



PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC

23 March 2015

John Traversy
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON K1A 0N2

VIA ONLINE INTERVENTION FORM

Dear Mr. Traversy,

**Re: Bell ExpressVu Limited Partnership
Applications 2015-0217-0 and 2015-0218-8
Requests for exceptions to implementation of the National
Public Alerting System**

Introduction

1. The Public Interest Advocacy Centre (PIAC), National Pensioners Federation (NPF), and Council of Senior Citizens' Organizations of British Columbia (COSCO) – together, "**PIAC-NPF-COSCO**" – are pleased to provide the Canadian Radio-television and Telecommunications Commission (**CRTC** or **Commission**) with their comments on Applications 2015-0217-0 and 2015-0218-8 filed by Bell ExpressVu Limited Partnership (**Bell**).
2. PIAC-NPF-COSCO intervene in broadcasting proceedings on behalf of Canadian consumers, including the senior members of NPF and COSCO, and the public interest at large. They focus on ensuring that the perspectives of Canadians are represented in CRTC proceedings which affect Canadians' interests, and that licensees are held accountable to their use of public frequencies.
3. Bell requests exceptions to the general deadline to implement the National Public Alerting System (**NPAS**) for its video-on-demand (**VOD**) service as well as for direct-to-home (**DTH**) subscribers who use older, Personal Video Recorder (**PVR**) Model 5200 receivers. The original deadline established by the Commission in Broadcasting Regulatory Policy CRTC 2014-444 was 31 March 2015.

4. While Bell has refused to disclose the number of VOD subscribers which would be affected by this delay,¹ it has stated that 2,450 subscribers still use the Model 5200 PVRs.²
5. PIAC-NPF-COSCO remind the applicant that the Commission has long stated its intention to include the entire broadcasting system in the NPAS, including almost eight years ago when the Commission found in Broadcasting Public Notice CRTC 2007-20 that, “to build an effective national emergency alert system, the coordination, cooperation and will of all levels of government and of emergency management officials, broadcasters, BDUs and other stakeholders is required.”³
6. Although Bell states that it had not anticipated this requirement to include VOD licensees,⁴ PIAC-NPF-COSCO believe it would have been logical to assume that National Alert Aggregation and Dissemination System (**NAADS**) alerts ought to reach Canadians viewing any programming through their broadcasting distribution undertaking (**BDU**) services. This was confirmed by the Commission in Broadcasting Notice of Consultation CRTC 2014-85 (**BNC 2014-85**).⁵
7. In PIAC-NPF-COSCO’s view, therefore, broadcasting licensees have had a significant amount of time to ensure the implementation, testing, and smooth operation of the NPAS. Public safety is not negotiable—any request for an exception to participating in the NPAS must be carefully scrutinized.
8. As a result:
 - (i) PIAC-NPF-COSCO oppose Bell’s request for a full six-month extension to implement the NPAS for its VOD service; and
 - (ii) PIAC-NPF-COSCO do not oppose Bell’s request for a six-month extension for DTH subscribers with Model 5200 PVRs. However, Bell should assume the full cost (including the price of the new models) for upgrading these subscribers to NPAS-capable receivers.
9. PIAC-NPF-COSCO further elaborate on these points below.

¹ Bell expressVu(CRTC)10Mar15-4 BRP 2014-444.

² Bell ExpressVu Limited Partnership, *Request for Temporary Relief – Emergency Alerts* (3 March 2015) at para 13.

³ Broadcasting Public Notice CRTC 2007-20 at para 69.

⁴ Bell ExpressVu(CRTC)10Mar15-1 BRP 2014-444 at p 1.

⁵ At para 1.

