



Broadcasting Decision CRTC 2006-440

Ottawa, 31 August 2006

Videotron Ltd.

Victoriaville, Quebec and surrounding areas

Application 2005-1326-9

Broadcasting Public Notice CRTC 2006-64

23 May 2006

Cable distribution undertaking in Victoriaville and surrounding areas – Licence renewal

*The Commission **approves** the application by Videotron Ltd. (Videotron) to renew the broadcasting licence of the Class 1 cable broadcasting distribution undertaking serving Victoriaville, Quebec and surrounding areas from 1 September 2006 to 31 August 2013.*

*The Commission also **approves** Vidéotron's application for authorization to redefine the undertaking's licensed service area.*

The application

1. The Commission received an application by Videotron Ltd. (Videotron) to renew the broadcasting licence of the Class 1 cable broadcasting distribution undertaking serving Victoriaville, Quebec and surrounding areas from 1 September 2006 to 31 August 2013.
2. Videotron also requested authorization to redefine the undertaking's licensed service area.

Interventions

3. The Commission received interventions in support of the licence renewal from the Fédération des télévisions communautaires autonomes du Québec (FTCAQ) and Télévision communautaire des Bois-Francs inc. (TVCBF), an independent programming and production entity. These interveners, however, raised some concerns about the community channel.
4. In its intervention, the FTCAQ expressed concerns about compliance with the regulatory framework, specifically, local programming produced by the not-for-profit community television undertakings (CTUs), financial transparency in the distribution of funds allocated to the CTUs, the joint efforts by the incumbent and the CTUs on community channel promotion and access campaigns, and finally the funding model based on program formats.

5. TVCBF expressed concerns about the program funding model, noting that several months may pass before receiving payment from Videotron. TVCBF therefore asked the Commission to allow a community representative access to Videotron's financial statements to ensure that the funds allocated to the CTUs are distributed in compliance with regulatory requirements. TVCBF also asked the Commission to direct Videotron to negotiate agreements with the CTUs on a three-year basis.
6. TVCBF also expressed concerns about funding allocated to the CTUs based on program format. It is concerned that Videotron's proposed directions, and in particular, its desire to harmonize its practices across the territories it serves, could kill the innovative capacity of local communities. The intervener added that Videotron should consider speaking with the CTUs about designing a programming development strategy to support local programming efforts, thus ensuring that the community channel reflects the community it serves, not Videotron, the cable distribution undertaking.

Licensee's reply

7. In its reply to the FTCAQ, Videotron stated that it was of the view that the mechanisms set out by the Commission are sufficient to ensure compliance with the regulatory framework. The applicant added that it committed additional funds, which were paid directly to the CTUs, either to support their recovery or improve local broadcasting facilities. Videotron also reported that its contributions are very transparent and noted that additional amounts were generated both by the increase in television distribution revenues and by even tighter management of expenditures on programming produced by the licensee itself.
8. With respect to support for production, the licensee explained that it does not want a return to the past, when funding was based on the principle of automatic annual grants, and added that it would review its production contributions procedure so as to accelerate and streamline the payment process. Concerning community channel promotion and access, Videotron is prepared to ensure that its promotional efforts are aligned with the CTUs' efforts wherever possible.
9. In response to TVCBF's concerns about the funding mode and payments to CTUs, Videotron stated that it would ensure that the promised amounts are paid immediately, adding that TVCBF can continue to count on its co-operation in the future. With respect to negotiating agreements with a minimum three-year term, Videotron submitted that it is not necessary to ask the Commission to intervene in this area, and stated that it may be in a position to discuss the possibility of committing to making certain types of contributions over a longer term in the near future, but that it would first have to consider a number of variables. Videotron also stated that it would prefer to discuss these possibilities as part of its regular dealings with the CTUs.
10. With respect to Videotron's proposed funding model and directions, the licensee noted that the goal of developing common standards, both for programming format and content, is not to kill the innovative capacity of local communities but rather to provide the numerous collaborators in the province with guidelines and benchmarks to ensure

that such development is effective. The licensee also explained that it considers maintaining certain benchmarks that comply with the regulatory framework for community television to be a legitimate and responsible initiative.

