reducing PNI expenditures by nearly two-thirds (63%) will have on the funding available to produce dramas, documentaries and award shows
 - empirical analysis of the “existential” threat that Blue Ant says PNI poses to its licensed services’ viability and analysis showing how reducing its PNI expenditures will eliminate this threat,
 - evidence to support its belief that its financial position is dire given that its revenues increased by 3.7% between 2019 and 2023, while in this period non-vertically integrated discretionary services’ revenues (less Blue Ant’s revenues) decreased by 12.3%, and
 - facts supporting Blue Ant’s statement that its apparently permanent two-thirds reduction in PNI requirements “is based on the same rationale” expressed by Corus, Bell and Rogers in their applications – given in particular that the CRTC has more than once described Corus’ circumstances as unique and also that Corus’ amendment was framed as one that would provide temporary (rather than permanent) relief.
- ES 4 FRPC also notes that Blue Ant’s application does not explain why the CRTC should reduce the company’s PNI expenditures for its licensed television programming services, so as to provide more programming flexibility for its unlicensed FAST channels and online streaming services: as these services’ programming requirements are unregulated by the Commission, nothing prevents Blue Ant from selecting different programs for those services.
- ES 5 Finally, the absence of evidence in Blue Ant’s application means that other factors – such as its current programming choices – may account for audience reactions to its programming (and in turn[although Blue Ant provides no evidence on this point] for its financial performance).

I. Introduction

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about broadcasting and telecommunications. The Forum supports a strong Canadian communications system that serves the public interest.
- 2 The Forum is intervening with respect to Part 1 Application 2024-0385-6 filed by Blue Ant Media Inc. (Blue Ant) on 21 June 2024 and published online by the CRTC on 18 July 2024. The application consists of a two-page cover letter and a completed (CRTC) *Form 301 – Amendment requests – Television*.²
- 3 Blue Ant is asking the CRTC to amend a condition of its licences for these services which has to do with programs of national interest (PNI): Broadcasting Decision CRTC 2018-291 required Blue Ant each year to devote 13.5% of its gross broadcasting revenues from the previous year to Programming of National Interest (PNI).³ The same decision allowed Blue Ant to continue to allocate just a quarter of these expenditures to independently produced programming rather than the 75% for other broadcast ownership groups.⁴ (Under the current *Broadcasting Act*, such conditions of licence are now deemed to be an order made under section 11.1(2) with respect to expenditures to be made by a particular broadcaster.⁵)
- 4 Blue Ant made a similar application five years ago in a four-page submission which the CRTC denied in 2020.⁶
- 5 FRPC **opposes** Blue Ant’s application because the company has not provided any evidence to support its arguments. In the pages that follow FRPC sets out Blue Ant’s regulatory history, and analyzes Blue Ant’s arguments.

² (Footnote 1 is set out in the Forum’s cover letter for this intervention.)

On behalf of Blue Ant Television General Partnership (Application 2024-0385-6, ¶1).

³ *Blue Ant – Discretionary services – Licence renewal*, [Broadcasting Decision CRTC 2018-291](#) (Ottawa, 21 August 2018), Appendix 2, Condition of licence 7.

⁴ *A group-based approach to the licensing of private television services*, [Broadcasting Regulatory Policy CRTC 2010-167](#) (Ottawa, 22 March 2010), at ¶95: “... designated groups should be subject to a condition of licence requiring that at least 75% of the spending requirement for programs of national interest be allocated to independently-produced programs.” Condition of licence 9 of [Broadcasting Decision CRTC 2018-291](#) requires “[a]t least 25% of the expenditures in condition 7 ... be made to an independent production company.”

⁵ Section 50(2) of the transitional provisions of the *Online Streaming Act* (then Bill C-11) provided that “[a]ny condition of a licensee’s licence that, as of the royal assent day, could be made the subject of an order under subsection 11.1(2) of the new Act is deemed to be a provision of such an order that applies only with respect to the licensee.”

⁶ *Blue Ant – Discretionary Services – Licence amendment*, [Broadcasting Decision CRTC 2020-189](#) (Ottawa, 15 June 2020)

II. About Blue Ant

6 Blue Ant described itself in 2023 as a privately held producer, distributor and operator, with 8 offices outside of Canada:

Blue Ant Media is a privately held, international content producer, distributor and channel operator. We own and operate numerous production companies in North America and Asia-Pacific, creating content for broadcasters and streaming platforms in multiple genres including factual entertainment, natural history, documentary and adult animation. Our distribution business, Blue Ant International, offers a substantial catalog of content, including one of the world’s largest 4K natural history offerings. Blue Ant Media operates linear and free streaming channels under several brands including Love Nature, Smithsonian Channel Canada, BBC Earth (Canada), BBC First (Canada), HauntTV, Total Crime, Homeful and HistoryTime. Blue Ant Media is headquartered in Toronto, with eight international offices in Los Angeles, New York, Singapore, Tokyo, London, Washington and Beijing.

Blueantmedia.com Twitter | Instagram | LinkedIn⁷

7 Blue Ant says that it creates TV content, “developing great story ideas and producing shows with acclaimed creators to sharing content through distribution partners and operating our own channels....”⁸

8 The CRTC has granted Blue Ant broadcasting licences to provide seven discretionary television programming services that it acquired in 2011 and 2012 for \$125.5 million: Table 1.

Table 1 Blue Ant’s acquisition of 8 discretionary services

Blue Ant’s acquisition of eight discretionary television services	Purchase price
<i>Acquired from Glassbox Television Inc. in September 2011⁹</i>	\$32.5 million
• Makeful TV (formerly BITE Television)	
• T+E (Travel and Escape until 14 April 2022)	
• A.Side (formerly AUX TV; revocation granted in December 2022 ¹⁰)	
<i>Acquired from High Fidelity HDTV Inc. in mid-2012¹¹</i>	\$85 million
• BBC Earth (radX until 31 January 2017;	
• BBC First (HIFI until 14 April 2022)	
• Love Nature (formerly Oasis HD)	
• Smithsonian Channel (eqhd until 13 November 2013)	

⁷ blue ant media, [Blue Ant Media’s Premium Factual Content Brand, Love Nature Debuts, in Australia on Fetch TV](#), (Washington, DC, 4 April 2023) [Blue Ant].

⁸ Blue Ant, [“Nothing connects like a good story.”](#) [accessed 19 August 2024].

⁹ *AUX TV, BITE Television and travel + escape – Change of effective control*, [Broadcasting Decision CRTC 2011-585](#) (Ottawa, 14 September 2011).

¹⁰ *A.Side Channel – Revocation of licence*, [Broadcasting Decision CRTC 2022-338](#) (Ottawa, 14 December 2022). blue ant’s 23 November 2022 letter to the CRTC advised the Commission that A.Side’s service was ceasing operations on 15 January 2023.

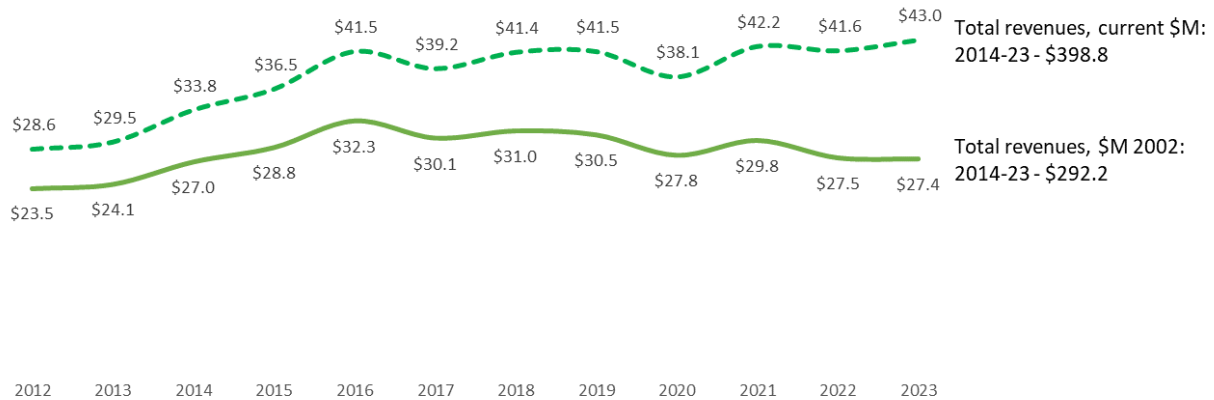
¹¹ *Change in effective control*, [Broadcasting Decision CRTC 2012-381](#) (Ottawa, 16 July 2012).

Acquired from CBC/RC in November 2012 ¹²⁾	\$8 million
• Cottage Life (formerly Bold)	
Total purchase price	\$125.5 million

9 From 2014 to 2023 Blue Ant’s licensed discretionary services generated \$398.8 million in revenue: Figure 1.

Figure 1 Blue Ant revenues, 2011/12 to 2022/23

Blue Ant Media: revenues, 2011/12 to 2022/23 (\$M current and \$M 2002)



CRTC, *Individual Discretionary and On-Demand Services: Statistical and Financial Summaries, 2012-16 to 2019-23*
 Statistics Canada, Table 18-10-0005-01 (CPI series, 2002=1)

10 It is also unclear how Blue Ant’s proposal would affect its non-licensed programming services. Blue Ant has registered 7 streaming services with the CRTC: Table 2.

