



Broadcasting Decision CRTC 2005-359

Ottawa, 29 July 2005

Telus Communications Inc.

Rimouski, Saint-Georges, Sept-Îles, Baie-Comeau, Gaspé, Montmagny and
Sainte-Marie, and their surrounding areas, Quebec

Application 2004-0964-0

Public Hearing at Niagara Falls, Ontario

6 June 2005

Cable broadcasting distribution undertaking

*The Commission **approves** the application by Telus Communications Inc. for a regional Class 1 broadcasting licence to operate a cable broadcasting distribution undertaking to serve various municipalities in Quebec.*

The application

1. The Commission received an application by Telus Communications Inc. (Telus) for a regional Class 1 broadcasting licence to operate a cable broadcasting distribution undertaking (BDU) to serve Rimouski, Saint-Georges, Sept-Îles, Baie-Comeau, Gaspé, Montmagny and Sainte-Marie, and their surrounding areas, Quebec.

Intervention

2. The Commission received one intervention from the Fédération des télévisions communautaires autonomes du Québec (the Fédération), which opposed the application. The Fédération was concerned that Telus would not offer a community channel and thus would not provide any means to support local expression. The Fédération also expressed concern about the negative impact that approval of Telus' application might have on the *Community Channel Policy* and feared that this would threaten the gains made by undertakings in the *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002 (Public Notice 2002-61), since, according to the Fédération, that framework does not seem clear with respect to new licences approved after the new policy's introduction.

Applicant's reply

3. In reply to the Fédération's intervention, Telus maintained that the 5% it would invest in the Canadian production fund is reasonable, and reiterated its commitment to review its position on local expression "[translation] as it implements its BDU services and makes inroads into and creates links with the Quebec communities it proposes to serve."

Commission's analysis and determination

4. The Commission has consistently taken the view that community programming is an important aspect of the Canadian broadcasting system, and offers a clear and significant contribution to the furtherance of the objectives of the *Broadcasting Act*. However, it remains the responsibility of each BDU licensee to decide whether or not it will operate a community channel.
5. Notwithstanding the BDU's discretion concerning whether or not it will offer a community channel, the Commission's policy with respect to community programming, as set out in Public Notice 2002-61, provides for the licensing of community-based programming undertakings that offer community programming. Depending on the service area, the community programming of such undertakings would receive mandatory carriage by BDUs.
6. The Commission's policy also provides for the licensing of community programming undertakings to operate a community channel. Under section 29 of the *Broadcasting Distribution Regulations* (the Regulations), if a BDU does not, itself, produce and distribute community programming on its community channel, and if such a community programming undertaking is licensed in the service area of that BDU, the community programming undertaking would be eligible to receive either 2% or 5% of the BDU's gross revenues derived from broadcasting activities, depending on the number of subscribers to that BDU.
7. The Commission notes that, since the applicant would be operating under a regional licence authorizing it to carry on a BDU in a number of licensed areas, any such community programming undertaking would only be eligible to receive funding based on the revenues derived from the broadcasting activities of the BDU operating in the area that the community programming undertaking was licensed to operate.
8. Unless and until Telus decides to offer a community channel, and subject to the possible licensing of a community programming undertaking or undertakings, the Commission considers that the applicant's commitment to contribute 5% of its gross broadcasting revenues to the Canadian production fund is appropriate and consistent with section 29 of the Regulations.
9. The Commission considers that it is appropriate to licence Telus to offer a broadcasting distribution service in the municipalities listed in the application. Accordingly, the Commission **approves** the application by Telus Communications Inc. for a Class 1 regional broadcasting licence to serve the following licensed areas: Rimouski, Saint-Georges, Sept-Îles, Baie-Comeau, Gaspé, Montmagny and Sainte-Marie, and their surrounding areas, Quebec.

Issuance of the licence

10. The Commission will issue a Class 1 regional broadcasting licence to operate a cable BDU to serve Rimouski, Saint-Georges, Sept-Îles, Baie-Comeau, Gaspé, Montmagny and Sainte-Marie, and their surrounding areas, Quebec. The Regulations applicable to Class 1 licensees shall apply to this undertaking, including those relating to distribution on a digital basis. The operation of this undertaking will be regulated in accordance with the *Broadcasting Distribution Regulations*. The licence will expire on 31 August 2011 and will be subject to the **conditions** set out therein.
11. The licensee may receive the signals that it is licensed to distribute over the air or through any licensed or exempted Canadian BDU that is licensed to supply signals to other distributors.
12. Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 29 July 2007. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Employment equity

13. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with Human Resources and Skills Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>