Commission's analysis and determinations

11. The Commission has carefully considered the licence renewal application, the interventions filed by the FTCAQ and TVCBF and the licensee's replies to the interveners' concerns. The Commission emphasizes that it has noted the comments and concerns expressed by the FTCAQ and TVCBF regarding the community channel, and is satisfied with the licensee's response to those concerns.
12. Accordingly, the Commission **renews** the broadcasting licence of the Class 1 cable broadcasting distribution undertaking serving Victoriaville, Quebec and surrounding areas from 1 September 2006 to 31 August 2013.
13. The Commission further expects the licensee to honour the principles and commitments it undertook in response to the interveners' concerns. The Commission also encourages the licensee to work with the independent CTUs in responding to the needs of the communities served.
14. The operation of this undertaking is regulated pursuant to the *Broadcasting Distribution Regulations*. The licence will be subject to the **conditions** specified therein as well as to the **conditions** set out in the appendix to this decision.
15. The Commission also **approves** the application by CF Cable for authorization to redefine the undertaking's licensed service area.

Employment equity

16. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with Human Resources and Skills Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

This decision is to be appended to the licence. It 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>

Appendix to Broadcasting Decision CRTC 2006-440

Conditions of licence

1. The licensee is authorized to distribute, on a digital discretionary basis, the programming services of the distant Canadian station CKXT-TV (SunTV) Toronto.
2. The licensee is authorized to distribute, at its option, the special programming service known as “Événement”, which, by definition, must contain no advertising messages.
3. The licensee is relieved of the requirement of section 7 of the *Broadcasting Distribution Regulations* that, except as provided by a condition of licence, it not alter or delete the programming services CMT and Viewers Choice 2, in the course of their distribution. This condition of licence will permit the licensee to alter or curtail these services for the purpose of sharing a channel, in accordance with the licensee’s agreements with the operators of these programming services. The other provisions of section 7 of the *Broadcasting Distribution Regulations* shall continue to apply.
4. The licensee is relieved of the requirement of section 17(1)(c) of the *Broadcasting Distribution Regulations* to distribute the priority local service CKMT-TV (SRC) Trois-Rivières, so long as it continues to distribute CKSH-TV (SRC) Sherbrooke, also a priority local service.
5. The licensee is relieved of the requirement under section 17(1)(e) of the *Broadcasting Distribution Regulations* to distribute the regional signal CHEM-TV (TVA) Trois-Rivières on the basic service. The licensee distributes the regional signal CHLT-TV (TVA) Sherbrooke instead.
6. The licensee is relieved of the requirement under section 17(1)(f) of the *Broadcasting Distribution Regulations* to distribute, on the basic service, the programming service of an English-language television station owned and operated by the CBC and distributed via satellite or microwave relay. Instead, the licensee distributes the regional signal CBMT Montréal, a distant Canadian signal received over-the-air.
7. The licensee is authorized to originate a video games service as a special programming service, offered on a discretionary basis, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.
8. The licensee is authorized to distribute, on a digital discretionary basis, the programming service of the distant Canadian station CITY-TV Toronto.

9. The licensee is authorized to distribute the signals of the transitional digital television undertakings CFTO-DT Toronto and CIII-DT-41 Toronto, as part of its HD digital service, until Montréal digital television undertakings that provide CTV and Global programming in HD begin broadcasting. Specifically, the authorization to distribute CFTO-DT Toronto will lapse once a Montréal digital television undertaking that provides CTV programming in HD begins broadcasting, and the authorization to distribute CIII-DT-41 Toronto will lapse once a Montréal digital television undertaking that provides Global programming in HD begins broadcasting.

The Commission reminds the licensee that the simultaneous substitution requirements set out in section 30 of the *Broadcasting Distribution Regulations* (the Regulations) and in paragraph 99 of *The Regulatory framework for the distribution of digital television signals*, Broadcasting Public Notice CRTC 2003-61, 11 November 2003, apply to transitional digital television undertakings.

10. The licensee is authorized to distribute, at its option, WVNY (ABC), WCAX-TV (CBS), WPTZ (NBC) Burlington, Vermont, and WCFE-TV (PBS) Plattsburgh, New York, as part of the basic service.
11. The licensee is authorized to distribute, at its option, WFFF-TV (FOX) Burlington, Vermont, on a discretionary tier.
12. The licensee is authorized to distribute the following signals on a digital discretionary basis:
- a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network (hereafter referred to as the U.S. 4+1 signals).

The distribution on a discretionary basis on the licensee's digital service of a second set of U.S. 4+1 signals is subject to the provision that, with respect to such signals, the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the *Broadcasting Distribution Regulations*. The Commission may suspend the application of this provision, with respect to the signals to be distributed, upon its approval of an executed agreement between the licensee and broadcasters. Such an agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals solely on the licensee's digital service.

The Commission reminds the licensee that the requirements set out in section 30 of the *Broadcasting Distribution Regulations* regarding simultaneous substitution apply also in the case of U.S. 4+1 signals.

13. The licensee may, at its option, 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% 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% of the local availabilities may be used to provide subscribers with information regarding customer service and channel realignments, and for the promotion of discretionary programming services and packages, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.