[Remainder of page left intentionally blank]

Table 2 Blue Ant Streaming services registered with CRTC

Operator	Service	Type	Address
Blue Ant Television General Partnership	BBC Earth (SVOD)	Digital Media Audiovisual online	99 Atlantic Avenue Suite 400, Toronto, Canada
	Crimetime (FAST)		
	Haunt TV (FAST)		
	History Time		
	Homeful (FAST)		
	Love Nature (SVOD)		
SN Channel General Partnership	Smithsonian Channel (SVOD)	Digital Media Audiovisual	130 Merton Street, Suite 200, Toronto, Canada

Source: CRTC, [List of registered online streaming services operated by the ownership group](#)

¹² bold – Acquisition of assets, [Broadcasting Decision CRTC 2012-630](#) (Ottawa, 16 November 2012).

- 11 The company’s website lists other broadcasting services (free, ad-supported television services, or FAST channels), publishing brands and consumer shows:

Table 3 Blue Ant’s business lines

“Specialty TV channels”	“FAST channels”	Publishing brands	“Our Consumer Shows”
BBC earth BBC first Cottage Life Love nature Makeful Smithsonian Channel T&E	Crime Time Love Drama Declassified Love pets DragRace Universe Haunt TV Naturetime Homeful Total crime	Animalogic Cottage Life MobileSyrup	Cottage Life National Home Show The Baby Show
https://blueantmedia.com/specialty-tv-channels/	https://blueantmedia.com/global-media/	https://blueantmedia.com/publishing/	https://blueantmedia.com/consumer-shows/

- 12 Blue Ant submitted its most recent licence-renewal application to the CRTC in August 2017.¹³ The CRTC renewed its broadcasting licences in August 2018 for five years, from September 2018 to 31 August 2023.¹⁴
- 13 The Commission’s 2018 renewal decision required Blue Ant – in each year of its new licence term – to allocate 13.5% of each year’s previous gross broadcasting revenues to Programming of National Interest (PNI). PNI is defined for English-language television programming services as long-form documentaries (category 2(b)), drama and comedy (category 7) and certain Canadian award shows.¹⁵
- 14 Roughly 8 months after its new licence term began Blue Ant applied to the CRTC to reduce its PNI from 13.5% to 5%, beginning in September 2019.¹⁶ It argued that, when it applied to renew its licences in August 2017, it had proposed maintaining its PNI at 13.5% because the CRTC’s “treatment of PNI expenditures by broadcasting ownership groups was in a state of flux”.¹⁷ Blue Ant said that it had expected no less favourable treatment if the CRTC later reduced ‘standardized’ requirements for other broadcasters¹⁸ -- and the CRTC then did

¹³ Blue Ant, *Re: Blue Ant Group-Based Licence Renewal Applications*, (31 August 2017), DM#2960369-APP-Blue Ant Television General Partnership – APP-Doc1-Cover Letter.pdf, at 1. Blue Ant noted that this application was identical to the licence renewal application it had filed on the same date for the Smithsonian Channel.

¹⁴ *Blue Ant – Discretionary services – Licence renewal*, [Broadcasting Decision CRTC 2018-291](#) (Ottawa, 21 August 2018), at ¶168.

¹⁵ *Ibid.*, footnote 2.

The CRTC also granted Blue Ant permission to apply a 50% for Canadian programming expenditures (CPE) on Canadian programming produced by Indigenous producers to a maximum of 10% of its total CPE requirements (¶26) and a 25% for CPE on programming produced by official language-minority producers to a maximum of 10% of total CPE requirements (*Ibid.*, ¶27).

¹⁶ DM#3627543, Blue Ant, *Re: Blue Ant Group – Licence Amendment Application re: PNI Requirement* (9 April 2019), ¶2.

¹⁷ *Ibid.*, at ¶4.

¹⁸ *Ibid.*, at ¶ 5.

subsequently reduce larger ownership groups' PNI requirements on 30 August 2018¹⁹ in response to Cabinet's direction that the Commission reconsider its decisions for these groups. Blue Ant also argued that it needed "to maintain as much flexibility as possible to produce and Commission programming that reflects the viewing habits and appetites of Canadian audiences."²⁰

- 15 The CRTC denied Blue Ant's application in June 2020.²¹ It evaluated the application in terms of two issues: consistency with the Commission's group-based policy and evidence of compelling need. The CRTC's decision stated that approving a reduction in the company's PNI would be inconsistent with its group-based policy approach as this required a "holistic approach" in which the CRTC assesses PNI requirements in tandem with CPE levels:²² "individual requirements cannot be viewed in isolation", it stated, because these

... operate within a larger set of regulatory obligations and related policies that, collectively, constitute a cohesive set of regulatory mechanisms meant to balance several objectives of the Act.²³

- 16 The CRTC also stated that Blue Ant's financial projections showed that "the financial viability of ... Blue Ant would not be affected" and it "would remain profitable".²⁴ (The CRTC also stated that when Blue Ant filed its renewal application – just after Cabinet had issued its reconsideration direction – the company "did not request an extension to the deadline for its renewal applications in order to address any concerns relating to its PNI expenditure requirement."²⁵)
- 17 Although Blue Ant's broadcasting licences were to expire in 31 August 2023²⁶ the CRTC renewed them administratively in September 2022 until August 2024,²⁷ and in August 2023 again renewed the licences administratively until August 2026.²⁸

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¹⁹ *Ibid.* at ¶18.

²⁰ *Ibid.*, at ¶10.

²¹ *Blue Ant – Discretionary Services – Licence amendment*, [Broadcasting Decision CRTC 2020-189](#) (Ottawa, 15 June 2020).

²² *Ibid.*, ¶12.

²³ *Ibid.*, ¶22.

²⁴ *Ibid.*, ¶25.

²⁵ *Ibid.*, ¶18.

²⁶ *Blue Ant – Discretionary services – Licence renewal*, [Broadcasting Decision CRTC 2018-291](#) (Ottawa, 21 August 2018), at ¶68.

²⁷ *Various independent discretionary services operating under a group-based approach – Administrative renewals*, [Broadcasting Decision CRTC 2022-258](#) (Ottawa, 22 September 2022), Appendix.

²⁸ *Various television programming services and networks, and broadcasting distribution undertakings – Administrative renewals*, [Broadcasting Decision CRTC 2023-245](#) (Ottawa, 8 August 2023), Appendix 2.

III. Blue Ant’s arguments unsupported by evidence

A. Blue Ant’s request to reduce PNI expenditures

18 As noted earlier, Blue Ant is applying to the CRTC to amend its condition of licence concerning PNI by reducing the requirement by 8.5 percentage points – from 13.5% of each previous year’s revenues, to 5%. It says it will still allocate 21% of each previous year’s revenues to acquire or invest in Canadian programming.²⁹

19 Blue Ant’s allocation of expenditures to CPE and PNI are somewhat unclear. First, the CRTC’s *Financial Summaries* do not set out PNI expenditures for its individual licensed discretionary services.

20 Second, the reports filed by Blue Ant do not describe each broadcast year, but only some of them.

21 Third, some of Blue Ant’s PNI reports contain inconsistencies. For example, in early 2018 Blue Ant refiled three of its PNI reports in the context of its 2017/18 licence renewal so as “to be consistent with the PNI Reports filed by other licensees” – by stating expenditures “on a cash commitment basis and not an amortization basis.”³⁰

22 Blue Ant’s refiled report for 2015/16 sets out total Canadian Programming Expenditures of

Figure 2 Blue Ant PNI revised report for 2016 Broadcast Year (DM#3075987)

PROGRAMS OF NATIONAL INTEREST BY REGION, BY LANGUAGE									
OVERVIEW									
Broadcast Group: <u>Blue Ant Media</u>									
Broadcast Year: <u>BY 2016</u>									
New commissioned programs (original to the service and excluding benefits expenses) in BY 2016									
Location of Principal Photography	Language	Number of Projects	Total Number of Hours Produced (in broadcast hours)	Total Production Budgets	% of Total Production Budgets	Total Licence Fees	% of Total Licence Fees	Total Eligible Canadian Programming Expenditures	% of Total Eligible Canadian Programming Expenditures
British Columbia	All languages	4	23.5	6,370,654	30%	1,182,325	20%	1,182,325	20%
	English-language								
Prairies	All languages	-	-	-	-	-	-	0	-
	English-language								
Ontario	All languages	8	49	8,786,731	42%	1,285,201	29%	1,285,201	29%
	English-language								
Quebec	All languages	1							
	English-language								
	French-language Third-language								
Atlantic	All languages	3	25	2,783,200	13%	1,251,200	28%	1,251,200	28%
	English-language								
Other	All languages	1							
	English-language								
All Regions	All languages English-language	17	112.5	21,144,079	100%	4,477,826	100%	4,477,826	100%

All reported PNI programs in BY 2016						
Broadcast Year	Language	Total Eligible Canadian Programming Expenditures (excludes tangible benefits expenditures)	Eligible Canadian Programming Expenditures Allocated to Independent Producers		Eligible Canadian Programming Allocated to Affiliated Producers and In-House Productions	
		\$	\$	%	\$	%
BY 2016	All languages	4,477,826	4,477,826	100	*****	
	English-language	-	-		-	
	French-language Third-language	-	-		-	

***** Per Instruction Sheet, our television licensee does not own or control any production entity
 Note this report is done on a cash commitment basis and not on an amortization basis and covers Broadcast Year 2016
 Budget information for individual projects are granted confidentiality and confidentiality for aggregate regional data will only be granted where less than three projects are involved.

²⁹ DM#4668352, Blue Ant, *Re: Blue Ant Group – Licence Amendment Application re: PNI Requirement* (20 June 2024).

