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May 31, 2005

Mr. Sheehan Carter
Sr. Policy Analyst
Distribution and Competitive Policy
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
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Dear Mr. Carter:

Re: Application to repeal section 22 of the *Broadcasting Distribution Regulations* – distribution of audio programming services - deficiency responses

Further to your letter of May 10, 2005, please find attached the responses to your questions respecting the above-noted application by the Canadian Cable Telecommunications Association (CCTA).

Sincerely,

Michael Hennessy

Michael Hennessy
President

Attachment

Question 1

Many of the licensees subject to section 22 of the Broadcasting Distribution Regulations (the Regulations) have a condition of licence permitting these licensees to

> **insert certain promotional material as a substitute for the "local availabilities" (i.e. non-Canadian advertising material) of non-Canadian satellite services. At least 75 percent of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25 percent of the commercial availabilities may be made available for the promotion of discretionary programming services and packages, customer service information and channel realignments.**

In certain cases, these local availabilities are used to promote audio programming services that licensees are required to distribute under section 22 of the Regulations. Should the Commission repeal section 22 of the Regulations and assuming no changes are made to the current policy regarding the use of local availabilities, would your members continue to distribute promotions using local availabilities for audio programming services that they choose not to distribute?

Answer

CCTA notes that the condition of licence set out above requires that 75 percent of the local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. The COL does not make any distinction between those Canadian programming services that are carried by the BDU and those that are not.

Accordingly, if the Commission repeals section 22 of the Regulations, and assuming no changes are made to the current policy regarding the use of local availabilities or to existing conditions of licence, CCTA members would continue to make a portion of the 75 percent of the avails available to licensed Canadian programming services, including audio programming services, for the promotion of their respective services. Consistent with the language of the COL, the avails would be made available to a licensed Canadian service regardless of whether that service is distributed by the cable operator.

Question 2

In paragraph 14 of your application, you submit that repealing section 22 of the Regulations would result in the availability of additional capacity for a number of your members that could be made available to offer audio services to audiences who are presently underserved or not served under the existing regulatory regime. You state that, should the Commission repeal section 22 as requested, cable operators would be in a better position to offer other audio services, such as third-language specialty audio services. Please provide an indication of how many specialty audio programming services are currently being distributed by your members.

Answer

To the best of our knowledge, the only specialty audio service currently distributed by CCTA members is Persian Vision. This station is available to Rogers subscribers as part of a package with the Persian Vision television service (i.e. the radio station is available at no charge if a customer buys the television service). It is distributed as a separate digital channel on the IPG and is not available on a stand-alone basis.