VOD service

10. PIAC-NPF-COSCO believe that Canadian BDU subscribers should have access to NAADS alerts as soon as possible and that the NPAS should be implemented expeditiously.
11. Given the Commission's repeated past statements that the entire broadcasting system must be included in the NPAS – and its intention to make this a requirement in BNC 2014-85 – PIAC-NPF-COSCO are not persuaded that Bell has acted expeditiously in finding an NPAS solution for its VOD service and entering into an agreement with its solution provider, particularly as it appears to have only started making serious inquiries about investigating NAADS alerts over its VOD service in late 2014 after the issuance of Broadcasting Regulatory Policy 2014-444.⁶ Unfortunately, Bell now states that it will require relief from the current 31 March 2015 because its third party provider will only be able to create a solution for the end of June 2015.⁷
12. PIAC-NPF-COSCO accept that Bell will require some form of extension for its VOD service. However, Bell has not adequately explained why it requires a six-month extension. Specifically, it states that it will require a maximum of 13 weeks (or just over 4 months) for its "Production" stage, during which it will "broadcast... fully tested revised software to subscribers' set-top boxes."⁸ But, Bell has not provided any details with regards to what this "production" process entails and why it would require an additional four months to test the software.
13. In PIAC-NPF-COSCO's view, Bell has not sufficiently justified why it requires 13 weeks for its "production" stage. Therefore, they oppose a full six-month extension for Bell's VOD service to implement the NPAS.
14. Furthermore, should Bell be granted any extension at all, PIAC-NPF-COSCO strongly oppose the possibility of allowing Bell to apply for a further extension, as is currently expressed in Bell's proposed condition of licence.⁹ Any new deadline should be final with no possibility for a further extension.

⁶ See: Bell ExpressVu(CRTC)10Mar15-1 BRP 2014-444 at p 1.

⁷ Bell ExpressVu Limited Partnership, *Request for Temporary Relief – Emergency Alerts* (3 March 2015) at para 11.

⁸ *Ibid.*

⁹ *Ibid* at para 12 (emphasis added):

We propose the following text for a COL for our VOD undertaking:

Subscribers with Model 5200 PVRs

15. Bell has stated that “there is no technical solution available to make [older-model] PVRs capable of receiving emergency alerts.”¹⁰
16. It is unfortunate that, although Bell has been working to implement the NPAS for some time (particularly in the last four years), it only became aware of the possibility of a technical problem with older-model PVRs after reviewing Star Choice’s application for relief for its own subscribers with legacy receivers.¹¹ This suggests there was some want of due diligence on Bell’s part.
17. Since it has not identified a solution for its affected subscribers, Bell now intends to upgrade these customers to new, NPAS-capable PVRs.
18. While PIAC-NPF-COSCO appreciate Bell’s intention and confidence in its ability to upgrade all its affected subscribers by 30 September 2015 (with no further extension), they are concerned that Bell proposes to have these customers bear the cost for the upgrade. Bell states:

Regardless of whether the affected subscribers rent or own their PVR, they will be offered a NPAS-capable model **at a price that is comparable to that being offered to current subscribers**. We have sufficient inventory on hand to accomplish this PVR upgrade by 30 September 2015. Specifically, the affected subscribers will receive the same PVR models as those being offered to new Bell Satellite TV subscribers.¹²

19. In PIAC-NPF-COSCO’s view, it would be inappropriate for Bell’s DTH subscribers to assume the costs of ensuring that Bell fulfills its regulatory obligations. The Commission has already determined that the responsibility to ensure that all Canadian television viewers and BDU subscribers receive NAADS alerts lies with the

The licensee shall be subject to the following condition of licence as an exception to the requirements set out in the standard conditions of licence for video-on-demand undertakings.

Any alert that the licensee receives from the National Alert Aggregation and Dissemination (NAAD) System shall not be required to be distributed to subscribers located in an area targeted by the alert until 30 September 2015, **unless extended further prior to such date**.

The licensee shall report to the Commission on a monthly basis as to preparedness to implement the NAAD System, up until 30 September 2015.

¹⁰ *Ibid* at para 14.

¹¹ Bell ExpressVu(CRTC)10Mar15-1 BRP 2014-444 at p 2.

¹² Bell ExpressVu Limited Partnership, *Request for Temporary Relief – Emergency Alerts* (3 March 2015) at para 16 (emphasis added).

broadcasters and distributors, not the customers. It would be unacceptable to place the financial burden on BDU customers in order to fulfill a regulatory obligation imposed on a licensee – particularly an obligation that relates to public safety and accompanies the public interest responsibility of holding a public licence.