³⁰ Blue Ant, *Re: Request for information on the licence renewals of the television services owned by*

\$4,477,826 – these are shown in red ovals in Figure 2

- 23 The yellow-highlighted figures in the 2015/16 PNI report actually appear to add up to \$3,718,726, however, an amount that is 17% lower than the stated total.
- 24 The absence of up-to-date, reliable and consistent evidence about its expenditures on Canadian programming and PNI in Blue Ant’s current application makes it difficult for interveners to estimate the impact that reducing PNI would have on its Blue Ant’s programming, on audiences and on the broadcasting system. While Blue Ant has said it will meet its current CPE commitments, the lack of reliable facts about PNI and its programming plans means that the public cannot estimate how reducing PNI spending by almost two-thirds (from 13.5 to 5 percent, a 63% decrease) will affect expenditures on drama, documentaries and award shows and, in turn, the availability of this programming for audiences.
- B. *No evidence that Blue Ant has same problems as Corus, Bell and Rogers***
- 25 At the outset, Blue Ant said that its request “is not novel and is based on the same rationale and need to remain competitive as expressed by Corus, Bell and Rogers in their respective Part I applications to reduce their PNI expenditure requirements”.³¹
- 26 Blue Ant did not, however, provide any details about the Corus, Bell and Rogers applications to demonstrate how its application resembles theirs. Moreover, while Corus sought temporary regulatory relief based on a clear exposition of relevant facts, Blue Ant appears to be asking for a permanent change to its regulatory responsibilities without any facts at all.
- 27 FRPC submits that evidence about the ways that Blue Ant, Corus, Bell and Rogers are similar was necessary in light of the CRTC’s recent comments about Corus. Less than a year ago in October 2023, for instance, the CRTC wrote that that “Corus has found itself in a unique financial situation. As set out in the application, the company’s debt ratio has increased to unacceptable levels owing to a 61 percent free cash flow decrease over the previous year, and rapidly declining profitability.”³²
- 28 The CRTC also stated just three months ago that “Corus is fundamentally different from Rogers, Bell and Quebecor, as well as from Blue Ant Media Inc. (Blue Ant) and WildBrain Ltd. (WildBrain)”.³³ The CRTC wrote that it had granted Corus’ request to reduce its PNI by 3 percentage points (from 8.5% to 5%) “because it is tailored to Corus’ specific circumstances”,

the Blue Ant Group (Applications 2017-0841-31 and 2017-0842, (26 February 2018), DM#3075978, p. 1.

³¹ *Ibid.*, at ¶13.

³² CRTC, *RE: Part 1 application to amend conditions of service applicable to Corus Entertainment Inc. (“Corus”) English-language television group*, [Broadcasting – Secretary General Letter addressed to Matt Thompson \(Corus Entertainment Inc.\)](#), (Ottawa, 19 October 2023),

³³ *CRTC Various English-language television stations and discretionary services – Amendments to conditions of service*, [Decision CRTC 2024-103](#) (Ottawa, 13 May 2024), ¶126.

because its “regulatory status is unique”, and because its PNI spending “is among the highest of all private English-language ownership groups”.³⁴

29 As the CRTC’s public statements and those of Blue Ant’s application are at odds as to whether Blue Ant’s circumstances resemble those of Corus and as it Blue Ant has not explained the specific ways in which it resembles Bell and Rogers, factual support is needed for Blue Ant’s position that its application’s rationale should be considered to be the same as that of Corus, Bell and Rogers.

30 Blue Ant then set out four arguments to support its request that its PNI be reduced. It argued that its PNI level is too high compared to other Canadian broadcasters, secondly that these requirements limited its programming decisions, thirdly that the requirements limit its ability to attract audiences and finally, that maintaining its current PNI level threatens its existence: Table 2.

Table 4 Blue Ant’s arguments for reducing its PNI

Blue Ant’s June 2024 arguments for reducing its PNI
<p>1. Blue Ant’s PNI level is excessive</p> <ul style="list-style-type: none"> • Its PNI level is high compared to PNI levels of other Canadian broadcasters³⁵
<p>2. Blue Ant’s PNI level limits its programming decisions and audience appeal</p> <ul style="list-style-type: none"> • Meeting its PNI requirement forces it to “create a disproportionate amount of documentary programming” instead of “other types of programming, such as lifestyle and reality” • Foreign streamers have more programming flexibility that enables them to “program ... based on what audiences want to watch”³⁶ • Blue Ant’s PNI requirements mean it is “simply unable to create the right mix of content”, affecting its “Canadian broadcast revenues” which is directly tied to its ratings³⁷
<p>3. Blue Ant’s PNI does not attract audiences</p> <ul style="list-style-type: none"> • PNI requirements “place broadcasters at a tremendous ... competitive disadvantage in capturing audience viewing time”
<p>4. Blue Ant will suffer material hardship if its PNI is not reduced</p> <ul style="list-style-type: none"> • It will “suffer material financial hardship” and its viability will be “at real risk” if its PNI requirement is not changed immediately (“without further delay”)³⁸ • PNI requirements place broadcasters at an “existential competitive disadvantage”³⁹ • Blue Ant’s PNI requirements affects its ability to monetize the content on its “global channels and distribution sales”⁴⁰

31 As mentioned previously, Blue Ant’s application provides no evidence or facts to support its arguments. Meanwhile, as the CRTC explains in its 2024-25 *Departmental Plan*, the

³⁴ CRTC *Various English-language television stations and discretionary services – Amendments to conditions of service*, [Decision CRTC 2024-103](#) (Ottawa, 13 May 2024), Summary.

³⁵ *Ibid.*, at ¶14.

³⁶ *Ibid.*, at ¶13.

³⁷ *Ibid.*, ¶13.

³⁸ *Ibid.*, ¶15.

³⁹ *Ibid.*, at ¶13.

⁴⁰ *Ibid.*, at ¶13.

Commission “has the quasi-judicial powers of a superior court with respect to the production and examination of evidence and the enforcement of its decisions.”⁴¹ The CRTC

... consults on broadcasting and telecommunications matters to gather views and evidence that form the public record. Those public records form the basis of the CRTC’s deliberations and decisions.⁴²

- 32 It was especially important for Blue Ant to provide evidence in this proceeding not only because the CRTC denied the company’s previous application to reduce PNI – implying that Blue Ant needed to provide more support for its current application, but also because very little evidence is available elsewhere to parties interested in support Blue Ant’s application. Very little information is available from the CRTC which might enable interested parties to evaluate and later support Blue Ant’s arguments. In fact, the CRTC’s *Statistical and Financial Summaries* warn users against relying on their data for evaluative purposes:

Information found in this publication may not be sufficient to allow a proper evaluation of conditions of licence with respect to Canadian programming expenditures, as may be required of licensees in this sector. This is due to the fact that conditions of licence may take into account financial information which is not captured by financial statements.
...⁴³

- 33 FRPC therefore anticipated before reading Blue Ant’s current application that it would provide much-needed facts and evidence which the public could evaluate.

C. *No evidence about other broadcasters’ PNI levels*

- 34 In its mid-2020 decision denying Blue Ant’s April 2019 request to reduce its PNI, the CRTC stated that “[t]he onus is on licensees to provide evidence to the Commission in support of any relief they may be seeking in their applications.”⁴⁴ Evidence on this point matters because the CRTC has in the past justified its decisions for granting lower PNI levels to other broadcasters based on its “holistic approach” for ensuring “stable and sustainable funding”.⁴⁵ In other words, the CRTC must ensure that tinkering with one licensee’s requirements does not inadvertently affect its overall regulatory objectives for the broadcasting system.
- 35 Obtaining information about the PNI and CPE of other licensed discretionary services can be time-consuming. The CRTC’s *Statistical and Financial Summaries* explain that because the

⁴¹ CRTC, [Canadian Radio-television and Telecommunications Commission 2024–25 Departmental Plan](#), “Description”.

⁴² *Ibid.*, at “Departmental Result 4: “Proceedings related to the regulation of the communications system are efficient and fair”

⁴³ CRTC, Consumer, Research and Communications, *Individual Discretionary and On-Demand Services: Statistical and Financial Summaries, 2017-2021, Foreword*, “Introduction”.

⁴⁴ *Blue Ant – Discretionary Services – Licence amendment*, Broadcasting Decision CRTC 2020-189 (Ottawa, 15 June 2020), at ¶125.

⁴⁵ *Blue Ant – Discretionary Services – Licence amendment*, [Broadcasting Decision CRTC 2020-189](#) (Ottawa, 15 June 2020), at ¶12.

statistics they provide do not enable individual services CPE to be evaluated, interested parties should review individual licensing decisions for this information:

Information found in this publication may not be sufficient to allow a proper evaluation of conditions of licence with respect to Canadian programming expenditures, as may be required of licensees in this sector. ... Consult the applicable CRTC licensing decision on our website for comprehensive details on an individual licensee's conditions of licence.⁴⁶

- 36 While Blue Ant has argued that its PNI level is “one of the highest PNI expenditure requirement [sic] among Canadian broadcasters”,⁴⁷ it has not identified the broadcasters against which it is comparing itself, has not set out their PNI levels and has not provided any contextual or holistic information about their CPE levels.
- 37 FRPC submits that the evidentiary burden in this matter cannot be transferred to interested parties (whether they support or oppose Blue Ant's application): the absence of evidence in Blue Ant's application to support this argument raises questions as to the availability of such evidence. One assumes that if Blue Ant had evidence to support this argument, it would have presented them in its application.

D. No evidence that PNI limits Blue Ant programming

- 38 While arguing that its current PNI level of 13.5% leaves Blue Ant “unable to create the right mix of context”⁴⁸ Blue Ant's application form actually states that if the application is approved, it will not change its programming: Figure 3. This response casts doubt on Blue Ant's arguments that reducing its PNI would enable it to provide audiences with *different* programming that would strengthen its financial position.

