



Broadcasting Decision CRTC 2017-387

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Reference: Part 1 application posted on 23 June 2017

Ottawa, 27 October 2017

Cogeco Connexion Inc.

Various locations in Ontario and Quebec

Public record for this application: 2017-0520-4

Extension of deadline for adherence to certain provisions of the Television Service Provider Code

*The Commission **approves** an application to delay until 31 March 2018 the requirement that Cogeco Connexion Inc.'s broadcasting distribution undertakings in Ontario and Quebec adhere to certain provisions of the Television Service Provider Code.*

Background

1. In Broadcasting Regulatory Policy 2016-1, the Commission announced the new Television Service Provider Code (the Code), a mandatory code of conduct for television service providers (TVSPs).¹ The Code requires, among other things, that TVSPs ensure written agreements and offers are clear. It also sets out rules for trial periods for persons with disabilities, changes to programming options, service calls, service outages and disconnections. As such, the Code makes it easier for Canadians to understand their television service agreements and empowers customers in their relationships with TVSPs.
2. The Code came into effect on 1 September 2017, and will be implemented by way of conditions of licence for licensed TVSPs.²

Application

3. Cogeco Communications Inc., on behalf of its subsidiary Cogeco Connexion Inc. (Cogeco Connexion, or the licensee), filed an application relating to the broadcasting licences for Cogeco Connexion's terrestrial broadcasting distribution undertakings

¹ TVSPs, also known as broadcasting distribution undertakings, provide subscription television services to Canadians. TVSPs include cable, Internet Protocol Television (IPTV) and national satellite direct-to-home (DTH) service providers.

² Pursuant to Broadcasting Order 2017-320, which sets out the terms and conditions of the exemption order for terrestrial broadcasting distributions undertakings serving fewer than 20,000 subscribers, TVSPs that are exempt from licensing and that are affiliated with or controlled by a licensed TVSP are also required to adhere to the Code.

(BDUs) serving Burlington, Hamilton/Stoney Creek, Kingston, Niagara Falls, Sarnia, St. Catharines and Windsor, Ontario, and Drummondville, Rimouski, Saint-Hyacinthe, Trois-Rivières and surrounding areas, Quebec. Specifically, Cogeco Connexion requested an amendment to those BDUs' condition of licence³ relating to the Code in order to delay until 31 March 2018 the requirement that they adhere to the following provisions of the Code:

VII. Fixed-term agreements

4. Written agreements must set out all of the information listed below in a clear manner:

b. rates for individual channels or packages of channels selected by a customer at the time the agreement is made, which should clearly indicate any promotional offer, the expiry date of the promotional offer, and the ongoing price after the offer expires;

e. the monthly charge for any equipment included in the agreement;

f. the commitment period, including the start and end date of the agreement;

IX. Critical Information Summary

1. A TVSP must offer a Critical Information Summary to a customer when it offers a permanent copy of the agreement for services. This document summarizes the most important elements of the agreement for the customer.

4. Accordingly, the licensee proposed replacing the above-noted condition of licence with the following condition of licence:

Effective 1 September 2017, the licensee shall adhere to the Television Service Provider Code set out in the appendix to *The Television Service Provider Code*, Broadcasting Regulatory Policy CRTC 2016-1, 7 January 2016, with the exceptions of Section VII, provisions 4.b., e. and f., and Section IX, provision 1, which will take effect 31 March 2018.

5. Cogeco Connexion cited delays in the implementation of its internal structuring project. It indicated that due to various challenges, obstacles and unexpected problems that were out of its control, it will not be able to comply with the 1 September 2017 deadline set out in Broadcasting Regulatory Policy 2016-1.

6. Cogeco Connexion added that during the last licence renewal process in 2016, it was not in a position to know whether the implementation of the structuring project would be delayed. It further noted that the various factors that have led to the delays in

³ That condition of licence is set out in Appendix 1 to Broadcasting Decision 2016-458.

implementation only occurred after the broadcasting licences for the affected BDUs were renewed in November 2016.⁴ The licensee added, however, that operational business continues.

7. Cogeco Connexion estimated that a limited number of its customers would be affected by the proposed amendment. The licensee indicated that until the proposed deadline of 31 March 2018, customers will be able to consult its website, or sign in to their “My Account” either on that website or via their cellphones, for any information relating to the above provisions of the Code. It added that information relating to equipment changes will also be reflected on the customers’ bills. In regard to the start date for agreements and critical information summaries, Cogeco Connexion noted that customers can also contact its client service centre.

Intervention

8. The Commission received an intervention in opposition to this application from the Public Interest Advocacy Centre (PIAC), to which Cogeco Connexion replied.

PIAC’s position

9. PIAC submitted that Cogeco Connexion has been given ample notice in regard to the implementation of the Code given that the Commission set out its intention to establish such a mandatory code in Broadcasting Notice of Consultation 2015-105. The intervener noted that the licensee has not provided any evidence to support the requested extension, or why it requires an additional seven months to implement the remaining provisions of the Code.
10. In PIAC’s view, the impact of the requested amendments on consumers could be considerable since the Code aims to help customers better understand their television service agreements. It considered the Critical Information Summary as one of the most significant aspects of the Code, and questioned whether Cogeco Connexion counts the implementation of the related provision as one of its priorities. PIAC further expressed the concern that the licensee’s filing of confidential information makes it “essentially impossible” to access the reasoning behind the application.
11. PIAC added that should the Commission consider an extension appropriate, that extension should be limited to three months, until 1 December 2017. It noted, however, that nothing would prevent Cogeco Connexion from applying for another extension in March 2018.

