



Broadcasting Decision CRTC 2007-349

Ottawa, 7 September 2007

Star Choice Television Network Incorporated Across Canada

Application 2007-0666-6, received 27 April 2007
Broadcasting Public Notice CRTC 2007-77
11 July 2007

Distribution of satellite subscription radio services

*The Commission **approves** an application by Star Choice Television Network Incorporated to amend the broadcasting licence for its national direct-to-home satellite broadcasting distribution undertaking, in order to add a condition of licence authorizing the licensee to distribute, at its option, the audio programming service of one or more licensed satellite subscription radio undertakings on a digital basis, subject to certain provisions.*

The application

1. The Commission received an application by Star Choice Television Network Incorporated (Star Choice) to amend the broadcasting licence for its national direct-to-home satellite broadcasting distribution undertaking (DTH BDU). The licensee requested that it be authorized, by condition of licence, to distribute, at its option, the audio programming service of one or more licensed satellite subscription radio (SSR) undertakings on a digital basis.
2. Star Choice submitted that the addition of an SSR service would not have any material impact on its high definition roll-out plans. It also stated that it had no plans to displace any existing services to accommodate the carriage of an SSR service and that it is in compliance with all regulatory requirements. Finally, Star Choice noted that the Commission approved similar applications by Rogers Cable Communications Inc. (Rogers) and by Bell ExpressVu Inc. (ExpressVu) in Broadcasting Decisions 2006-650 and 2007-82, respectively.
3. The Commission did not receive any interventions in connection with this application.

Commission's analysis and determinations

4. In Broadcasting Decision 2006-650, the Commission approved, subject to specific provisions, an application by Rogers to distribute one or more licensed SSR services on a digital basis on its BDUs serving various locations in Ontario, New Brunswick, and Newfoundland and Labrador.

5. The Commission notes that Star Choice's DTH BDU operates under similar circumstances as those of Rogers. The Commission also notes that in Broadcasting Decision 2007-262, it also approved an application by Shaw Communications Inc. (Shaw), on behalf of Shaw Cablesystems Limited, Shaw Cablesystems (SBC) Ltd., Shaw Cablesystems (SMB) Limited, Shaw Cablesystems (SSK) Limited, Prairie Co-Ax T.V. Limited and Videon Cablesystems Inc., for the addition of this condition of licence to its cable BDUs serving various locations in Alberta, British Columbia, Manitoba and Saskatchewan. The Commission concludes that, consistent with Broadcasting Decisions 2006-650, 2007-82 and 2007-262, it is appropriate to authorize Star Choice to distribute the SSR services on a digital basis subject to the same provisions as those imposed on Rogers, ExpressVu and Shaw, that is to say, under provisions in respect of such distribution that will place the SSR services on a relatively equal competitive footing with pay audio services, which are subject to a linkage ratio of one Canadian service to one non-Canadian service. The Commission further finds it appropriate that the applicable provisions offer some incentive to distributors to continue to distribute pay audio services, as well as the SSR services. In this way, both subscribers and the Canadian broadcasting system can potentially benefit from a greater diversity in audio services. At the same time, the use of Canadian creative and other resources in the provision of audio programming on BDUs can be maximized.
6. The Commission is imposing a condition of licence, as set out below, specifying that conventional radio signals, with the exception of those required under section 22 of the *Broadcasting Distribution Regulations* (the Regulations),¹ may not be used to fulfil the preponderance requirement set out in section 6(2) of the Regulations, unless a subscriber is already receiving at least 40 channels of pay audio.² The Canadian-produced channels of the SSR service that are being distributed may also be used to fulfil the requirements set out in section 6(2) of the Regulations; that is, the Canadian-produced channels of the SSR service that are being distributed will be considered Canadian programming services for the purposes of section 6(2) of the Regulations.
7. The Commission notes that in rendering its decision, it has relied on the licensee's statements, on record in its application, and as noted above, that the scope and nature of the SSR service to be distributed would be in compliance with all regulatory carriage requirements; that it has no plans to displace any existing services to accommodate the carriage of an SSR service; and that its addition of an SSR service would not have any material impact on its high definition roll-out plans.

¹ Under section 22 of the Regulations, BDUs must distribute local community, campus and native radio programming undertakings as well as at least one Canadian Broadcasting Corporation radio programming undertaking operating in English and one operating in French.

² The Commission notes that the requirement set out in section 6(2) of the Regulations applies to each of analog and digital technology, as well as to audio and video channels, separately. Thus, conventional radio stations, whether or not they must be distributed pursuant to section 22 of the Regulations, can only be taken into account for these purposes if they are distributed on a digital basis.

8. In light of the above, the Commission **approves**, with the provisions described above, the application by Star Choice Television Network Incorporated to amend the broadcasting licence for its national, direct-to-home satellite broadcasting distribution undertaking, in order to add the following **condition of licence**:

The licensee is authorized to distribute, at its option, the audio programming service of any licensed satellite subscription radio (SSR) undertaking on a digital basis. The distribution of SSR signals is subject to the following provisions:

- (i) Subject to the exception outlined in (ii), the licensee may not count the signals of conventional radio programming undertakings for the purpose of fulfilling the preponderance requirement set out in section 6(2) of the *Broadcasting Distribution Regulations* (the Regulations) unless a subscriber is already receiving 40 channels of one or more licensed pay audio programming undertakings.
- (ii) A licensee is entitled to count the signals of conventional radio programming undertakings that a licensee is required to distribute under section 22 of the Regulations for the purpose of fulfilling the preponderance requirement set out in section 6(2) of the Regulations.
- (iii) The Canadian-produced channels offered by the SSR undertaking are deemed to be “Canadian programming services” for the purposes of section 6(2) of the Regulations.

Secretary General

Related documents

- *Distribution of satellite subscription radio services*, Broadcasting Decision CRTC 2007-262, 30 July 2007
- *Distribution of satellite subscription radio services*, Broadcasting Decision CRTC 2007-82, 13 March 2007
- *Distribution of satellite subscription radio services*, Broadcasting Decision CRTC 2006-650, 29 November 2006

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>