

File / Dossier : Television Retransmission (2014-2018) /
Retransmission de signaux de télévision (2014-2018)

November 4, 2016

[CB-CDA 2016-089]

The BDUs shall reply to the request below by no later than **Monday, November 7, 2016**. The Collectives shall reply by no later than **Tuesday, November 8, 2016**.

From: L. Massam
Sent: November-03-16 3:16 PM
To: G. McDougall
Cc: N. Campanella, C. Masse, H. Intven, M. Koch, J. Callaghan, A. Thomas, D. Glover, L. Watt, M. Lewis, J. O'Hara, J. Green, R. Ssheahan, M. Estabrooks, M.P. Duguay-Gosselin, A. Malek, A. Jacobs, G. Piasetzki, D. Kent, Y. Wexler, J. Kerr-Wilson, M. Hayes
Subject: RE: TV Retransmission 2014-2018 - Notice of the Board [CB-CDA 2016-088]

FILE: Television Retransmission (2014-2018)

Mr. McDougall,

We write on behalf of the Collectives in response to the Board's Notice, CB-CDA 2016-088.

As you are aware, the evidentiary stage of this proceeding has concluded. Significant effort was made by all sides to fully canvass the relevant issues for the Board's consideration. We understand from the Notice that the Board's staff has engaged in independent research¹ and further information gathering.

The Collectives do not know the nature, context or scope of the factual inquiries made by the Board staff, or indeed the use being made by the Board of this new information and analysis. As such, and notwithstanding the Collectives request for clarification set-out below, we reserve our rights with respect to this procedure, its effect on the fairness of the proceedings, and ultimately any related decision-making.

In order for the Collectives to provide meaningful comment in response to the Notice, we required more information including, the source of all new information gathered by the Board and the relevance of this new information and any related analysis to the Board's decision-making in this proceeding. Based on the Notice alone, the Collectives do not know the specific information being relied upon to conclude that "...the providers may make an average profit of 25 to 35 per cent per year by providing specialty services". Nor do the Collectives know what use this information may be put to by the Board in arriving at its decision. As such, the Collectives respectfully request further detail from the Board including,

- the specific manner in which the "average profit of 25 to 35 per cent per year by providing specialty services" was calculated for each of the identified companies, including the specific

financial or other information used, where in the materials identified by the Board in its Notice that financial or other information is disclosed, and the full calculations performed in each instance;

- the particular specialty services provided by the identified companies that were considered by the Board in its analysis;
- a list of any other material (beyond the examples in the Notice) considered by the Board, and an explanation of the use made of those materials; and
- notice of how the materials identified by the Board may be relied upon by the Board as a ground for its decision.

In addition, the Collectives request that any raw data produced by the BDUs in response to Q. 3(b) be provided to the Collectives. To the extent the Board conducts any “further analysis” with this data, the Collectives request that it be disclosed to the Parties. Finally, it is requested that the Parties be given an opportunity to respond to each others’ answers to the questions posed by the Board in its Notice.

If it would be of assistance, we would be pleased to make ourselves available for a case management teleconference before the Chair at the Board’s convenience.

Yours very truly,

Laurent Massam

^[1] The Collectives have assumed that the link <http://ir.timewarner.com/phoenix.zhtml?c=70972&p=irol-sec>” was to direct the Parties to the 2013 10-K filing of Time Warner Inc.

Laurent Massam