



Broadcasting Public Notice CRTC 2005-83

Ottawa, 15 August 2005

Call for comments on possible regulatory amendments that would expand competitive access to inside wire

1. The Commission received a complaint from Bell ExpressVu Limited Partnership¹ (ExpressVu) regarding access to coaxial inside wire owned by Rogers Cable Communications Inc. (Rogers) in properties, such as hotels, hospitals, nursing homes and other commercial or institutional premises that are used to house transient residents. ExpressVu argued that section 10 of the *Broadcasting Distribution Regulations* (the Regulations) requiring that access be provided to inside wire is sufficiently broad to encompass these properties.
2. In its response to the complaint, Rogers disagreed with ExpressVu. Rogers argued that, based on the definitions set out in section 1 of the Regulations, on which section 10(1) relies, section 10(1) does not apply to the types of properties referred to by ExpressVu, and that ExpressVu thus has no right to access the inside wire in such properties.

Commission's analysis and determinations

3. Section 10(1) of the Regulations requires licensees of broadcasting distribution undertakings (BDUs) that own inside wire, on request, to permit the inside wire to be used by a subscriber or by another BDU, whether licensed or exempt. On its face, this requirement does not distinguish between properties that generally serve as permanent accommodation and the other types of properties used to house transients identified by ExpressVu in its complaint. However, the definitions set out in section 1, on which section 10(1) relies, do not encompass the latter types of properties. Nor do they include office buildings, retail stores or other types of non-residential properties. For this reason, the Commission agrees with the position taken by Rogers.
4. Nevertheless, the Commission notes that the inapplicability of the section 10(1) requirement to such properties may be inconsistent with its longstanding policy objective of providing for end-user choice and fostering competition among BDUs. The Commission considers that access to inside wire in the properties described by ExpressVu, as well as in other properties not expressly encompassed by the section 10(1) requirement, may foster competition and, in turn, contribute to the health of the overall competitive market for distribution services.
5. The Commission recognizes that, in determining whether competitive access should be provided, the set of facts requiring consideration in the case of one type of property, such as a nursing home, may differ substantially from those that need be taken into account in the case of another type of property, such as an office building. For example, the configuration of the inside wire may vary greatly from one property to another. Further, in the case of certain

¹ Bell ExpressVu Inc., (the general partner), and BCE Inc. and 4119649 Canada Inc. (the partners in BCE Holdings G.P., a general partnership that is the limited partner), carrying on business as Bell ExpressVu Limited Partnership

properties, providing for end-user choice between distributors for individual tenants may not be practical or technically feasible. In such cases, it may only be possible for competition to exist between distributors to provide service to an entire property, rather than to its individual end users. The Commission also notes that some subscribers may be more likely than others to own or control inside wire themselves, or may wield sufficient negotiating power with distributors to render unnecessary the Commission's intervention to ensure access to inside wire in these properties.

Call for comments

6. In light of the issues discussed above, the Commission calls for comments on the merits of expanding the application of the regulatory requirements pertaining to access to inside wire owned by a BDU licensee. Without limiting the scope of such comments, the Commission invites interested parties to address the issues discussed above and to respond to the following questions:
 - a) What amendments to the *Broadcasting Distribution Regulations* would be necessary or appropriate, should the Commission decide to broaden access to inside wire owned by a broadcasting distribution undertaking licensee?
 - b) What is the size and significance of the potential market for broadcasting distribution services that would be created under such amendments?
 - c) What demarcation points, or mechanisms for setting such points, would be most appropriate, given the various types of properties that exist?
7. The Commission encourages parties that are in favour of expanding the access requirements to submit specific proposals for amending the Regulations to accomplish this purpose.
8. Non-confidential documents submitted by Rogers and ExpressVu as part of the complaint discussed above are made part of the record of this proceeding.
9. The Commission will accept comments and proposals that it receives on or before **26 September 2005**. Replies may be submitted on or before **11 October 2005**.
10. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedures for filing comments

11. Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
[Broadcasting Intervention/Comments Form](#)

OR

- **by mail to**
CRTC, Ottawa, Ontario K1A 0N2

OR

- **by fax at**
(819) 994-0218

12. Submissions longer than five pages should include a summary.

13. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

14. All information submitted, including email address, name and any other personal information, will be placed on the public examination file and can be examined on the Commission's web site at www.crtc.gc.ca.

15. Comments filed in electronic form or on paper will be available in the *Public Proceedings* section of the Commission's web site in the official language and format in which they are submitted. Paper versions will be converted to electronic versions by the Commission for this purpose. All comments will be placed on the public examination file.

16. The Commission encourages interested parties to monitor the public examination file and the Commission's web site for additional information that they may find useful when preparing their comments.

**Examination of public comments and related documents at the following
Commission offices during normal business hours**

Central Building

Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec K1A 0N2
Tel: (819) 997-2429 - TDD: 994-0423
Fax: (819) 994-0218

Metropolitan Place

99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel: (902) 426-7997 - TDD: 426-6997
Fax: (902) 426-2721

205 Viger Avenue West

Suite 504
Montréal, Quebec H2Z 1G2
Tel: (514) 283-6607

55 St. Clair Avenue East

Suite 624
Toronto, Ontario M4T 1M2
Tel: (416) 952-9096

Kensington Building

275 Portage Avenue
Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel: (204) 983-6306 - TDD: 983-8274
Fax: (204) 983-6317

Cornwall Professional Building

2125 - 11th Avenue
Room 103
Regina, Saskatchewan S4P 3X3
Tel: (306) 780-3422

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel: (780) 495-3224

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
Tel: (604) 666-2111 - TDD: 666-0778
Fax: (604) 666-8322

Secretary General

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