



## Broadcasting Decision CRTC 2015-403

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Reference: Part 1 applications posted on 16 June 2015

Ottawa, 27 August 2015

### **591987 B.C. Ltd.**

Peterborough and Bancroft, Oshawa, Brighton, Kingston and Smiths Falls, and Prescott, Ontario

*Applications 2015-0584-3, 2015-0602-3, 2015-0582-7, 2015-0583-5 and 2015-0603-1*

### **CHEX-DT Peterborough and its transmitter CHEX-TV-1 Bancroft, CHEX-TV-2 Oshawa, CKWS-DT Kingston and its transmitter CKWS-TV-3 Smiths Falls, CKWS-DT-1 Brighton, and CKWS-TV-2 Prescott – Disaffiliation from the CBC English-language television network**

*The Commission **approves** applications by 591987 B.C. Ltd. to disaffiliate the conventional television stations CHEX-DT Peterborough and its transmitter CHEX-TV-1 Bancroft, CHEX-TV-2 Oshawa, CKWS-DT Kingston and its transmitter CKWS-TV-3 Smiths Falls, CKWS-DT-1 Brighton, and CKWS-TV-2 Prescott from the English-language television network operated by the Canadian Broadcasting Corporation (CBC).*

*The CBC has indicated that it will not renew the current affiliation agreement with the licensee. The licensee has therefore concluded a program supply agreement with Bell Media Inc. to use CTV programming so that the stations have programming to supplement their local programming.*

### **Applications**

1. 591987 B.C. Ltd., a wholly owned subsidiary of Corus Entertainment Inc. (Corus), filed applications to disaffiliate the conventional television stations CHEX-DT Peterborough and its transmitter CHEX-TV-1 Bancroft, CHEX-TV-2 Oshawa, CKWS-DT Kingston and its transmitter CKWS-TV-3 Smiths Falls, CKWS-DT-1 Brighton, and CKWS-TV-2 Prescott from the English-language television network operated by the Canadian Broadcasting Corporation (CBC) effective 30 August 2015.<sup>1</sup>

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<sup>1</sup> The standard conditions of licence for conventional television stations set out in the appendix to Broadcasting Regulatory Policy 2011-442 state that a conventional television licensee shall not affiliate with or disaffiliate from any network operator without the prior written approval of the Commission.

2. The CBC had advised it that it would not be prepared to enter into a new affiliation agreement when the current agreement expires. Given that the licensee requires a new source of programming to supplement its local programming, it has entered into a programming supply agreement with Bell Media Inc.'s (Bell Media) CTV television network (CTV) that would be effective on 31 August 2015.

### **Interventions and applicant's reply**

3. The Commission received a supporting intervention from an individual citing the applicant's commitment to maintain local programming in the affected markets. Another individual who was concerned about the loss of over-the-air CBC service opposed the application.
4. Rogers Media Inc. (Rogers) submitted an intervention in which it stated that there is a need for a consistent approach by the Commission to programming arrangements. Rogers expressed concern that the program supply agreement with CTV was actually an affiliation agreement that may require the Commission's approval.<sup>2</sup> Rogers submitted that Corus should be required to file the agreement with the Commission for its review. Rogers was also concerned that the arrangement between the licensee and CTV may not be in the public interest because it would result in the duplication of CTV programming in some of the markets. The public record for these applications can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the application numbers provided above.
5. In reply, Corus confirmed that the program supply agreement was not an affiliation agreement. In support of this position, it submitted that there will be no reserved time for programming and that Corus will maintain editorial control over the programming offered by its stations. Corus further noted that it will be under no obligation to broadcast any CTV news programming, and that it will retain all local commercial inventory for programs obtained from Bell Media. Corus was of the view that, because it is not delegating authority for its programming to another party as it would in the context of a network affiliation agreement, a review of the program supply agreement with Bell Media's CTV is not warranted.
6. The licensee considered that the application was in the public interest because it would permit it to continue to provide an over-the-air television service in the affected markets, including local news programming.

### **Commission's analysis**

7. The licensee does not have a condition of licence requiring that it operate its television stations specifically as CBC affiliates. In addition, it was the CBC's decision, not the licensee's, to not renew the affiliation agreement. As a result, the

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<sup>2</sup> The *Television Regulations, 1987* defines an "affiliation agreement" as an agreement between two or more stations and another party according to which programs provided by the other party will be broadcast by the stations at a predetermined time.

licensee requires another source of programming to supplement its local programming in order to provide a complete service to the affected communities. The disaffiliation will not affect the amount of local programming provided to the affected communities given that the licensee is required to continue to broadcast at least seven hours of Canadian local programming in each broadcast week, as per condition of licence 12 set out in the appendix to Broadcasting Regulatory Policy 2011-442.

8. With respect to the availability of CBC programming, section 3(1)(m)(vii) of the *Broadcasting Act* states that the programming provided by the CBC should be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose. The Commission considers that the responsibility to provide the CBC's services rests with the CBC, not with private broadcasters. In this respect, although the CBC's programming will no longer be available over-the-air in the affected markets following disaffiliation, it will remain available on the basic service provided by cable and satellite operators.
9. With regard to the program supply agreement with Bell Media, the Commission notes the licensee's confirmation that it will retain control of its stations' programming.

## **Conclusion**

10. In light of the above, the Commission **approves** the applications by 591987 B.C. Ltd. to disaffiliate the conventional television stations CHEX-DT Peterborough and its transmitter CHEX-TV-1 Bancroft, CHEX-TV-2 Oshawa, CKWS-DT Kingston and its transmitter CKWS-TV-3 Smiths Falls, CKWS-DT-1 Brighton, and CKWS-TV-2 Prescott from the CBC English-language television network effective 30 August 2015.

Secretary General

## **Related documents**

- *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263, 28 May 2013
- *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011

*\*This decision is to be appended to each licence.*