



Broadcasting Decision CRTC 2010-646

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Route reference: 2010-373

Ottawa, 31 August 2010

Videotron Ltd.

Chicoutimi, Quebec

Application 2009-1614-0, received 30 November 2009

Terrestrial broadcasting distribution undertaking – Licence renewal and amendments

*The Commission **renews** the broadcasting licence of the Class 1 terrestrial broadcasting distribution undertaking (BDU) serving Chicoutimi, from 1 September 2010 to 31 August 2017.*

*The Commission **approves** the various amendments to the terrestrial BDU's broadcasting licence.*

*The Commission **approves** the proposed redefinition of the terrestrial BDU's licensed service area.*

The application

1. The Commission received an application by Videotron Ltd. (Videotron) to renew the broadcasting licence for its Class 1 terrestrial broadcasting distribution undertaking (BDU) serving Chicoutimi, which expires 31 August 2010.
2. Videotron proposed to amend or delete certain conditions of licence, as set out in its application, and to add the following conditions:
 - The licensee is authorized to distribute, at its option and on a discretionary basis, a video games service as a special programming service, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.
 - The licensee is authorized to distribute, at its option, WCAX-TV (CBS) Burlington, WPTZ (NBC) Plattsburgh, WVNY (ABC) Plattsburgh, WFFF-TV (FOX) Burlington and WCFE-TV (PBS) Plattsburgh, as part of the basic service.
 - The licensee is authorized to distribute, at its option, the distant Canadian television stations CBFT (SRC) Montréal and CBMT (CBC) Montréal, as part of the basic service.

3. Videotron also requested a redefinition of the licensed service area of its terrestrial BDU, as set out in its application.
4. The Commission received an intervention concerning the application from the Canadian Broadcasting Corporation (CBC), which opposed approving Videotron's proposed condition of licence relating to the distribution of the distant Canadian television stations CBFT (SRC) and CBMT (CBC), as part of the basic service.

Commission's analysis and determinations

5. After examining the application, the intervention and the applicant's reply, the Commission considers that the only issue arising from this application is the addition of a condition of licence concerning the distribution of distant Canadian signals as part of the basic service.

Addition of a condition of licence concerning the distribution of distant Canadian signals as part of the basic service

6. The licensee requested the addition of a condition of licence authorizing it to distribute distant Canadian signals CBFT (SRC) and CBMT (CBC) as part of the basic service.
7. The CBC opposed approving this condition of licence as formulated by Videotron.
8. The CBC is of the opinion that the proposed condition of licence would authorize the BDU to distribute the distant signals CBFT (SRC) and CBMT (CBC) without having to obtain the prior consent of the CBC. The CBC considers that such authorization could be detrimental to the intervener, particularly following the upcoming implementation, set to take place on 1 September 2011, of a new policy on distant signals that will authorize over-the-air television licensees to negotiate a rate with the BDUs for retransmission of their local stations as distant signals.
9. The CBC argued that such an authorization should be conditional on a negotiated agreement between the BDU and the programming service (the CBC in the present case). The CBC therefore proposed the following condition of licence to replace the condition of licence proposed by Videotron:

Subject to a negotiated agreement covering the period 1 September 2010 to 31 August 2011, the licensee is authorized to distribute, at its option, the distant Canadian stations CBFT (SRC) Montréal and CBMT (CBC) Montréal as part of its analog basic service and as part of its digital basic service. After 31 August 2011, the licensee may distribute these distant Canadian stations only if it has obtained the written consent of CBC for such distribution and if it complies with all aspects of the consent regime for distant signals set out in the *Broadcasting Distribution Regulations*.

