



## Broadcasting Decision CRTC 2005-508

Ottawa, 20 October 2005

### **Videotron (Regional) Ltd.**

Gatineau, Gatineau (Buckingham sector), Thurso and  
Montebello, Quebec and Rockland, Ontario

*Application 2004-0669-6*

*Broadcasting Public Notice CRTC 2005-27*

*31 March 2005*

### **Application for relief from sections 17 and 32 of the *Broadcasting Distribution Regulations***

*The Commission **denies** an application for relief from the requirement to distribute CITS-TV-1 Ottawa, Ontario as part of the basic analog service beginning with the basic band, and to instead distribute CITS-TV-1 as part of the basic digital service of the undertakings in question.*

#### **The application**

1. The Commission received an application by Videotron (Regional) Ltd. (Videotron), the licensee of the Class 1 cable broadcasting distribution undertakings (BDUs) serving Gatineau and Gatineau (Buckingham sector), Quebec, the Class 2 cable BDU serving Rockland, Ontario, and the Class 3 cable BDUs serving Thurso and Montebello, Quebec. Videotron requested relief, by condition of licence, from the provisions of sections 17 and 32 of the *Broadcasting Distribution Regulations* (the Regulations) requiring that it distribute CITS-TV-1 Ottawa as part of the basic service of each of these cable BDUs, beginning with the basic band (channels 2 to 13). Instead, Videotron proposed to distribute CITS-TV-1 as part of the basic digital service of each of these cable BDUs.
2. Videotron noted that CITS-TV-1, an English-language television programming undertaking devoted to religious programming, targets a niche that does not include all or most Quebecers. Videotron added that digital distribution of CITS-TV-1 would free up space that could be used by twelve specialty digital services. According to Videotron, the Canadian broadcasting system and the public interest would be better served by offering several specialty programming services rather than a single service with a specialized orientation and a limited target audience.

## **Interventions**

3. The Commission received two interventions concerning the application – one opposing the application from Crossroads Television System (Crossroads), licensee of television station CITS-TV Burlington and its transmitters in Ottawa and London, and one supporting the application from the Canadian Cable Telecommunications Association (CCTA).
4. Crossroads stated it was surprised to learn that Videotron had filed the application. The intervener pointed out that, although most Videotron subscribers are Francophones, some are Anglophones or bilingual. Crossroads added that CITS-TV offers varied programming and is aimed at more than one specific niche. As an alternative and to offset the potential loss of viewers, Crossroads stated that it would be prepared to accept the distribution of CITS-TV on the basic digital service of all Videotron BDUs in Quebec.
5. The CCTA supported Videotron's application, submitting that it is difficult to justify the distribution of an Anglophone religious service by a BDU as part of its basic analog service in a mainly Francophone market. The CCTA stated that, given the transition to digital technology, it is crucial that the Commission give distributors the flexibility they need to enhance the digital services offering.

## **Licensee's response**

6. Videotron opposed Crossroad's proposal that CITS-TV be distributed as part of the basic digital service of all Videotron BDUs in Quebec. Videotron stated, however, that it would be happy to offer CITS-TV as a discretionary service or on an individual basis to all subscribers in Quebec.

## **Commission's analysis and determination**

7. Section 17(1) of the Regulations prescribes the order of priority in which television programming services must be distributed on the basic service of Class 1 and Class 2 BDUs, and section 32(1) establishes the order of priority in which television programming services must be distributed on the basic service of Class 3 BDUs. Sections 17(2) and 32(2) of the Regulations stipulate that these services must be distributed on channels beginning with the basic band. Section 1 of the Regulations defines the basic band as "the 12 analog cable channels that are commonly identified by the numbers 2 to 13 ..."

8. Videotron's application concerns Class 1 BDUs, one Class 2 BDU and Class 3 BDUs. CITS-TV-1 describes itself as a local television station<sup>1</sup> for the BDU serving Gatineau, as a regional television station<sup>2</sup> for the BDU serving the Buckingham sector, and as an extra-regional television station<sup>3</sup> for the BDUs serving Thurso, Montebello and Rockland.
9. In *CITS-TV Burlington – New transmitters in Ottawa and London*, Broadcasting Decision CRTC 2003-601, 17 December 2003, the Commission noted that Crossroads would be willing to accept distribution on the basic service of cable BDUs outside of the basic band in Ottawa and London so long as CITS-TV was carried no higher than channel 36, and reminded BDUs wishing to distribute CITS-TV in a manner other than that provided for under the Regulations that they must obtain the prior approval of the Commission.
10. In the past, the Commission has approved applications by BDUs seeking relief from the requirement to distribute certain services pursuant to sections 17 and 32 of the Regulations, subject to the terms and conditions for distribution set out in the agreements between those BDUs and the programming services in question.<sup>4</sup> In this instance, the Commission notes that Crossroads and Videotron were not parties to distribution agreements when this application was filed. The Commission further notes that Crossroads has obviously not waived its right of carriage on the basic analog service of the BDUs in question.

---

<sup>1</sup> A "local television station" is a licensed television station that has a Grade A official contour that includes any part of the licensed area or has, if there is no Grade A official contour, a transmitting antenna that is located within 15 kilometres of the licensed area.

<sup>2</sup> A "regional television station" is a licensed television station, other than a local television station, that has a Grade B official contour that includes any part of the licensed area.

<sup>3</sup> An "extra-regional television station" is a licensed television station that has a Grade A official contour or Grade B official contour that does not include any part of the licensed area, and a Grade B official contour that includes any point located 32 kilometres or less from the local head end of the licensed area.

<sup>4</sup> See *Application for relief from section 17 of the Broadcasting Distribution Regulations*, Broadcasting Decision CRTC 2003-468, 18 September 2003, *Application for relief from section 17 of the Broadcasting Distribution Regulations*, Broadcasting Decision CRTC 2004-353, 17 August 2004 and *Application for relief from sections 17 and 32 of the Broadcasting Distribution Regulations*, Broadcasting Decision CRTC 2005-215, 27 May 2005.

11. Without evidence that Crossroads has agreed to waive its right to carriage on the basic analog service, and without an agreement between Videotron and Crossroads as to the terms and conditions for distributing CITS-TV that offers a suitable solution to the positioning of CITS-TV, the Commission finds that approval of the Videotron application would not be in the public interest. Accordingly, the Commission **denies** the application by Videotron (Regional) Ltd. to be relieved of the requirement to distribute CITS-TV-1 Ottawa, Ontario as part of its basic analog service on the basic band.

Secretary General

*This decision is to be appended to each 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>*