



## Broadcasting Notice of Consultation CRTC 2010-272

Ottawa, 13 May 2010

### Call for comments on the distribution of Super Channel by terrestrial broadcasting distribution undertakings in the province of Quebec

*The Commission calls for comments on a proposal by Allarco Entertainment 2008 Inc. (Allarco) related to the distribution of the Super Channel pay television service. Allarco has been unable to negotiate distribution of Super Channel by terrestrial broadcasting distribution undertakings (BDUs) in Quebec. Consequently, Allarco has proposed that the Broadcasting Distribution Regulations be amended to require Class 1 BDUs located in Francophone markets where there is a significant English-language linguistic community, i.e., Montréal and Gatineau, to distribute all pay television services in each official language. The deadline for comments is **14 June 2010**.*

#### Introduction

1. The Commission has received a request by Allarco Entertainment 2008 Inc. (Allarco) dated 16 February 2010 related to distribution of the Super Channel pay television service. In its request, Allarco stated that it has been unable to negotiate distribution of Super Channel by terrestrial broadcasting distribution undertakings (BDUs) in Quebec. Allarco therefore asked the Commission to amend the *Broadcasting Distribution Regulations* (the Regulations) to require that Class 1 BDUs in Francophone markets where there is a significant English-language linguistic community (i.e., Montréal and Gatineau) distribute all pay television services in each official language.
2. Allarco stated that, in all provinces other than Quebec, all Class 1 terrestrial BDUs distribute Super Channel. It also noted that competing English-language pay television services benefit from distribution in the province of Quebec. Allarco submitted that the lack of distribution by BDUs in the markets in question places Super Channel at a significant marketing and financial disadvantage vis-à-vis its competitors. Accordingly, Allarco argued that, within the province of Quebec, distribution requirements are not comparable, as stipulated by the Commission in Broadcasting Decision 2006-193.
3. According to Allarco, approximately 700,000 people in greater Montréal identify themselves in census surveys as falling into the category “English spoken at home.” It argued that the failure of Super Channel to gain access on an equitable basis to one of the most concentrated English-language population centers in the country has impeded competition.
4. Allarco submitted that the current Regulations do not facilitate competition in the provision of pay television services, nor do they provide consumers in linguistic minority communities with adequate choice.
5. The Commission notes that, with respect to the current Regulations,

- section 38(2) provides that direct-to-home undertakings must distribute all pay television services except Category 2 or single or limited point-of-view religious services;
  - section 18(5) provides that, except as otherwise provided under a condition of licence, a Class 1 BDU shall distribute all pay television services *in the language of the market*;<sup>1</sup>
  - section 18(11.1) states that, except as otherwise provided under a condition of licence, Class 1 and Class 2 BDUs that have a nominal capacity of at least 750 MHz in a licensed area and that make use of digital technology for the delivery of any programming service, shall distribute *at least one* pay television service *in each official language*.
6. Pursuant to regulatory amendments announced in Broadcasting Public Notice 2008-100 and scheduled to come into effect 1 September 2011, Class 1 BDUs will also be obliged to distribute one Category A or Category B minority language service for every ten majority language services distributed.

### **Call for comments**

7. The Commission invites comments on Allarco's proposal that the Regulations be amended to require Class 1 BDUs located in Francophone markets where there is a significant English-language linguistic community, i.e., Montréal and Gatineau, to distribute all pay television services in each official language.
8. In addition to Allarco's letter of 16 February 2010, the initial letter from Allarco on this subject dated 17 December 2009 and the Commission staff response to that letter dated 11 January 2010 will form part of the record of this proceeding. Comments must be received by the Commission no later than **14 June 2010**.
9. The Commission will not formally acknowledge comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

### **Procedure for filing comments**

10. Interested parties can file their comments to the Secretary General of the Commission in only one of the following formats:

by using the  
[\[Broadcasting interventions/comments form\]](#)

by mail to  
CRTC, Ottawa, Ontario K1A 0N2

or

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<sup>1</sup> Excluding Category 2 pay services

by fax at  
819-994-0218

11. The Commission advises those who file and serve by electronic means to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.
12. Parties must ensure that, before initiating service through electronic mode, they will be able to satisfy the Commission, upon request, that service of the notification was completed.
13. Submissions longer than five pages should include a summary.
14. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line **\*\*\*End of document\*\*\*** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

### **Important notice**

15. Note that all information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
16. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
17. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
18. Please note that the information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.
19. The Commission encourages interested parties to monitor the public examination file and the Commission's website for additional information that they may find useful when preparing their comments.

## **Examination of documents**

20. A list of all comments will be available on the Commission's website. An electronic version of all comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.
21. Documents are also available during normal office hours at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications, or, upon request, within two (2) working days, at any other Commission offices and documentation centres.

## **Location of Commission offices**

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#### **Related documents**

- Regulatory frameworks for broadcasting distribution undertakings, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- Applications for new pay television services, Broadcasting Decision CRTC 2006-193, 18 May 2006

Secretary General

*This document 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>.*