10. In its reply to the CBC, Videotron proposed to modify the condition of licence proposed by the CBC by removing the phrase “covering the period 1 September 2010 to 31 August 2011.”
11. The Commission stated in Public Notice 1985-61, and reiterated in Public Notice 1993-74, that for any application to distribute distant Canadian signals, there should be no objection on the part of the originating station whose signal is being extended. The Commission is therefore of the view that the condition of licence as originally proposed by Videotron would have an adverse impact on CBC, since the distribution of distant signals would be authorized over the stated objection of the television service in question. Concerning the replacement condition of licence proposed by the CBC and subsequently amended and accepted by Videotron, the Commission considers that it is not in compliance with the current framework for the distribution of distant Canadian signals.
12. The Commission considers that the following condition of licence is more appropriate for the purposes of authorizing the distribution of distant Canadian signals as part of the basic service:

Where the distant Canadian stations in question have no objection, the licensee is authorized to distribute, at its option, the distant Canadian signals CBFT (SRC) Montréal and CBMT (CBC) Montréal as part of its analog basic service and its digital basic service. This condition of licence will expire upon the coming into force of the amendments to the *Broadcasting Distribution Regulations* pertaining to distant signals.

13. Consequently, the Commission considers it appropriate to impose on Videotron this condition of licence, as set out in the appendix to this decision.

Other matters

Addition of a condition of licence relating to the distribution of a video games service

14. The Commission has granted other BDUs a condition of licence authorizing the distribution of a video games service as a special programming service, and sees no reason to deny Videotron such authorization.

Addition of a condition of licence relating to the distribution of U.S. 4+1 signals as part of the basic service

15. The Commission has granted other BDUs a condition of licence authorizing the distribution of U.S. 4+1 signals as part of the basic service. The authorization sought by the licensee is consistent with other authorizations granted by the Commission in comparable situations.
16. In Broadcasting Public Notice 2008-100, the Commission announced that, with the coming into force of amendments to the *Broadcasting Distribution Regulations*, it would authorize BDUs to make available to their subscribers a second set of U.S. 4+1

signals only if a subscriber already receives at least one signal, originating from the same time zone as for the U.S. 4+1 signals, from each large Canadian multi-station broadcasting group.

Amendments to or deletion of certain conditions of licence and redefinition of the licensed service area

17. The Commission considers that the amendments to or deletion of certain conditions of licence, as proposed by Videotron in its application, are appropriate and do not conflict with any regulation or policy currently in effect. The Commission also considers it appropriate to redefine the licensed service area of Videotron's terrestrial BDU.

Implementation of the Commission's determinations regarding accessibility of services

18. In Broadcasting and Telecom Regulatory Policy 2009-430, the Commission set out its policy determinations regarding the accessibility of telecommunications and broadcasting services to persons with disabilities. Accordingly, pursuant to that regulatory policy, the Commission is imposing **conditions of licence** to that effect, as set out in the appendix to this decision.
19. The Commission notes that it may impose further conditions of licence respecting accessibility issues beginning in the fifth year of the licence term, if deemed appropriate.

Conclusion

20. In light of the foregoing, the Commission **renews** the broadcasting licence for the Class 1 terrestrial broadcasting distribution undertaking serving Chicoutimi, from 1 September 2010 to 31 August 2017.
21. Further, the Commission **approves** the addition of new conditions of licence relating to the distribution of a video games service and to the distribution of the U.S. 4+1 signals as part of the basic service. The Commission **approves** the addition of the condition of licence relating to the distribution of distant Canadian television stations, as part of the basic service, as amended by the Commission. The Commission **approves** the proposed amendments to certain conditions of licence and the deletion of certain other conditions of licence, as discussed above. The Commission **approves** the redefinition of the licensed service area of Videotron's terrestrial BDU. The licence will be subject to the **conditions** specified therein as well as to the terms and **conditions** set out in the appendix to this decision.

Employment equity

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

Secretary General

Related documents

- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995
- *Structural public hearing*, Public Notice CRTC 1993-74, 3 June 1993
- *Distant Canadian television signals*, Public Notice CRTC 1985-61, 22 March 1985

* *This decision is to be appended to the licence.*

Appendix to Broadcasting Decision 2010-646

Terms, conditions of licence, expectations and encouragement for the Class 1 terrestrial broadcasting distribution undertaking serving Chicoutimi

Terms

The operation of this terrestrial broadcasting distribution undertaking will be regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

The licence will expire 31 August 2017.

