



Court of Appeal for British Columbia

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Webcasting Pilot Project  
October 2019

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## 1.0 Introduction

### 1.1 Background to the Webcasting Pilot Project

[1] In 2013, the Court of Appeal for British Columbia initiated a webcast pilot project to evaluate the access benefits of making appeals of clear and significant public interest available to view remotely.

[2] Three appeals were selected to include in the pilot project: (1) *Carter v. Attorney General of Canada*, March 18 – 22, 2013; (2) *Taseko Mines Limited v. Western Canada Wilderness Committee*, June 7-8, 2017; and (3) *Reference re: Proposed Amendments to the Environmental Management Act*, March 18 – 22, 2019.

[3] The pilot project is now complete. After evaluating the costs, viewership statistics, and feedback from the public, litigants, lawyers, court staff and judges with respect to each webcast, the court has decided to continue providing live webcasts and video archive for select appeal proceedings.

[4] This report provides: (1) a summary of the pilot project methods and results; (2) an evaluation of the access benefits; and (3) criteria the court will apply when selecting appeals for webcast in future.

## 2.0 Methods

### 2.1 Selecting and evaluating appeals to webcast

[5] The Court identified appeals of prospective public interest that did not involve access restrictions and where all parties, counsel, and justices agreed to have a webcast proceed.

[6] For each webcast an email account was created and posted to the court's website to gather feedback from the viewing public. Participating justices, counsel, and members of the media were also surveyed by email for their comments respecting the utility of the webcast.

Capital and operating costs were tracked and viewership statistics recorded.

## 2.2 Technical aspects of webcasting

[7] The court was assisted by the Attorney General and Ministry of Justice to employ the necessary technology to conduct electronic appeals. It was initially hoped that videoconferencing technology could be merged with webcasting to create a joint solution; however, the two types of technology are too different. Therefore, in order to host the webcasts, the Court Services Branch of the Ministry of Justice engaged Shared Services British Columbia which, in turn, engaged a third party contractor to host the webcasts (Webcast Canada). This is the typical platform for government webcasts.

## 3.0 Results

### 3.1 *Carter v. A.G.*

[8] The *Carter* appeal addressed the question of whether the provisions of the *Criminal Code* that prohibit physician-assisted dying are constitutional.

Operating Costs (excluding staff time)	\$25,000 total \$5,000 per day
Viewers per day	Adjournment application – 249 Day 1 – 1939 Day 2 – 1188 Day 3 – 622 Day 4 – 354 Day 5 – 219
Average Viewers per day	864
Cost per viewer per day	\$5.78

### 3.2 Taseko Mines

[9] *Taseko Mines* engaged questions of freedom of speech on political issues in the context of a defamation claim and involved questions about land use of significance in rural British Columbia.

Operating Costs (excluding staff time)	\$1460 total \$730 per day
Viewers per day	Day 1 – 118 Day 2 – 56
Average viewers per day	65
Cost per viewer per day	\$11.23

### 3.3 Reference re: Environmental Management Act

[10] The *Reference* required the Court of Appeal to consider the constitutionality of certain amendments to the *Environmental Management Act* proposed by the Legislature of British Columbia. The proposed amendments arose in the context of intense national debate about the future of the Trans Mountain Pipeline Expansion project.

Operating Costs (excluding staff time)	\$4,082.50 total \$816.5 / day
Viewers per day	Day 1 – 430 Day 2 – 316 Day 3 – 197 Day 4 – 160 Day 5 – 189

Average Viewers per day	258
Cost per viewer per day	\$3.16

## 4.0 Evaluation of Access Benefits

### 4.1 Viewership cost

[11] The differences in viewership between *Taseko* and *Carter* or *Taseko* and the *Reference* serve to highlight that the vast majority of appeals could reasonably be expected to generate low (or possibly no) webcast viewership.

[12] Operating costs in *Carter* were orders of magnitude greater than in *Taseko* or the *Reference*. This difference is primarily the result of selecting different (more basic) service packages from the third party webcast host. The *Reference* provides a best case estimate of cost per viewer per day (at \$3.16) since viewership was greater than in *Taseko* and operating costs are closer to those anticipated for future broadcasts than in *Carter*.

### 4.2 Public and media feedback

[13] Feedback received from the public and members of the media was generally positive, but limited in volume, amounting to fewer than 10 emails per webcast.

[14] Comments received indicate that the webcasts have: (1) been utilized as a learning tool in educational environments (*Carter* and *Taseko*); (2) provided opportunities for interested people to watch the proceedings who could not otherwise have attended (*Carter*, *Taseko*, *Reference*); (3) been used by members of the media to check information for stories reporting on proceedings (*Carter* and *Reference*), and (4) been used by members of the media to provide coverage they would not otherwise have been able to provide (*Reference*).

[15] Additionally, members of the public and media commented that archived recordings have significant value in their own right. The recordings can be referenced outside of work hours, studied in classrooms, and allow for efficient viewing since court watchers can skip to those portions of the presentation(s) they are most interested in.

## **5.0 Decision to Continue with Select Webcasts**

[16] After evaluating the results of the pilot project, the court considered three options: (1) stop providing webcast and video archive of select appeals; (2) continue to provide webcast and video archive of select appeals; and (3) provide video archive, but no live webcast, for select appeals.

[17] The court wishes to proceed with the second option: continue to provide webcast and video archive of select appeals. This decision is consistent with the reality that most appeal proceedings are not of interest to the general public and providing a webcast would have little or no positive access benefit, but is still responsive to the appetite for increased real time and after hearing access to appeals of significant public interest.

### **5.1 Criteria for selecting appeals to webcast**

[18] The court proposes to apply a principled set of criteria for selecting appeals to broadcast in future. These criteria emerge from lessons learned over the course of the pilot project.

[19] Once an appeal of prospective interest is identified, either in writing by the parties, or by the court itself, the court will consider: (1) whether the appeal involves interests centered in remote locations or otherwise involves the interests of people for whom attending court in person is practically impossible; (2) whether the appeal involves questions of national interest; (3) accessibility of the subject matter of the appeal (including privacy concerns or other restrictions on access); and (4) the volume of media attention focused on the appeal prior to the hearing. Parties will be informed if their appeal is being considered for webcast and their views with respect to the utility and/or propriety of providing a webcast will be considered.

Questions regarding the Court of Appeal's webcast program should be directed to:

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