Figure 3 Blue Ant response to question 3(e) of Form 301 (DM#4668353)

e. If this amendment is approved, will there be any programming changes as a result of this amendment?

No

- 39 Blue Ant's application also provides no information about its current programming and – assuming its answer to CRTC question 3(e) was in error – how its programming would change if the CRTC grants its application.

⁴⁶ CRTC, Consumer, Research and Communications, *Individual Discretionary and On-Demand Services: Statistical and Financial Summaries, 2017-2021, Foreword, “Introduction”*.

⁴⁷ DM#4668352, Blue Ant, *Re: Blue Ant Group – Licence Amendment Application re: PNI Requirement* (20 June 2024), at ¶14.

⁴⁸ *Ibid.*, at ¶13.

40 Given the lack of any facts about the programming now broadcast by Blue Ant’s licensed discretionary services or their ‘mix of content’ FRPC reviewed their November 2023 programming logs.⁴⁹ We sought to understand the types of programming the services offered, and broadcasters’ programming logs describe each program broadcast in terms of the CRTC’s discretionary television programming categories. The results from Blue Ant’s logs are set out below: Table 5. They show, for example, that while long-form documentaries made up 444.53 hours (61.7%) of the programming BBC Earth broadcast in November 2023, the service’s programming that month also included 274.71 hours (38.2%) of general entertainment and human-interest programming.

Table 5 Blue Ant licensed services’ program log analysis for November 2023

Blue Ant Program Log results for November 2023							
Discretionary television services	BBC Earth	BBC First	Cottage Life	Love Nature	Makeful	t&e	Smithsonian
(1) News		682.15 (94.7%)					
(2) (a) Analysis and interpretation		37.85		4.99			9.99
(b) Long-form documentary	444.53 (61.7%)		284.64	655.14 (90.%)	55.03	191.79	660.9 (91.7%)
(b) Informal education/Recreation and leisure			99.48 (39.5%)		69.96		
(a) Ongoing dramatic series						11.99	
(d) Theatrical feature films aired on TV						10.08	
(f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy					28		
(11) (a) General entertainment and human interest	274.71		322.73 (44.8%)	60.54	499.67	506.49	49.67
(b) Reality television			8.5		51.47		
(12) Interstitials	0.58	0.58					
(13) Public service announcements	1.18	1.18	0.65	0.33	0.4	0.65	0.44
Total hours, November 2023	720	720	721	721	720	721	721

41 Blue Ant’s November 2023 programming logs also raise questions whose answers are relevant to its request to reduce PNI programming expenditures. For example, as Table 5 showed, news made up 682.15 or 94.7% of BBC First’s programming hours: when we reviewed the plg titles classified as Category 1 programming, we learned that simulcasts or rebroadcasts of CHAN’s newscast(s) made up 30% (217.78 hours) of its November 2023 programming while simulcasts or rebroadcasts of newscasts from Corus’ Global stations made up another 34% (247.2 hours) of its programming that month: Appendix 2. While Blue Ant argues that its

⁴⁹ Lack of time prevented FRPC from analyzing the broadcast year of Blue Ant’s programming services; we selected November on the basis that its programming might reflect the (new) fall broadcast schedule more completely than September or the period from January to March, and because November is somewhat less disrupted by holidays than either October (Thanksgiving) and December (Christmas and New Year’s).

current PNI requirements force it to carry programming that does not attract audiences, is there a possibility that audiences might be more interested in new, original programming than in content already or also broadcast by conventional television services?

- 42 In fact, Blue Ant’s licensed discretionary services sometimes carry the same programming titles. For example, Cottage Life broadcast 306.9 hours of titles that were also broadcast by one or more of Blue Ant’s other services: Table 6. While Blue Ant argues that its current PNI requirements force it to carry programming that does not attract audiences, is it not also possible that audiences’ interest in new or original programming lowers their interest in services whose programming they may have seen on another Blue Ant service?

Table 6 Duplicated program titles of Blue Ant licensed services in November 2023

Program titles appearing on more than one Blue Ant service: program hours in November 2023						
Program titles	BBC Earth	Cottage Life	Love Nature	Makeful	Smithsonian	t & e
HOPE FOR WILDLIFE	43.17	2.00	100.15			
MYSTERIES FROM ABOVE		62.97			18.02	5.00
WORLD'S MOST SCENIC RIVER JOURNEYS	7.83		15.06		13.00	
A PARK FOR ALL SEASONS			16.97		50.82	
CANADA: OVER THE EDGE	16.52				81.17	
COSMIC VISTAS			24.44		12.99	
DECKS, DOCKS AND GAZEBOS		1.00		21.99		
EDEN: UNTAMED PLANET	4.89		3.00			
EXTREME WEATHER SALVAGE		8.99			11.99	
GREAT BLUE WILD	21.08		50.83			
HOLMES INSPECTION		18.00		41.99		
HOLMES ON HOMES		67.49		8.99		
ICE VIKINGS	15.15	8.00				
IMPOSSIBLE REPAIRS		7.99			6.00	
LIFE BELOW ZERO	19.16	35.01				
LIFE BELOW ZERO CANADA	30.79	4.00				
MISSION UNEXPLAINED		11.98				11.98
MYSTERIES OF THE ABANDONED		48.99				9.98
OL PEJETA DIARIES			9.99		19.90	
Orangutan Jungle School	22.39		32.44			
STRANGE EVIDENCE		13.99				23.99
THE REPAIR SHOP		8.00		91.97		
ULTIMATE MYSTERIES		7.99				7.00
WHAT'S FOR SALE		0.50		37.00		
Total hours, November 2023	180.98	306.90	252.89	201.94	213.90	57.95

43 Omitting evidence describing how its current programming would change if the CRTC grants Blue Ant's amendment leaves all parties except the applicant in the dark. A decision to grant Blue Ant's application would have to be based on speculation, rather than on evidence, and for this reason Blue Ant's application should be denied.

E. *No evidence that PNI affects audience levels*

44 Given the absence of evidence describing the impact of PNI levels on Blue Ant's audiences, it is not possible for interveners to evaluate this argument. Similarly, interveners are also unable to determine whether Blue Ant's decisions to broadcast programming content available from other programming services affects audience levels.

F. *No evidence of material hardship*

45 Evidence from Blue Ant about the way in which PNI threatens its existence is critical as approval without evidence could cast serious doubt on the integrity of the CRTC's amendment-application process. For example, when it granted Corus' application to reduce PNI (and postpone repayment to the future), the CRTC assessed Corus' audited financial statements, its operational cash flows ("as they best represent the ordinary day-to-day activities of each entity") and intangible asset/goodwill impairment since its current licence began in September 2017.⁵⁰ It also assessed its discretionary services' revenues before, during and after the pandemic, along with its profit margins,⁵¹ pre-tax profits, interest expenses and other adjustments.⁵² A great deal of this evidence was available from the public record from the Aggregate Annual Returns submitted by Corus, including its advertising, subscription, and total revenues, its administrative expenses, as well as its profits.⁵³

46 While Blue Ant bears the burden to make its case, it has not provided any facts describing either the growing precarity of its financial performance over time or its services' underperformance compared with other licensed discretionary services.

47 As noted previously, financial evidence is especially critical in this proceeding because so little information is available from the CRTC concerning Blue Ant's licensed television services.

48 The CRTC *Statistical and Financial Summaries* from 2018/19 to the present, for example, do not set out statistics describing the expenditures, profit margins or staffing levels of Blue Ant's programming services.

49 Blue Ant Media appears to employ at least 25 people, however. Its Creative Leadership and Corporate Team webpages list 25 senior executives, consisting of 2 Chief Officers (executive

⁵⁰ At ¶ 31.

⁵¹ At ¶ 29.

⁵² At ¶¶ 29-30.

⁵³ CRTC, [Aggregate Annual Returns](#).

and financial), 3 co-/plain presidents, 3 heads, 13 executive/senior/plan vice-presidents and 4 managing/senior/plan directors:

Blue Ant Media, Corporate Team and Creative Leadership:

1. CEO and Co-Founder
2. Chief Financial Officer
3. President, Global Channels and Media
4. Co-president, Blue Ant Studios
5. Co-president, Blue Ant Studios
6. Global Head of Content Financing & Partnerships
7. Global Head of Acquisitions & Content Strategy
8. Head of Equity, Diversity & Inclusion
9. EVP, Commercial Strategy and Content Financing, Blue Ant Studios
10. EVP, Business and Legal Affairs
11. EVP Global Channels and Brands
12. EVP Media Solutions, Consumer Shows & Publishing
13. SVP, International Sales & Partnerships
14. SVP, International Sales & Partnerships
15. SVP, Human Resources
16. Vice President, Distribution, Asia
17. VP, International Sales
18. Vice President, Content Sales
19. Vice President, International Sales
20. VP, Marketing and Brand Strategy, Blue Ant Studios
21. VP, Global Communications, Blue Ant Media
22. Managing Director Asia-Pacific
23. Senior Director, Acquisitions & Marketing
24. Senior Director, International Sales
25. Director, International Sales
Sales and Distribution Consultant, Kids & Family

Source: blue ant media, “our corporate team” and “Creative Leadership”