Cogeco Connexion’s reply

12. Cogeco Connexion stated that it is not asking the Commission to express its opinion on or validate the nature of the structuring project. It insisted that the issue to be addressed relates to the initial completion date of that project, which will affect its ability to fully implement certain requirements of the Code. The licensee added that

⁴ See Broadcasting Decision 2016-458.

complying with its obligations is always a priority and that PIAC's comment on the matter is without foundation.

13. Cogeco Connexion submitted that the delay of the structuring project was not planned. The licensee stated that when it confirmed to the Commission its intention to comply with the Code in November 2016, it was confident that the structuring project would be in place on 31 August 2017, but was not in a position to know if deadlines would change. Cogeco Connexion added that during the period preceding 31 March 2018, it will nevertheless be able to comply with 86 of the Code's 90 provisions.
14. In regard to the intervention from PIAC, the licensee reiterated that only four of the 90 provisions would not be met by the 1 September 2017 deadline, and that given its proposed interim solutions, customers will not be affected by a lack of information. It considered its request to be reasonable given the unpredictable delays. In regard to the 1 December 2017 deadline date proposed by PIAC, Cogeco Connexion argued that the new time frame for its structuring project makes that date inadequate.
15. Finally, in regard to PIAC's concern regarding the confidential nature of certain information filed with the Commission, Cogeco Connexion argued that making such information public would cause it direct prejudice since that information would give its competitors a detailed portrait of its internal systems and their current condition, as well as of various challenges and obstacles relating to their modernization.

Commission's analysis and decisions

16. Approving Cogeco Connexion's request would allow it to effectively complete the final stages of its structuring project and to have it in place on or before 31 March 2018. Further, the circumstances underlying the deadline extension request appear to be limited to this licensee alone, as no other TVSPs have requested an extension to the Code's compliance deadline.
17. In regard to PIAC's comments, the Commission recognizes the potential impact of Cogeco Connexion's request on customers who may not be able to fully benefit from the Code. However, those customers will have a way of accessing the information referred to in the relevant provisions of the Code through the licensee's interim solutions.
18. Finally, the Commission finds that Cogeco Connexion has provided sufficient rationale justifying the confidential nature of certain details relating to delays in the implementation of its structuring project. In the Commission's view, the information placed on the public record for this application was sufficient to permit interested persons to intervene and express their points of view. Further, revealing certain details regarding a particular situation relating to an internal project could have caused the licensee direct prejudice and would not have served the public interest.
19. In light of all of the above, the Commission **approves** the application by Cogeco Communications Inc., on behalf of its subsidiary Cogeco Connexion Inc., for an amendment to the condition of licence relating to the Code for its BDUs serving

Burlington, Hamilton/Stoney Creek, Kingston, Niagara Falls, Sarnia, St. Catharines and Windsor, Ontario, and Drummondville, Rimouski, Saint-Hyacinthe, Trois-Rivières and surrounding areas, Quebec, to delay until 31 March 2018 the requirement that those BDUs adhere to the above-noted provisions of the Code. Accordingly, those BDUs will be subject to the following **condition of licence**:

Effective 1 September 2017, the licensee shall adhere to the Television Service Provider Code set out in the appendix to *The Television Service Provider Code*, Broadcasting Regulatory Policy CRTC 2016-1, 7 January 2016, with the exceptions of Section VII, provisions 4.b., e. and f., and Section IX, provision 1, which will take effect 31 March 2018.

20. In regard to the deadline extension, the Commission **directs** Cogeco Connexion to file, by 31 March 2018, confirmation that it is in compliance with all of the Code's provisions. Further, should the licensee's structuring project be completed such that full compliance with the Code is possible before 31 March 2018, the Commission encourages Cogeco Connexion to file confirmation to that effect as soon as possible prior to that date.
21. The Commission considers that Cogeco Connexion's customers should be clearly made aware of alternative means of accessing the information referenced in provisions 4.b., 4.e and 4.f of section VII and in provision 1 of section IX of the Code, until the licensee is in full compliance with the Code. Accordingly, the Commission **directs** Cogeco Connexion to clearly inform its customers of the interim solutions that will allow them to access that information. It will be up to Cogeco Connexion to determine the manner in which it communicates this information to its customers.

Secretary General

Related documents

- *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2017-319 and Broadcasting Order CRTC 2017-320, 31 August 2017
- *Licence renewal of broadcasting distribution undertakings – Review of practices relating to the small basic service and flexible packaging options and imposition of various requirements*, Broadcasting Decision CRTC 2016-458, 21 November 2016
- *The Television Service Provider Code*, Broadcasting Regulatory Policy CRTC 2016-1, 7 January 2016
- *Call for comments on a Television Service Provider Code of conduct working document*, Broadcasting Notice of Consultation CRTC 2015-105, 26 March 2015

This decision is to be appended to each licence.