



Broadcasting Decision CRTC 2004-204

Ottawa, 9 June 2004

Southwest One Broadband Services Inc.
Montréal (Pointe-Claire area), Quebec

Application 2003-1276-0
Public Hearing in the National Capital Region
19 April 2004

Cable broadcasting distribution undertaking

*In this decision the Commission **approves** the application by Southwest One Broadband Services Inc. (Southwest) to carry on a Class 1 cable broadcasting distribution undertaking to serve Montréal (Pointe-Claire area) (Southwest One Complex), Quebec.*

*The Commission **denies** the request by Southwest to be relieved of the requirement to distribute local priority programming services CJNT-TV (IND) and CKMI-TV-1 (Global) Montréal, Quebec.*

The application

1. The Commission received an application from Southwest One Broadband Services Inc. (Southwest) for a broadcasting licence to carry on a new Class 1 cable broadcasting distribution undertaking (BDU) to serve Montréal (Pointe-Claire area) (Southwest One Complex), Quebec.
2. The applicant also asked to be relieved of the requirement under section 17(1)(c) of the *Broadcasting Distribution Regulations* (the Regulations) to distribute local priority programming services CJNT-TV (IND) and CKMI-TV-1 (Global) Montréal, Quebec. In lieu of priority signal CKMI-TV-1, the applicant proposed to distribute the signal of CIII-TV (Global) Paris, Ontario, to be received by satellite.

Interventions

3. The Commission received two interventions regarding this application: one from Astral Media Inc. (Astral), the other from the Global Television Network (Global). Astral filed an intervention on behalf of MusiquePlus inc., the licensee of MusiquePlus, and on behalf of Groupe de radiodiffusion Astral inc., the licensee of VRAK.TV (Vrak) and The Movie Network (TMN) among others.

Astral

4. Although Astral did not oppose the Southwest application, it expressed concern regarding certain aspects of the application. Astral noted that the list of programming services to be distributed by Southwest identifies Vrak and MusiquePlus as discretionary services. Astral indicated that Vrak and MusiquePlus are analog specialty services that have been granted dual status for distribution, and therefore must be distributed as part of the basic service¹ in accordance with *Distribution and Linkage Requirements for Class 1 and Class 2 Licensees* - Broadcasting Public Notice CRTC 2003-42, 29 July 2003 (Public Notice 2003-42).
5. Astral also opposed Southwest's proposal to distribute Movie Central, an English-language pay TV programming service licensed to serve Western Canada. Astral noted that this service is not authorized for distribution in Eastern Canada, but the English-language pay TV programming service TMN is authorized.

Applicant's reply

6. Southwest confirmed that the dual-status services TV5, Vision TV, YTV, MuchMusic, The Sports Network, MusiquePlus, Country Music Television and Vrak will be distributed on the basic service.
7. With regard to the distribution of the programming service Movie Central, the applicant indicated that it intends to delete it from its service. Southwest said it will delete all other services owned by Corus Premium Television Ltd., i.e., Adrenaline Drive, Heartland Road, Discovery Wings, Shadow Lane, Encore Avenue and Comic Strip.

Global

8. Global's intervention deals with certain aspects of Southwest's application. Global opposed the request by Southwest to be relieved of the requirement to distribute local priority programming services CJNT-TV and CKMI-TV-1, for which Southwest proposed to substitute CIII-TV, to be received by satellite. Global argued that CJNT-TV and CKMI-TV-1 are local priority signals and the applicant is required under section 17 of the Regulations to distribute them on the basic service.

Applicant's reply

9. Southwest stated that CJNT-TV and CKMI-TV-1 will be distributed to all subscribers of the basic service.

¹ Unless the operators of the services provide written consent that they be distributed on a discretionary basis.

The Commission's analysis and determinations

10. The Commission is satisfied with the applicant's replies and notes the action taken to find acceptable solutions to the concerns raised by the interveners. Specifically, Southwest acknowledges its obligation to distribute dual-status specialty services as set out in paragraph 5 of Public Notice 2003-42. The Commission further notes the applicant's commitment to distribute priority signals CJNT-TV and CKMI-TV-1 as part of its basic service. Consequently, the Commission **approves** the application by Southwest One Broadband Services Inc. to operate a Class 1 cable BDU to serve Montréal (Pointe-Claire area) (Southwest One Complex).
11. The Commission, however, **denies** the request by Southwest to be relieved of the requirement under section 17(1)(c) of the Regulations to distribute local priority programming services CJNT-TV and CKMI-TV-1. Section 17(1) of the Regulations prescribes the order of priority in which television programming services must be distributed on the basic service of Class 1 and Class 2 BDUs. The Commission considers that maintaining the requirement to distribute CJNT-TV and CKMI-TV-1 is in the public interest.
12. The operation of this undertaking will be regulated in accordance with the Regulations. The licence will expire on 31 August 2010 and will be subject to the conditions set out therein.

Employment equity

13. 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.

Issuance of the licence

14. 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 9 June 2006. 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.

15. The licensee may receive the signals that it is licensed to distribute over the air or through any licensed or exempted Canadian BDU which is licensed to supply signals to other distributors.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>