<https://blueantmedia.com/about-us/leadership/>

<https://blueantmedia.com/production/production-leadership/>

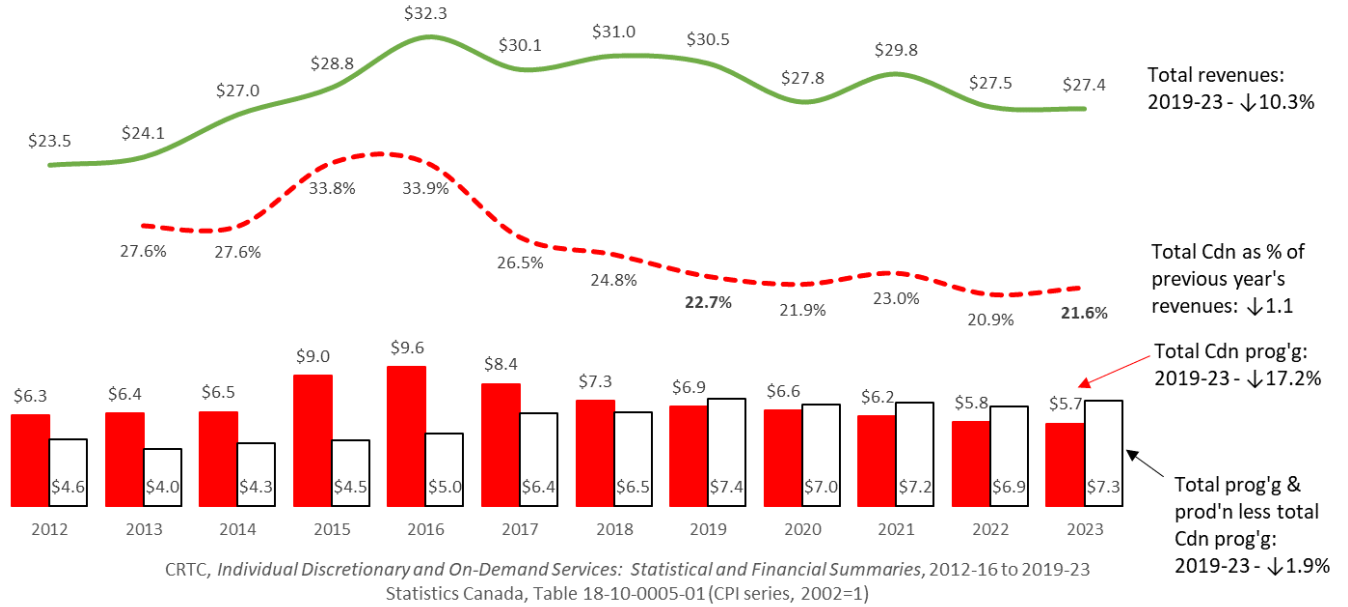
- 50 Reviewing the few available facts from the *Summaries* appears to show that while Blue Ant’s licensed services generated \$398.8 million in ‘real’ revenues for Blue Ant over the past decade,⁵⁴ its revenues have decreased in real terms by just over 10% since its last renewal decision in 2019, to 2023: Figure 4.

[Remainder of page left intentionally blank]

⁵⁴ CRTC, *Statistical and Financial Summaries* for individual discretionary television programming services (various years), for the period of broadcast years from 2013/14 to 2022/23.

Figure 4 Blue Ant’s licensed services – revenues and expenditures, 2012-2023

Blue Ant Media: revenues and expenditures of licensed discretionary television programming services, 2012-2023 (\$M 2002)

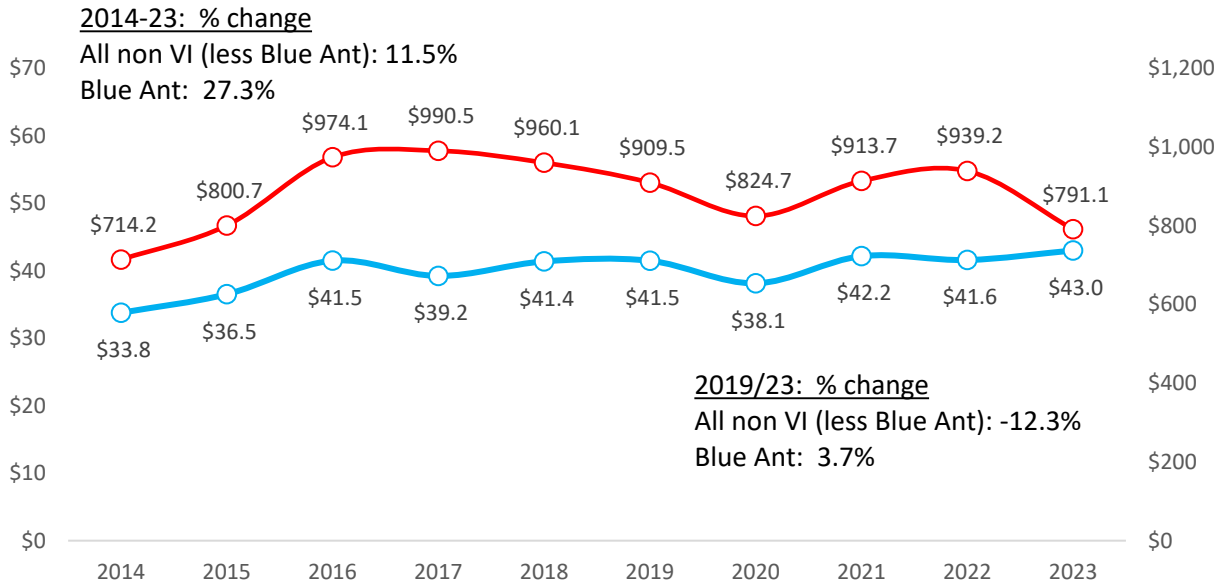


- 51 The absence of the expenditure and profit data in the CRTC’s *Summaries* makes it impossible for interveners to evaluate Blue Ant’s arguments regarding the existential threat of PNI to its existence.
- 52 That said, comparing Blue Ant’s revenues with the revenues of non-vertically integrated discretionary services excluding Blue Ant suggests that it is at least enjoying higher growth in its revenues than its non-vertically integrated peers: Figure 5.

[Remainder of page left intentionally blank]

Figure 5 Comparison of Blue Ant revenues with revenues of non-vertically integrated services, 2014-23

Revenues of non-vertically integrated services (less Blue Ant) and Blue Ant, 2014-2023 (\$ millions current)



Source: CRTC *Statistical and Financial Summaries* (various years)

- 53 From 2019 to 2023 – in other words, from the period before and after the Covid-19 pandemic – Blue Ant’s revenues increased by 3.7% (in current terms). The total revenues of all non-vertically integrated discretionary services (less Blue Ant’s services) decreased, however, – by 12.3%.
- 54 Facts regarding the impact of approving Blue Ant’s amendment would have been especially helpful to understand the financial impact of approval on the broadcasting system, especially (but not only) with respect to Canadian programming expenditures. According to the CRTC’s *Statistical and Financial Summaries* Blue Ant expended \$72.1 million in real terms on Canadian programming from 2019 to 2023 (in other words, since its last non-administrative licence renewal).
- 55 Over the same period – 2019 to 2023 – total programming and production expenditures less Canadian programming expenditures amounted to \$62.5 million in real terms. Yet while Blue Ant reduced its Canadian programming expenditures from 2019 to 2023 by 17.2% in real terms, its remaining programming and production expenditures decreased by just 1.9%: as Blue Ant has committed to continue to allocate 21% of its previous year’s revenues on acquiring and investing in Canadian programming,⁵⁵ what impact will the CRTC’s approval of its

⁵⁵ DM#4668352, Blue Ant, *Re: Blue Ant Group – Licence Amendment Application re: PNI Requirement* (20 June 2024), ¶12.

PNI amendment have on its non-Canadian programming expenditures? Blue Ant has not provided evidence on this point, unfortunately.

56 Blue Ant’s application also said that its current PNI level affects its “ability to monetize the content” it ‘commissions’ “with global audiences through” its “global channels and distribution sales”, but provided no information as to how this happens. As noted earlier, Blue Ant has 9 FAST channels and 7 registered online streaming service – including ‘Haunt TV’ for each type of channel or service:

FAST channels	Registered streaming services
Crime Time	BBC Earth (SVOD)
DragRace Universe	Crimetime (FAST)
Haunt TV	Haunt TV (FAST)
Declassified	History Time
Homeful	Homeful (FAST)
Love pets	Love Nature (SVOD)
Naturetime	Smithsonian Channel (SVOD)
Total crime	
Love Drama	
[Bold font added]	

57 The November 2023 program logs for Blue Ant’s t & e service included 19 titles that appeared to touch on ‘haunting’, representing 43% (or 309.7 hours) of its programming that month: Table 7.

Table 7 ‘Haunted’ programming titles on t&e in November 2023

‘Haunted’ programming titles:	t & e
(11) (a) General entertainment and human interest	506.49
1. A HAUNTING	11.98
2. CELEBRITY HELP! MY HOUSE IS HAUNTED	18.00
3. ELI ROTH PRESENTS: A GHOST RUINED MY LIFE	3.00
4. GHOST HUNTERS	25.94
5. HAUNTED ENCOUNTERS	1.00
6. HAUNTED HOSPITALS	2.00
7. HAUNTING OF; THE	27.98
8. Haunting: Australia	17.00
9. HAUNTINGS	6.99
10. HELP! MY HOUSE IS HAUNTED	14.00
11. HISTORY’S MOST HAUNTED	40.00
12. MURDER WALL	4.96
13. MYSTERIES OF THE ABANDONED	9.98
14. PARANORMAL STATE	1.00
15. PARANORMAL: CAUGHT ON CAMERA	87.96
16. STRANGE EVIDENCE	17.00
17. STRANGEST THINGS	7.94
18. ULTIMATE MYSTERIES	7.00
19. WORLD’S SCARIEST HAUNTINGS	6.00
Total hours	309.72

58 The relationship between Blue Ant’s licensed and global channels is unclear, and Blue Ant’s application did not provide any facts or other information about how it monetizes the programming it commissions. The Forum submits that Blue Ant should have provided evidence to support its claim that PNI levels on its licensed Canadian programming services impairs the performance of its global channels, and to show why its global channels are unable to operate without the programming of its licensed services.