20. Therefore, PIAC-NPF-COSCO submit that Bell should send all its affected customers – at no cost to the customer – new PVRs capable of receiving NAADS alerts.
21. Although PIAC-NPF-COSCO recognize they are proposing that Bell assume the costs for this upgrade, they believe this would be appropriate in this case due to: (1) the want of due diligence on Bell's part in having only recently investigated the technical problems related to Model 5200 PVRs , thus delaying the ability of affected subscribers to receive emergency alerts; (2) Bell's assertion that there is no technical solution for these older-model PVRs; (3) the inappropriateness of requiring Bell's customers to bear the cost to receive emergency alerts which the Commission has determined they are entitled to receive; and (4) the fact that other BDUs have accordingly borne the costs of ensuring that their customers are able to receive NAADS alerts.
22. That said, PIAC-NPF-COSCO do not believe that Bell should be required to upgrade its customers to the newest PVR models,¹³ so long as the replacement PVRs are NPAS-capable and able to provide functionalities comparable to the current Model 5200 PVRs.
23. Although PIAC-NPF-COSCO also have concerns about placing the responsibility on Bell's customers to call in and upgrade their PVRs, Bell states that it is "confident in its ability to manage this... process."¹⁴ PIAC-NPF-COSCO believe the Commission should issue a requirement to this effect, ensuring that *all* Bell's DTH subscribers are able to receive NAADS alerts by the appropriate deadline, and that Bell cannot point to its customers in order to explain any non-compliance.

Notifying subscribers

24. PIAC-NPF-COSCO wish to add a few comments in relation to Bell's proposed communications plans.

¹³ Bell proposes that the affected subscribers would receive the same PVRs "as those being offered to new Bell Satellite TV subscribers." See: *Ibid* at para. 16.

¹⁴ *Ibid* at para 18.

25. In regards to Bell's VOD communications plan,¹⁵ PIAC-NPF-COSCO submit that the bill statement messages should be included in all DTH customer electronic and paper monthly invoices until the NPAS has been successfully implemented and is operational, not solely for the month of May 2015. Furthermore, PIAC-NPF-COSCO suggest that a similar message be sent to customers' set-top boxes where possible, or be displayed on-screen on the VOD service guide or another prominent location.
26. Bell's Model 5200 PVRs communications plan¹⁶ does not provide any detail in regards to timelines or message frequency—Bell must clarify its communications plan. PIAC-NPF-COSCO recommend that, in addition to the auto-tune message and direct mail (electronic and paper invoices) which should be carried out until a customer has upgraded his or her PVR, Bell should also employ some of the methods it proposed in regards to its VOD service, including SMS messages, a notice on an account holder's "MyBell" webpage, and a message sent to the customer's set-top box where possible.

Conclusion

27. In summary, PIAC-NPF-COSCO oppose Bell's requests as currently proposed. Specifically,
 - (i) Bell has not justified its request for a six-month extension for its VOD service; and
 - (ii) Bell should assume all costs (including the price of an NPAS-capable PVR) of upgrading DTH subscribers on Model 5200 PVRs to the NPAS-capable models.
28. PIAC-NPF-COSCO support Bell's proposals to report to the Commission monthly on its progress.
29. PIAC-NPF-COSCO note that the Commission's determinations with regards to timelines in the proceeding have been unpredictable and confounded by delayed postings on the CRTC website. For instance, while the Commission decided in its 10 March 2015 letter to expedite the process for this proceeding, the Commission's letter and the new deadline were not posted on the CRTC website until last week – shortening the original deadline by more than two weeks and giving interveners less than one week to develop complete submissions on the application. It is essential that changes in proceeding timelines be fair, transparent, and promptly updated on

¹⁵ See: Bell ExpressVu(CRTC)10Mar15-6 BRP 2014-444.

¹⁶ See: Bell ExpressVu Limited Partnership, *Request for Temporary Relief – Emergency Alerts* (3 March 2015) at para 17.

the CRTC website – often the sole source of information for public interest interveners.

Yours truly,
[original signed]

Alysia Lau
Legal Counsel
(613) 562-4002 x38
alau@piac.ca

Public Interest Advocacy Centre
ONE Nicholas Street, Suite 1204
Ottawa, Ontario K1N 7B7

cc: Barry Chapman
Vice President Regulatory Affairs, Bell Canada
bell.regulatory@bell.ca

David Bennett
Associate Director Regulatory Affairs, Bell Canada
david.bennett@bell.ca

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