



## Broadcasting Decision CRTC 2010-405

PDF version

Route reference: 2010-72

Ottawa, 23 June 2010

### **Cable Cable Inc.**

City of Kawartha Lakes and surrounding communities, including Bobcaygeon, Fenelon Falls, Cameron, Dunsford, Sturgeon Point, Balsam Lake Drive, Kirkfield and Ken Reid Park, Ontario

*Application 2009-1357-6, 5 October 2009  
Public Hearing in the National Capital Region  
14 April 2010*

### **Video-on-demand service**

*The Commission **approves** an application for a broadcasting licence to operate a regional video-on-demand service largely composed of feature films.*

### **Introduction**

1. Cable Cable Inc. filed an application for a broadcasting licence to operate a regional video-on-demand (VOD) programming undertaking to serve the City of Kawartha Lakes and surrounding communities, including Bobcaygeon, Fenelon Falls, Cameron, Dunsford, Sturgeon Point, Balsam Lake Drive, Kirkfield and Ken Reid Park, Ontario. The Commission did not receive any interventions in relation to this application.
2. Cable Cable Inc. is held by Bobcaygeon Cable Inc., which is controlled by its majority shareholder, Mr. Anthony Michael Fiorini.
3. The applicant indicated that the new VOD service would provide a general interest service offering programming that would consist for the most part of feature films. The applicant also proposed to distribute adult films or other adult programming on the service. Although the programming would be predominantly in the English language, the applicant indicated that it would also offer programming in the French language in accordance with audience demand.
4. Cable Cable Inc. stated that it would provide closed captioning of its VOD programming to serve the needs of viewers who are deaf or hard of hearing. The applicant indicated that it would ensure that 100% of all English- and French-language titles in its inventory are closed captioned.

5. Cable Cable Inc. stated that it would make its VOD programming accessible to persons with visual impairments through audio/video description (also known as described video) as technology permits and as made available by content providers.

### **Commission's analysis and determinations**

6. The Commission is satisfied that the application is in conformity with the licensing framework for VOD services set out in Public Notice 2000-172. Accordingly, the Commission **approves** the application by Cable Cable Inc. for a broadcasting licence to operate a regional video-on-demand programming undertaking to serve the City of Kawartha Lakes and surrounding communities, including Bobcaygeon, Fenelon Falls, Cameron, Dunsford, Sturgeon Point, Balsam Lake Drive, Kirkfield and Ken Reid Park, Ontario. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Closed captioning**

7. In Broadcasting Public Notice 2007-54, the Commission indicated that it would require all English- and French-language broadcasters to caption 100% of their programs over the broadcast day, with the exception of advertising and promos, beginning in the first year of the licence term. Accordingly, the Commission requires the applicant to caption 100% of the programs in its inventory beginning in the first year of the licence term. A **condition of licence** to this effect is set out in the appendix to this decision.
8. Further, in Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission stated that it intended to require television licensees to abide by certain conditions of licence relating to closed captioning at the time of their next licence renewal. However, as this is a new service, the Commission has set out **conditions of licence** in the appendix to this decision requiring the licensee to fulfill the following obligations immediately:
  - to adhere to the quality standards on closed captioning developed by the television industry's working groups, as amended from time to time and approved by the Commission; and
  - to implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form.

### **Described video**

9. In the Accessibility Policy, the Commission indicated that those licensees that are currently required by condition of licence to provide described video would continue to be subject to such a requirement. The Commission intends to consider expanding the types of services to which it will apply described video requirements in the future. For those services such as VOD services that do not currently have a condition of licence

regarding described video, the Commission expects these services to acquire and make available described versions of programming whenever possible and to ensure that its customer service responds to the needs of persons with a visual impairment, as set out in the Accessibility Policy.

### **New regulatory framework for video-on-demand services**

10. In Broadcasting Regulatory Policy 2010-190, the Commission announced a new regulatory framework for VOD services. The Commission notes that the application by Cable Cable Inc. was received prior to the issuance of this policy. As a result, the new obligations set out in this regulatory framework will not directly apply to the present application. However, the Commission has determined that the application is generally consistent with this framework. Accordingly, the Commission invites the licensee to apply for the new standard conditions of licence following a public process to be announced to finalize these standard conditions. Alternatively, should the licensee not apply for the new conditions of licence, the Commission may impose them on its own motion in year five of the licence term pursuant to the *Broadcasting Act*.

