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Bell Media goes to court to fight CRTC ruling on Super Bowl ads

CTV News: Legal fight over Super Bowl ads



Super Bowl ads are at the centre of a Canadian legal challenge. Richard Madan has the details.



Terry Pedwell, The Canadian Press
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OTTAWA -- One of Canada's media giants has launched an appeal of the broadcast regulator's ban on substituting Canadian advertising over American ads during the Superbowl.

Canada's broadcast regulator issued a ban earlier this year on the so-called simultaneous substitution of Canadian advertising over U.S. ads during the NFL final.

But Bell Media (TSX:BCE) called the decision unfair Monday as it filed a motion with the Federal Court of Appeal seeking leave to appeal, saying the Canadian Radio-television and Telecommunications Commission acted in error.

"People see the CRTC's simultaneous substitution decision as a negative for Canada and question why it was necessary," Bell Media vice-president of communications Scott Henderson said in a statement.

"If it makes policy decisions based on what Canadians value, it's clear the CRTC fumbled this decision."

Bell claims the CRTC was wrong to single out Super Bowl ads for the ban while declaring

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simultaneous substitution, known as simsub, important to the broadcasting system.

A spokeswoman for the regulator said the CRTC would not comment on the appeal because the issue is now before the courts.

Simulcasting of Canadian ads over U.S. ones during the Super Bowl has been a pet peeve for many viewers. Many companies spend millions to showcase new ads produced specifically to run during the U.S. broadcast of the Super Bowl to take advantage of the game's massive audience.

"For a number of years, Canadians have complained to the CRTC that they want to see the American ads during the Super Bowl," the CRTC said when it issued the ban on Jan 29.

But the broadcasters have argued they need the revenue generated by the ads to pay for the Canadian rights to air the game.

It's estimated that simsub pumps \$250 million annually into Canada's broadcast system.

The CRTC also banned simsub for specialty channels, which affects live sports programming on other networks, and warned it would impose penalties for mismatched ads that run over top of important points in the broadcasts.

The ban will do "real harm" to Canada's broadcasting sector, the Association of Canadian Advertisers warns in a letter to Heritage Minister Shelly Gover and CRTC chairman Jean-Pierre Blais.

"As a result of this decision, Canadians are likely to be inundated with advertising irrelevant to them because the company doesn't operate in Canada, doesn't make the advertised products available here, or offers them at a significantly different price," wrote association president and CEO Ron Lund.

But the Super Bowl simsub decision directly affects only Bell in the immediate term because it holds the broadcasting rights to the game when the ban is to take effect in early 2017.

"The decision discriminates by singling out this one particular broadcast and, more specifically, one particular licensee, given that the decision takes effect during the term of Bell Media's current contract for the Super Bowl rights," said Henderson.

Simultaneous substitution allows TV networks to ask cable and satellite TV providers to swap in their own signals over feeds from U.S. broadcasters when the same show airs at the same time.

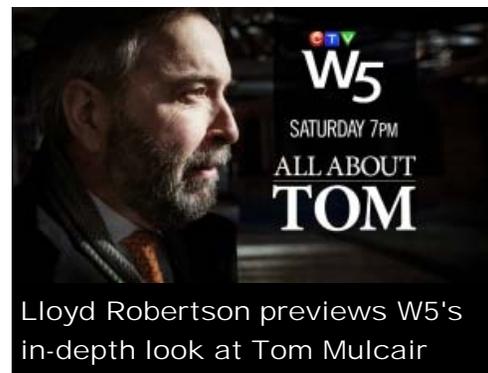
Bell cited a [Nanos research survey](#) Monday that it commissioned that suggested most viewers would rather support Canadian broadcasters who have paid for the broadcast rights for the Super Bowl over the ability to watch U.S. commercials during the big game.

Canadian content producers had mixed feelings about the CRTC ruling when it was issued, but commended the regulator's decision at the time to reaffirm the overall importance of simultaneous substitution to the broadcast system, saying it protects the public interest.

"Clearly the (CRTC) felt that the issue of Canadians accessing American commercials during the Super Bowl was an important consumer irritant that needed to be addressed," said Ferne Downey, national president of the Alliance of Canadian Cinema, Television and Radio Artists (ACRTA).

"The commission's decision regarding simultaneous substitution balances the wishes of Canadian audiences with the vital need to continue to support the Canadian broadcast system."

BCE Inc., which owns Bell Media, also filed an appeal late last month of another CRTC decision involving how Bell charges its own customers for using its mobile TV app.



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