IV. Conclusions

59 Blue Ant’s application lacks the substantive support required to enable Commission approval. Even if Blue Ant has provided the Commission with useful information outside the formal application process (see Appendix 1 for 2024), the record of the current proceeding lacks the factual foundation the CRTC’s decisions require to withstand appellate review: it does not appear, for example, that Blue Ant has submitted any documents in the context of this proceeding.

60 Approval of Blue Ant’s application appears premature, moreover, in light of the CRTC’s current [Regulatory plan to modernize Canada’s broadcasting framework](#):⁵⁶ according to Phase 2 of this plan, the Commission is planning to publish a “What we heard” report on definitions of Canadian content this summer, leading to a public hearing on definitions of Canadian audiovisual content for television and online programming next spring.

61 Given the absence on the public record of any facts to support Blue Ant’s application, the Forum submits that the Commission should re-consider Blue Ant’s request along with those of other broadcasters to reduce Canadian programming expenditure requirements, in Phase 2 of its ongoing regulatory modernization process.⁵⁷ And – given the absence of any evidence to support claims of existential precarity – the CRTC need not and, in FRPC’s view, should not unduly hasten to make its decision: it should instead give the application the measured evaluation it merits.

⁵⁶ *Various Category A services - Licence amendments*, [Broadcasting Decision CRTC 2016-14](#) (Ottawa, 18 January 2016), Summary: “The Commission set out a specific timeline for the implementation of the policy changes resulting from the Let’s Talk TV proceeding. Bell did not provide evidence as to how the broadcasting system would benefit by making an exception to the timeline.”

Ibid., ¶11: “Approval of Bell’s applications would mean that key policy changes would occur ahead of the Commission’s stated timeline. While the changes could be beneficial to Bell and its services, Bell has not provided evidence as to how the broadcasting system as a whole would benefit from the proposed accelerated timeline...”

⁵⁷ *CRTC Various English-language television stations and discretionary services – Amendments to conditions of service*, [Decision CRTC 2024-103](#) (Ottawa, 13 May 2024), Summary.



Appendices

Appendix 1 Blue Ant – related events	1
Appendix 2 BBC First, program hours in November 2023	10

Appendix 1 Blue Ant – related events

Year	Event
1993	Public Notice CRTC 1993-93 defines CPE (Canadian programming expenditures)
2011	PNI requirements established for major English-language broadcasting groups
2012	<p>PNI requirements established for major French-language broadcasting groups</p> <p>Broadcasting Decision CRTC 2012-630 approves Blue Ant’s purchase of bold from CBC/RC</p> <p>Blue Ant applies to renew its licences on 24 September 2012 (Application 2012-1196-1 (Blue Ant Media Partnership & Blue Ant Media Ltd.— Renewal of a Category A and six Category B services), Cover letter)</p>
2013	<p>PNI requirements established for the national public broadcaster (CBC/RC)</p> <p>Broadcasting Decision CRTC 2013-465 renews Blue Ant discretionary television programming services from 1 September 2013 to 31 August 2018: CRTC requires PNI of</p> <ul style="list-style-type: none"> • 9% in 2013/14 • 11.25% in 2014/15, and • 13.5% in 2015/16, 2016,17 and 2017/18 (¶26) <p>Requires 25% of Canadian programs broadcast other than news, sports and current affairs programming, be produced by independent producers (¶27)</p> <p>CRTC approved Blue Ant’s request to reduce Canadian content from 6pm to midnight (¶30):</p> <ul style="list-style-type: none"> • Bold: from 80% to 50% • travel & escape: from 60% to 50% <p>CRTC had “concerns ... over Blue Ant Group’s pursuit of regulatory relief from its Canadian content obligations, so soon after [its] purchase of bold from [CBC/RC] in November 2012”; it reminded Blue Ant “that since it does not solicit competitive applications for changes in effective control of broadcasting undertakings, the onus is on the applicant to demonstrate, among other things, that its application represents the best possible proposal in the circumstances. In this regard, the Commission is of the view that the licensees should have been more forthcoming with their intention to request relief from this requirement.” (¶32)</p>
2014	PNI requirements established for Rogers’ television programming services
12 March 2015	<p>Broadcasting Regulatory Policy CRTC 2015-86 eliminates genre exclusivity for discretionary television programming services and</p> <p>States that “it would be premature to alter” its PNI policy “at this time” (¶289), and that the requirement to devote 75% of PNI expenditures to independent program production “is one of the means by which the objective in the Act relating [wording in the original] the independent sector is fulfilled and should therefore be maintained (¶291)</p> <p>3-part test for “future determinations relating to the addition or removal of PNI categories”:</p> <p>a PNI program</p> <ul style="list-style-type: none"> • Is generally expensive to produce and is more likely to be unprofitable • Widespread availability of such programming is needed to achieve Parliament’s broadcasting policy for Canada • Would not be available but for regulation
27 November 2017	CRTC publishes Blue Ant’s renewal applications
26 February 2018	Blue Ant refiles annual PNI reports based on “cash commitment basis and not an amortization basis” (DM#3075978, <i>Request for information on the licence renewals of the television services owned by the Blue Ant Group, (Applications 2017-0841-31 and 2017-0842-12)</i> , 26 February 2018, p. 1)

Year	Event
5 July 2018	In <i>Family Channel, Family CHRGD and Télémagino – Licence renewals</i> , Broadcasting Decision CRTC 2018-228 (Ottawa, 5 July 2018) at ¶33 CRTC comments that “Blue Ant operates a group composed of eight diversely programmed services”
21 August 2018	<p>Broadcasting Decision CRTC 2018-291</p> <p>Based on actual PNI net tangible benefits, spent 12.4% of previous years’ revenues from 2014-2017 (more than required 12%) (¶36)</p> <p>Maintains 13.5% PNI (Appendix 2, condition of licence 7)</p> <p>CPE expenditures of 21% of previous year’s revenues (¶24; Appendix 2, condition of licence 3)</p> <p>Grants</p> <ul style="list-style-type: none"> • 50% credit for CPE expenditures on Canadian programming produced by Indigenous producers to a maximum of 10% overall CPE requirements (¶26) • 25% credit for CPE on Canadian programming produced by OLMCs producers to a maximum of 10% overall CPE requirements (¶27) • Proposed maintaining PNI at 13.5% of previous year’s revenues (¶29, ¶33) <p>Footnote 2: PNI are defined as programming from program categories 2(b) Long-form documentary and 7 Drama and comedy, as well as certain Canadian award shows.</p>
9 April 2019	<p>Blue Ant, <i>Re: Blue Ant Group – Licence Amendment Application re: PNI Requirement</i> (9 April 2019):</p> <p>...</p> <p>2. The application seeks to amend the Blue Ant Group’s existing condition of licence1 (“COL”) with respect to expenditures on programs of national interest (“PNI”)2 to 5% of the previous year’s gross revenues of the undertaking as of September 1, 2019, the beginning of the second year of the licence terms for the affected services. Blue Ant will continue to adhere to our existing COLs: (a) to devote a minimum of 21% of the previous year’s gross revenues of the undertaking in each broadcast year to the acquisition of or investment in Canadian programming (the “CPE requirement”); and (b) that at least 25% of [9 April 2019 letter from Blue Ant to CRTC] our PNI expenditures must be made to independent production companies (the “independent production requirement”).³</p> <p>...</p> <p>5. Given the uncertainty surrounding the Commission’s treatment of PNI expenditures, in our licence renewal applications, Blue Ant proposed to maintain at status quo our 13.5% PNI requirement. We repeatedly noted, however, that “while Blue Ant is prepared to maintain the status quo for our PNI requirements, we trust that Blue Ant will be treated no less favourably than other broadcasters if the Commission determines that standardized or lower requirements are more appropriate.”⁵</p> <p>...</p> <p>9. Ironically, in our 2013 licence renewal decision, the Commission had noted that ‘it would be inappropriate to expect smaller independently owned discretionary services to make expenditures on Canadian programming that are greater than those made for services operated by larger ownership groups’⁹ and in Decision 2018-291, the Commission noted that Blue Ant’s “conditions of licence should reflect that Blue Ant itself is an independent producer and that it is smaller in size compared to the large broadcast ownership groups.”¹⁰ However, what has actually occurred is that, at 13.5% of the previous years’ gross broadcasting revenues, Blue Ant’s existing PNI requirement more than doubles the PNI requirement established for Rogers Media, is six percentage points more than the PNI requirement established for Bell Media, and five percentage points more than the PNI requirement established for Corus Entertainment. This significant regulatory disparity exists</p>

