



Broadcasting Regulatory Policy CRTC 2010-811

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Route reference: 2010-272

Ottawa, 2 November 2010

Distribution of Super Channel by Class 1 broadcasting distribution undertakings in Quebec

*The Commission **denies** the request by Allarco Entertainment (2008) Inc. to amend the Broadcasting Distribution Regulations to require Class 1 broadcasting distribution undertakings in Francophone markets with a significant English-speaking minority community to distribute all English- and French-language pay television services.*

Introduction

1. In *Call for comments on the distribution of Super Channel by terrestrial broadcasting distribution undertakings in the province of Quebec*, Broadcasting Public Notice CRTC 2010-272, 13 May 2010, the Commission sought comments on Allarco Entertainment (2008) Inc.'s (Allarco) request to amend the *Broadcasting Distribution Regulations* (the Regulations) in order to require Class 1 broadcasting distribution undertakings (BDUs) operating in Francophone markets with a significant English-speaking community to distribute all English- and French-language pay television services.
2. Allarco, the general partner, as well as limited partner with C.R.A. Investments Ltd. (the limited partners), carrying on business as Allarco Entertainment Limited Partnership, are the licensee of the national, English-language general interest pay television service known as Super Channel.
3. Allarco submitted that despite its best efforts, Class 1 BDUs in Quebec have refused to negotiate the distribution of Super Channel in their markets. Allarco argued that by refusing to distribute Super Channel where there is a significant English-speaking minority community, these BDUs are contravening the government policy put in place to encourage and facilitate access to the widest range of official-language broadcasting services as possible in English- and French-speaking minority communities.
4. Further, according to Allarco, unless Super Channel were granted distribution on a basis comparable to the distribution of existing pay television services in Quebec, it would incur a significant marketing and financial disadvantage in relation to other pay television services and it is unlikely that it would meet its business plan.

5. As part of this proceeding, the Commission received and considered written comments. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Positions of parties

6. Cogeco Cable Inc., Quebecor Media Inc. (QMI) and Rogers Cable Communications Inc. (Rogers) opposed Allarco's proposal and were of the view that the Regulations are satisfactory in their current state. In their comments, the BDUs submitted that the current Regulations are appropriate and ensure that Canadians have access to a variety of discretionary programming in both official languages. Rogers added that by approving the request the Commission would be modifying its current approach of seeking to streamline and simplify the distribution rules applicable to BDUs.
7. The BDUs also submitted that approval of the proposal would result in a reduction to their network capacity and would negatively impact their ability to respond to customers' programming demands. QMI argued that the non-distribution of Super Channel was due to a lack of demand.

Commission's analysis and determinations

8. In its *Report to the Governor in Council on English- and French-language broadcasting services in English and French linguistic minority communities in Canada*, 30 March 2009, the Commission concluded that English-speaking minority communities have access to a wide range of English-language services. The Commission further stated that an examination of the current BDU channel line-ups in Francophone markets reveals that subscribers in these markets continue to have access to a variety of English-language conventional, pay and specialty television services. The Commission considers that to require Class 1 BDUs operating in Francophone markets with a significant English-speaking minority community to distribute all English- and French-language pay television services would amount to unduly burdensome regulation.
9. The Commission also notes that no evidence has been provided that would reveal a demand for Super Channel or any other English-language pay television service that is not already distributed in these markets. The Commission is therefore not persuaded that requiring the distribution of additional English-language pay television services in Francophone markets would better serve the English-speaking minority communities in those markets or that it would better achieve the objectives set out in the *Broadcasting Act*.

Conclusion

10. The Commission considers that the current Regulations already provide Allarco with significant access rights and that there is insufficient evidence to conclude that these Regulations subject Allarco to a significant disadvantage in relation to other pay television services. Accordingly, in the absence of any evidence of demand for the service, the Commission **denies** the request by Allarco Entertainment (2008) Inc. to

amend the Regulations to require Class 1 broadcasting distribution undertakings in Francophone markets with a significant English-speaking minority community to distribute all English- and French-language pay television services.

Secretary General