Secretary General

#### **Related documents**

- *Regulatory framework for video-on-demand undertakings*, Broadcasting Regulatory Policy CRTC 2010-190, 29 March 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *A new policy with respect to closed-captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Introductory statement to Decisions CRTC 2000-733 to 2000-738: Licensing of new video-on-demand and pay-per-view services*, Public Notice CRTC 2000-172, 14 December 2000

*\*This decision is to be appended to the licence.*

# Appendix to Broadcasting Decision CRTC 2010-405

## Terms, conditions of licence, expectations and encouragement

### Terms

**Issuance of the broadcasting licence to operate a regional video-on-demand programming undertaking to serve the City of Kawartha Lakes and surrounding communities, including Bobcaygeon, Fenelon Falls, Cameron, Dunsford, Sturgeon Point, Balsam Lake Drive, Kirkfield and Ken Reid Park, Ontario.**

The licence will expire 31 August 2016.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 23 June 2012. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

### Conditions of licence

1. The licensee shall adhere to the *Pay Television Regulations, 1990*, as amended from time to time, with the exception of sections 4(1), 4(2) and 4(3) pertaining to logs and records.
2. The licensee shall maintain for a period of one year and submit to the Commission upon request a detailed list of the inventory available on each file server. The list must identify each program by programming category and by country of origin and indicate the period of time that each program was on the server and available to subscribers.
3. Except as authorized by the Commission, the broadcasting undertaking licensed herein shall be operated in fact by the licensee itself.
4. The licensee shall ensure that at all times:
  - a) not less than 5% of the English-language feature films and not less than 8% of the French-language feature films in the inventory available to subscribers are Canadian;
  - b) the feature film inventory includes all new Canadian feature films that are suitable for video-on-demand exhibition and meet the approved *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*; and

- c) not less than 20% of all programming other than feature films in the inventory available to subscribers is Canadian.
5. The licensee shall contribute 5% of its gross annual revenues to an existing Canadian program production fund administered independently of its undertaking.
- For the purpose of this condition:
- a) “gross annual revenues” is the sum of
    - i) 50% of the total revenues received from customers by the broadcasting distribution undertaking(s) for distributing the video-on-demand service, where the video-on-demand service is a “related service”; and
    - ii) all revenues received by the licensee from the broadcasting distribution undertaking(s) distributing the video-on-demand service, where the video-on-demand service is not a “related service.”
  - b) a “related service” is a video-on-demand service in which the broadcasting distribution undertaking that distributes it or any of its shareholders owns, directly or indirectly, 30% or more of the equity of the video-on-demand service.
6. The licensee shall ensure that not less than 25% of the titles promoted each month on its barker channel are Canadian titles.
7. The licensee shall remit to the rights holders of all Canadian feature films 100% of revenues earned from the exhibition of these films.
8. The licensee shall not enter into an affiliation agreement with the licensee of a broadcasting distribution undertaking unless the agreement incorporates a prohibition against linkage of its service with any non-Canadian discretionary service.
9. The licensee shall caption 100% of the programs in its inventory, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
10. The licensee shall adhere to the quality standards on closed captioning developed by the television industry’s working groups, as amended from time to time and approved by the Commission.
11. The licensee shall have a monitoring system in place to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. “Original form” means, at a minimum, that the captioning provided

by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.

12. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
13. The licensee shall adhere to the *Pay television and pay-per-view programming code regarding violence*, as amended from time to time and approved by the Commission.
14. The licensee shall adhere to the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, as amended from time to time and approved by the Commission.

## **Expectations**

### **Program offering in both official languages**

The Commission expects the licensee to make its program offering available to customers in both official languages. The Commission expects the licensee to adhere to its commitment to offer programming in the French language in accordance with audience demand.

### **Programming packages**

The Commission expects the licensee to limit to one week the total period during which the programming in programming packages may be viewed.

### **Adult programming**

The Commission expects the licensee to abide by its internal policy on adult programming once reviewed and approved by the Commission. The Commission further expects that any future changes made by the licensee to its internal policy on adult programming will be submitted for Commission approval prior to their implementation.

### **Cultural diversity**

The Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect the presence in Canada of ethnocultural minorities, Aboriginal peoples and persons with disabilities. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.

### **Service to persons who are blind or whose vision is impaired**

The Commission expects the licensee to acquire and make available described versions of programming whenever possible and to ensure that its customer service responds to the needs of persons with a visual impairment, as set out in *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009.

Further, the Commission expects the licensee to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

### **Encouragement**

#### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.