Year	Event
	<p>notwithstanding that Blue Ant is much smaller in terms of size and financial resources than the VI Groups.</p> <p>³ Decision 2018-291, at Appendix 2, COLs #3 and 9.</p> <p>...</p> <p>⁵ Appendix 1 – Supplementary Brief to the 2017 licence renewal applications of the Blue Ant Group, at paras. 7 and 58</p> <p>...</p> <p>⁹ Decision 2013-465, at para. 19</p> <p>¹⁰ Decision 2018-291, at para. 52.</p>
15 June 2020	<p><i>Blue Ant – Discretionary Services – Licence amendment</i>, Broadcasting Decision CRTC 2020-189 (Ottawa, 15 June 2020)</p> <p>...</p> <p>Application</p> <p>5. Blue Ant Media Inc. (Blue Ant) ...filed an application to amend condition of licence 7 set out in Appendix 2 to Broadcasting Decision 2018-291 in order to reduce the PNI expenditure requirements for the eight discretionary services that compose the Blue Ant group, that is, A.Side, BBC Earth, Cottage Life, HIFI, Love Nature, Makeful, T + E, and Smithsonian Channel, Footnote⁸ from 13.5% to 5% of the previous broadcast year’s gross revenues as of 1 September 2019, the beginning of the second year of the current licence term for those services.</p> <p>...</p> <p>7. Blue Ant submitted that the requested decrease is appropriate in light of the fact that the 13.5% PNI expenditure requirement for the Blue Ant group is higher than those for the three above-mentioned groups.</p> <p>5. The applicant added that a reduced PNI expenditure requirement would allow each of the services of the Blue Ant group to better respond to increased competition for Canadian viewership from both traditional and over-the-top services. Blue Ant indicated that it requires as much flexibility as possible to produce and commission programs that reflect the viewing habits and appetites of Canadian audiences. Additionally, Blue Ant argued that its existing PNI requirement significantly impedes its ability to deliver programming that interests the audiences for its eight services.</p> <p>...</p> <p>Issues</p> <p>11. After examining the record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:</p> <ul style="list-style-type: none"> o whether the requested amendment is consistent with the Commission’s group-based policy approach; and o whether Blue Ant has demonstrated a compelling need justifying the requested amendment. <p>Consistency with the Commission’s group-based policy approach</p> <p>12. In accordance with section 3(1)(s) of the Act, the Commission seeks to support the creation and presentation of diverse programming, while also balancing the creative sector’s need for support and television groups’ need for flexibility. In an effort to create a balance that maximizes the contribution to the broadcasting system while recognizing the unique situation of each licensee, consistent with section 3(1)(e) of the Act, and that ensures a contribution from the Canadian independent production sector that is consistent with section 3(1)(i)(v) of the Act, the Commission has taken a holistic approach in regard to the imposition of requirements relating to PNI expenditures, CPE and support for independent production. PNI expenditure requirements are, therefore, generally imposed in concert with expenditure requirements relating to Canadian programming and to</p>

Year	Event
	<p>independently produced programming. This holistic approach ensures stable and sustainable funding while also offering flexibility and remaining consistent with the historical spending and financial resources of the various groups.</p> <p>...</p> <p>Commission’s analysis and decisions</p> <p>18. The Commission notes that Blue Ant submitted its licence renewal applications two weeks after the issuance of the OIC, and did not request an extension to the deadline for its renewal applications in order to address any concerns relating to its PNI expenditure requirement. Further, the Commission is of the view that the reconsideration process prompted by the issuance of the OIC had no impact on independent groups such as the Blue Ant group, given that the requirements imposed on the large television groups differ to reflect their different sizes, mixes of assets and historical expenditures. Moreover, Broadcasting Decision 2018-335 ultimately restored the expenditure requirements for the large English-language private ownership groups to historical levels and recognized the important role that PNI expenditure requirements play in supporting Canada’s creative talent. The Commission determined that overall spending in PNI categories needed to be maintained, as it provides stable and sustainable funding for such programming. Furthermore, it ensures that groups contribute to the creation and presentation of Canadian programming in a manner that is consistent with their financial and other resources, as required by section 3(1)(s) of the Act.</p> <p>19. Although the Blue Ant group is required to devote a higher percentage of expenditures to PNI than the large English-language television groups, it is not required to devote a comparably large portion of these expenditures to independently produced programming. Further, it also benefits from a lower CPE requirement. Footnote 10</p> <p>...</p> <p>22. The Commission notes that, as set out in section 3(1)(i)(v) of the Act, “the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.” While Blue Ant’s revised position may be consistent with the achievement of this objective, the Commission finds that individual requirements cannot be viewed in isolation. Rather, the Commission is of the view that these requirements must be viewed as part of a whole, as the Commission might have come to a different set of determinations had a particular requirement been changed or removed. These requirements also operate within a larger set of regulatory obligations and related policies that, collectively, constitute a cohesive set of regulatory mechanisms meant to balance several objectives of the Act.</p> <p>23. The Commission recognizes that Blue Ant addressed the CMPA’s concern by indicating that it would maintain its current level of required spending on independent production. However, the Commission finds that in assessing requests to amend interrelated requirements, such as those relating to CPE, PNI expenditures and independent production expenditures, any such amendments should be examined holistically rather than separately for each requirement.</p> <p>24. ... the Commission finds that the requested amendment is inconsistent with its general approach to PNI expenditure requirements and that Blue Ant has not provided sufficient justification for the Blue Ant group’s PNI expenditure requirement to be based on anything other than historical expenditures.</p> <p>Demonstration of compelling need</p> <p>25. The onus is on licensees to provide evidence to the Commission in support of any relief they may be seeking in their applications. Blue Ant, in its application, indicated that the amendment is not necessary to ensure the financial viability of the services of the Blue Ant group. In response to a Commission request, Blue Ant, in a letter dated 3 June 2019, provided financial projections based on PNI expenditure requirements of 5%, 7% and 13.5%</p>

Year	Event
	<p>of the previous broadcast year’s gross revenues. Each of these projections indicates the same total number of subscribers, the same subscriber revenues, and varying degrees of decrease in the group’s total expenses. As such, all three projections indicate that the financial viability of the services of the Blue Ant group would not be affected and, moreover, that the group would remain profitable. In particular, the profits projected under all of the scenarios are consistent with the group’s historical financial performance.</p> <p>...</p> <p>Commission’s analysis and decision</p> <p>27. The Commission examined the licensees’ overall broadcasting and production activities to determine what may have changed to trigger the requested amendment. In the Commission’s view, these activities have not fundamentally changed since the licences for the services composing the Blue Ant group were last renewed. In regard to programming, the licensees have neither acquired new services, nor rebranded existing services, nor provided evidence of a change in the programming approach of those services. Additionally, the financial projections provided by Blue Ant, whether under an approval, approval in part or denial scenario, indicate that the financial viability of the services of the Blue Ant group would not be affected.</p> <p>28. Finally, although Blue Ant argued that over-the-top services have an impact on all licensed services, the services of the Blue Ant group have been able to remain profitable. Blue Ant provided no evidence to substantiate the impact of over-the-top services in the context of its request to reduce the Blue Ant group’s PNI expenditure requirement.</p> <p>29. In light of the above, the Commission finds that Blue Ant has not demonstrated a compelling need justifying the requested amendment.</p> <p>Conclusion</p> <p>30. In light of all of the above, the Commission denies the application by Blue Ant Media Inc. ... to amend condition of licence 7 set out in Appendix 2 to Broadcasting Decision 2018-291 in order to reduce the PNI expenditure requirements for these undertakings.</p>
22 September 2022	<p><i>Various independent discretionary services operating under a group-based approach – Administrative renewals</i>, Broadcasting Decision CRTC 2022-258 (Ottawa, 22 September 2022), Appendix</p> <p>Renews Blue Ant services until 31 August 2024:</p> <p>A.Side BBC Earth BBC First (formerly HIFI) Cottage Life Love Nature Makeful T + E Smithsonian Channel</p>
8 August 2023	<p><i>Various television programming services and networks, and broadcasting distribution undertakings – Administrative renewals</i>, Broadcasting Decision CRTC 2023-245 (Ottawa, 8 August 2023), Appendix 2</p> <p>Renews Blue Ant services to 31 August 2026</p>
19 October 2023	<p>CRTC, RE: <i>Part 1 application to amend conditions of service applicable to Corus Entertainment Inc. (“Corus”) English-language television group</i>, (Ottawa, 19 October 2023), regarding Corus’ Part 1 application 2022-0946-0</p> <p>This letter is in response to Corus’ 11 October 2023 Part 1 application seeking urgent amendments to certain conditions of service applicable to the company’s English-language television stations and discretionary services.</p>

