



Broadcasting Decision CRTC 2005-149

Ottawa, 12 April 2005

Aliant Telecom Inc.
Halifax, Nova Scotia

Application 2005-0119-9

Distribution of additional signals on a discretionary digital basis

1. The Commission received an application by Aliant Telecom Inc. (Aliant) to distribute on its Class 1 cable distribution undertaking serving Halifax the following services on a discretionary digital basis:
 - a) a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and of the non-commercial PBS network (collectively, the U.S. 4+1 signals); and
 - b) any of the Canadian television signals set out in the *List of Part 3 eligible satellite services*¹ (the List).

2. Section 19(o) of the *Broadcasting Distribution Regulations* (the Regulations) stipulates that a licensee may distribute "any programming service authorized under a condition of its licence". One of the conditions of licence that appear on all licences to carry on a cable or multipoint distribution system (MDS) distribution undertaking (generally, condition of licence no. 2) stipulates that:

The written approval of the Commission is required prior to the distribution of any service not authorized in:

 - a) the *Broadcasting Distribution Regulations*;
 - b) the most recent renewal decision or, if there has been no renewal, the initial licensing decision; or
 - c) any subsequent written approvals granted during the term of this licence.

3. Aliant filed the present application as required by its condition of licence.

¹ Appendix B of *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2004-88, 18 November 2004, as amended from time to time. This appendix provides for the distribution, by Class 3 cable systems, of the programming service of any licensed television programming undertaking received from a licensed satellite relay distribution undertaking.

The Commission's determination

4. The Commission considers that carriage, on a discretionary digital basis, of Canadian signals provided for in the List and of an additional set of U.S. 4+1 signals, when coupled with other initiatives such as the carriage of newly licensed Canadian digital services, could serve as an incentive for cable customers to subscribe to the digital service offerings of cable undertakings. The distribution of such services would also increase the choice available to cable subscribers.
5. In *Carriage of Canadian and U.S. 4+1 signals on a digital basis*, Decision CRTC 2000-437, 8 November 2000 (Decision 2000-437), the Commission also recognized the need to protect the program rights acquired by local broadcasters.
6. Accordingly, the Commission **approves** the application by Aliant Telecom Inc. to distribute, on a discretionary digital basis, a second set of U.S. 4+1 signals and any of the Canadian television signals provided for in the List, so long as the licensee complies with the following :

The distribution on a discretionary basis on the licensee's digital service of U.S. 4+1 signals, in addition to the set of such signals already carried by the undertaking, and of Canadian television signals provided for in the List, 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 Regulations. The Commission may suspend the application of this provision in respect of a signal, upon its approval of an executed agreement between the licensee and the broadcaster concerned. 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 of distant Canadian television signals solely on the licensee's digital service, as approved in this decision.

7. The Commission reminds the licensee that the simultaneous substitution requirements, as set out in section 30 of the Regulations, also apply with respect to the U.S. 4+1 and distant Canadian television signals.

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>