Conditions of licence

1. The licensee is relieved of the requirement of section 7 of the *Broadcasting Distribution Regulations* as it pertains to the passing through of video description on an analog basis, subject to its providing, upon request, a complimentary digital set-top box to its analog cable subscribers who are blind or who have a visual impairment to enable these subscribers to access video description on a digital basis.
2. The licensee is authorized to distribute, at its option, the distant Canadian television stations CFER-TV (TVA) Rimouski, CFTU-TV Montréal (Canal Savoir), CFCF-TV (CTV) Montréal and CKMI-TV (Global) Montréal, as part of the basic service.
3. The licensee is authorized to distribute, on a digital discretionary basis, the distant Canadian signals CITY-TV (IND) Toronto, CKXT-TV (Sun TV) Toronto and CFMT-TV (OMNI.1) Toronto.
4. Providing there is no objection by the distant Canadian stations in question, the licensee is authorized to distribute, at its option, the distant Canadian signals CBFT (SRC) Montréal and CBMT (CBC) Montréal as part of its basic analog and basic digital service. This condition of licence shall expire upon the coming into force of the amendments to the *Broadcasting Distribution Regulations*.
5. The licensee is authorized to distribute the signal of the transitional digital television undertaking CIII-DT-41 (Global) Toronto, as part of its high definition (HD) digital service, until a Montréal digital television undertaking that provides Global programming in HD begins broadcasting. This authorization shall expire when such an undertaking begins broadcasting.

The Commission reminds the licensee that the simultaneous substitution requirements set out in section 30 of the *Broadcasting Distribution Regulations* and in paragraph 99 of *The regulatory framework for the distribution of digital television signals*, Broadcasting Public Notice CRTC 2003-61, 11 November 2003, apply to transitional digital television undertakings.

6. The licensee is authorized to distribute, at its option, stations WCAX-TV (CBS) Burlington, WPTZ (NBC) Plattsburgh, WVNY (ABC) Plattsburgh, WFFF-TV (FOX) Burlington and WCFE-TV (PBS) Plattsburgh, as part of the basic service.

7. The licensee is authorized to distribute the following signals on a digital discretionary basis:
 - any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*; and
 - a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network (hereafter referred to as the U.S. 4+1 signals).

The distribution on a discretionary basis on the licensee's digital service of a second set of U.S. 4+1 signals and distant Canadian signals is subject to the provision that, with respect to such signals, the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the *Broadcasting Distribution Regulations* (the Regulations). The Commission may suspend the application of this provision, with respect to the signals to be distributed, upon its approval of an executed agreement between the licensee and broadcasters. Such an agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals and distant Canadian signals solely on the licensee's digital service.

The Commission reminds the licensee that the requirements set out in section 30 of the Regulations regarding simultaneous substitution apply also in the case of U.S. 4+1 signals and distant Canadian signals.

8. The licensee is authorized to distribute, at its option, on a discretionary basis, a video games service as a special programming service, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.
9. The licensee shall provide audio description for all the key elements of information programs, including news programming (that is, the voice-over of textual, graphic design and still image elements, such as phone numbers, stock market information, or weather maps that are posted on the screen).
10. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that require little or no visual acuity.
11. The licensee shall ensure that its customer service representatives are trained to handle queries from persons with disabilities whether the calls concern disability-specific products and services or general queries (for example, billing).
12. The licensee shall ensure that its interactive voice response system is sufficiently accessible to persons with disabilities so as to constitute a reasonable accommodation, taking into account the needs of individuals with different disabilities.

Expectations

The Commission expects the licensee to make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up.

The Commission expects the licensee to promote disability-specific products and services.

The Commission expects the licensee to ensure that subscribers are able to identify programming with described video in the electronic program guide.

The Commission expects the licensee to make its website and call centre accessible.

Encouragement

The Commission encourages the licensee to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.