Year	Event
	<p>Corus has found itself in a unique financial situation. As set out in the application, the company’s debt ratio has increased to unacceptable levels owing to a 61 percent free cash flow decrease over the previous year, and rapidly declining profitability. The Commission notes Corus’ unique position as Canada’s largest non vertically integrated private broadcaster.</p> <p>Corus has requested immediate consideration for timely, short term regulatory relief. The application requests that the Commission restore Programs of National Interest (“PNI”) expenditure requirements on Corus’ English-language stations and services to the 5 percent level established in Broadcasting Decision CRTC 2017-150 and extend the Canadian Programming Expenditure (“CPE”) under-expenditure repayment deadline applicable to its English-language television group beyond the end of the licence term. Corus is seeking the flexibility to continue to carry its 10% under-expenditure forward.</p> <p>Given the urgency of the situation, the Commission determines that it is appropriate to give immediate consideration to Corus’ application on an exceptional basis.</p> <p>In light of the unique circumstances and Corus’ stated commitment to continue contributing to the policy objectives of the Broadcasting Act, including through investments in Canadian journalism and through support for the Canadian creative sector, the Commission is of the preliminary view that it would be appropriate and in the best interest of the Canadian broadcasting system as a whole to amend the conditions of service that apply to Corus’ English-language television stations and discretionary services. This approach would recognize the urgency of the situation and provide short term flexibility. At the same time, the Commission continues to implement the modernized regulatory framework, which includes consideration of expenditures related to Canadian programming.</p> <p>In accordance with subsection 9.1(4) of the Broadcasting Act, the Commission is hereby publishing the order that it proposes to make under subsection 9.1(1) regarding the above-noted conditions of service. The proposed order is appended to this letter. This letter and Corus’ application will be added to the record of the proceeding for application 2022-0946-0.</p> <p>Interested parties will have until 3 November 2023 to provide interventions with respect to the proposed order. The applicant will have until 8 November 2023 to file its replies to the Commission and to intervening parties.</p>
18 December 2023	<p><i>ELLE Fictions and MAX – Licence renewals and amendments to conditions of service</i>, Broadcasting Decision CRTC 2023-416 (Ottawa, 18 December 2023)</p> <p>...</p> <p>11. Under the group-based approach set out in Broadcasting Regulatory Policy 2010-167, large private ownership groups can allocate their expenditures supporting Canadian programming (CPE/PNI) among various services in their group to give them sufficient flexibility to adjust to market fluctuations, in exchange for generally more supported expenditure requirements. For example, PNI expenditures generally only apply to groups and modified groups, such as Blue Ant Group and Wildbrain/DHX Group, and CPE thresholds are higher for groups than for independent licensees.</p> <p>...</p> <p>33. PNI include diverse categories of programming. PNI expenditures are a subcategory of CPE and apply to large and modified groups such as Blue Ant Group and Wildbrain/DHX Group, since they are typically more costly to achieve. Moreover, the portion of expenditures for IPCs is intended to ensure that large groups include a significant contribution to independent producers.</p>

Year	Event
	[footnotes omitted]
13 May 2024	<p><i>Various English-language television stations and discretionary services – Amendments to conditions of service</i>, Broadcasting Decision CRTC 2024-103 (Ottawa, 13 May 2024) [footnotes omitted]</p> <p>....</p> <p>5. On 17 November 2022, Corus filed an application to amend the broadcasting licences for its English- and French-language television stations and discretionary services. Specifically, for its English-language group of services, Corus requested amendments that would reduce its requirement relating to expenditures on PNI from 8.5% to 5% of the previous broadcast year’s gross revenues and would reduce its Canadian programming expenditure (CPE) requirements from 30% to 25% of the previous broadcast year’s gross revenues. Further, Corus requested that its temporary obligations relating to contributions to FACTOR (for its English-language group of television services) and Musicaction (for its French-language group of television services) be discontinued.</p> <p>6. On 11 October 2023, Corus submitted an application to the Commission in regard to the 17 November 2022 application. It indicated that it did not wish to withdraw its earlier application, but reiterated its request to reduce, for the English-language services of Corus, its requirement relating to expenditures on PNI from 8.5% to 5% of the previous broadcast year’s gross revenues. Further, for those same services, Corus requested that the Commission amend condition of service 12.a. set out in Appendix 2 to Broadcasting Decision 2017-150 in order to extend the CPE under-expenditure repayment deadline beyond the end of the licence term.</p> <p>...</p> <p>9. In a letter issued to Corus on 19 October 2023, the Commission expressed the preliminary view that it would be appropriate and in the best interest of the Canadian broadcasting system to amend the conditions of service that apply to Corus’ English-language television stations and discretionary services, as requested in the 11 October 2023 application. In accordance with subsections 9.1(4) and 11.1(7) of the Broadcasting Act, the Commission published the order that it proposed to make regarding the above-noted conditions of service, by appending the proposed order to the 19 October 2023 application. Further, the Commission incorporated that application into the record of the present proceeding and invited interested persons to submit interventions in regard to the proposed order.</p> <p>10. In the present decision, the Commission addresses requests made as part of Corus’ November 2022 application and Corus’ application filed in October 2023, specifically, its requests relating to a reduction in its PNI expenditure requirement and to an extension of the CPE under-expenditure repayment deadline beyond the end of the licence term.</p> <p>...</p> <p>16. In addition to the above-noted application by Corus, the Commission received a second Part 1 application from Corus, Footnote 3 as well as Part 1 applications from Bell Media Inc. (Bell), Footnote 4 Quebecor Media Inc. (Quebecor) Footnote 5 and Rogers Media Inc. (Rogers), Footnote 6 all of which are seeking relief from obligations relating to, among other things, expenditures on and/or the exhibition of locally reflective news, local programming, and Canadian programming, or are proposing changes that would have an impact on a number of stakeholders (such as a modification to the definition of PNI). All of these applications have been published for comment on the Commission’s website.</p>

Year	Event
	...
1 February 2024	<p>Blue Ant meets with</p> <p>Bram Abramson, Commissioner, Ontario Canadian Radio-television and Telecommunications Commission (CRTC) michael craig, Director, Broadcasting Canadian Radio-television and Telecommunications Commission (CRTC) Alexa Gendron - O'Connell, Director General, Operations Canadian Radio-television and Telecommunications Commission (CRTC) Matthew Gray, Senior policy advisor Canadian Heritage (PCH) Scott Shortliffe, Executive Director, Broadcasting Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Source: Commissioner of Lobbying, Monthly Communications results https://lobbycanada.gc.ca/app/secure/ocl/lrs/do/clntSmmry?sMdKy=1723994394371&clientOrgCorpNumber=330666</p>
5 April 2024	<p>Blue Ant meets with</p> <p>Bram Abramson, Commissioner, Ontario Region Canadian Radio-television and Telecommunications Commission (CRTC) Michael Craig, Director, Broadcasting Canadian Radio-television and Telecommunications Commission (CRTC) Alexa Gendron O'Donell, Director General, Operations Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Source: Commissioner of Lobbying, Monthly Communications results https://lobbycanada.gc.ca/app/secure/ocl/lrs/do/clntSmmry?sMdKy=1723994394371&clientOrgCorpNumber=330666</p>
16 May 2024	<p>Blue Ant meets with</p> <p>Drew Olsen, Associate Director General Canadian Heritage (PCH)</p> <p>Source: Commissioner of Lobbying, Monthly Communications results https://lobbycanada.gc.ca/app/secure/ocl/lrs/do/clntSmmry?sMdKy=1723994394371&clientOrgCorpNumber=330666</p>
19 June 2024	Blue Ant meets with

Year	Event
	<p>Bram Abramson, Commissioner, Ontario Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Vicky Eatrides, Chairperson and CEO Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Eric Joyce, Chief of Staff Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Scott Shortliffe, Executive Director, Broadcasting Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Nathalie Theberge, Vice-Chair, Broadcasting Canadian Radio-television and Telecommunications Commission (CRTC)</p> <p>Source: Commissioner of Lobbying, Monthly Communications results https://lobbycanada.gc.ca/app/secure/ocl/lrs/do/clntSmmry?sMdky=1723994394371&clientOrgCorpNumber=330666</p>
20 June 2024	Blue Ant submits licence amendment application to CRTC to reduce PNI from 13.5% to 5% of its broadcasting revenues in the previous year
18 July 2024	CRTC publishes Blue Ant’s application
19 August 2024	Deadline for interventions in Blue Ant’s application

Appendix 2 BBC First, program hours in November 2023

BBC First, November 2023 program log: categories and program titles	Hours
010 – News, subtotal	682.15
BC1 News	126.46
BC1 News Evening	15.00
BC1 News EveningFriday	2.00
BC1 News EveningMonday	6.00
BC1 News EveningSaturday	9.51
BC1 News EveningSunday	8.00
BC1 News EveningThursday	7.50
BC1 News EveningTuesday	6.00
BC1 News EveningWednesday	7.50
CHAN SIMULCAST	217.78
Global BC Presents: Jason Brolund	7.92
Global National	13.22
Global National Friday	6.08
Global National Monday	9.33
Global National Saturday	9.03
Global National Sunday	5.00
Global National Thursday	11.67
Global National Tuesday	9.33
Global National Wednesday	11.67
Global News at 11 Friday	5.33
Global News at 11 Monday	6.00
Global News at 11 Saturday	3.50
Global News at 11 Sunday	1.50
Global News at 11 Thursday	7.50
Global News at 11 Tuesday	6.00
Global News at 11 Wednesday	7.50
Global News at Noon	22.00
Global News at Noon Saturday	4.00
Global News at Noon Sunday	4.00
Global News HourFriday	16.00
Global News HourMonday	12.00
Global News HourSaturday	12.49
Global News HourSunday	8.00
Global News HourThursday	15.00
Global News HourTuesday	11.74
Global News HourWednesday	15.00
Global News Hour "Tuesday", broa	0.26
Global News Morning Saturday	6.00
Global News Morning Sunday	8.00
Global News on BC1	16.83
No Stone Left Alone No Stone Left Alone 2023	0.50
The New Reality November 11th, 2023	1.00
The New Reality November 18th, 2023	1.00
The New Reality November 25th, 2023	0.50
The New Reality November 4th, 2023	1.00
The New Reality October 28th, 2023	0.50



02A:Analysis and interpretation, subtotal	37.85
Focus BC11/03/2023 -	6.97
Focus BC11/10/2023 -	7.00
Focus BC11/17/2023 -	6.97
Focus BC11/24/2023 -	6.97
Focus BC "11/03/2023 -", broadca	0.50
Focus BC "11/10/2023 -", broadca	0.50
Focus BC "11/17/2023 -", broadca	0.50
Focus BC "11/24/2023 -", broadca	0.50
The West Block11/05/2023 -	2.01
The West Block11/12/2023 -	1.97
The West Block11/19/2023 -	2.01
The West Block11/26/2023 -	1.97
Grand Total	720

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