



Broadcasting Decision CRTC 2006-682

Ottawa, 20 December 2006

Câblevision du Nord de Québec inc.
Val d'Or and surrounding areas, Quebec

Application 2005-1311-0
Broadcasting Public Notice CRTC 2006-64
23 May 2006

Cable distribution undertaking in Val d'Or and surrounding areas – Licence renewal

*The Commission **renews** the broadcasting licence for the Class 3 cable broadcasting distribution undertaking serving Val d'Or and surrounding areas from 1 January 2007 to 31 August 2013.*

The application

1. The Commission received an application by Câblevision du Nord de Québec inc. (CNQ) to renew the broadcasting licence for the Class 3 cable broadcasting distribution undertaking (BDU) serving Val d'Or and surrounding areas. The licence expires 31 December 2006.¹
2. Furthermore, given that the Commission has now established head start rules, CNQ asked to be relieved of the restrictions imposed in Decision CRTC 99-75, 1 April 1999 (Decision 99-75). In support of its application, CNQ noted that the current structural apportionment rules and the implementation of the price cap regime governing Télébec ltée (Télébec) constitute sufficient protection against anti-competitive practices and also safeguard customers. CNQ pointed out that it is a separate legal entity with a financial and operational structure independent of that of Télébec. CNQ noted, however, that Télébec provides it with interconnection, unbundling and co-location services.

Background

3. In Decision 2001-45, 6 February 2001, the Commission approved the application by Télébec to acquire effective control of CNQ because of the benefits to the communities served and on the strength of the commitments made by Télébec, a subsidiary of BCE Inc., in response to the Commission's concerns and those of certain stakeholders that BCE Inc., through Télébec, Bell ExpressVu and CNQ, could be in a dominant position with respect to the distribution of programming services in the locations named in the application.

¹ This licence term was extended for administrative reasons. In *Administrative renewals*, Broadcasting Decision CRTC 2006-428, 31 August 2006, the Commission extended the licence term to 31 December 2006.

4. In its 19 May 1995 report to the Government entitled *Competition and Culture on Canada's Information Highway: Managing the Realities of Transition*, the Commission determined that telephone companies could apply for licences for BDUs as soon as rules had been established to remove barriers to effective competition in the local telephone business. In its report, the Commission noted that the “need for transitional protection of the core cable business stemmed essentially from concerns about the market power of the telephone companies and the head start they might obtain in packaging telephony and entertainment services” and that “it would permit exceptions in the case of unserved communities or regions, or where participation by the telephone company is in the form of a joint venture with the licensee of an existing broadcasting distribution undertaking.” In Decision 99-75, the Commission stated that it attached particular importance to the commitments made by Télébec “to ensure that it does not enjoy undue competitive advantage as the sole provider of telephone and cable distribution services” in the communities named in the decision and that it expected “that the broadcasting services provided by the licensees will not be marketed, promoted, or billed jointly with Télébec’s telecommunications services, and that no joint reference to the telecommunications services provided by Télébec will be made in a single mailing, single brochure or any other joint promotional material.”

Interventions

5. The Commission received interventions concerning this application. Although the interveners generally supported the application, they raised some concerns about maintaining the community channels distributed by this BDU and by the BDU serving Rouyn-Noranda and the surrounding areas.
6. Télévision communautaire du Témiscamingue (CCTV-13 Témiscaming) noted that it has been in existence for almost 18 years and that it offers information and communication services to the population in its region through its programming. The intervener argued that the removal of its community channel in favour of a regional community channel would definitely jeopardize the survival of CCTV-13 Témiscaming. CCTV-13 Témiscaming therefore asked the Commission to ensure that its community channel is maintained for the exclusive use of subscribers in the service areas of Témiscaming, Kipawa and Tee Lake. CCTV-13 Témiscaming added that the Mayor of Témiscaming, Philippe Barrette, is also in favour of CNQ reserving a community channel for the exclusive use of subscribers in his city.
7. Télévision communautaire du Témiscamingue (TV-Témis) has been in existence for close to 10 years, with programming aimed at informing and entertaining subscribers in the service areas of Notre-Dame-du-Nord and Ville-Marie. TV-Témis asked the Commission to ensure that CNQ confirms that it will give it exclusive use of the channel over which it broadcasts its various locally produced programs throughout the BDU’s next licence term. TV-Témis added that it was supported by Daniel Bernard, Member for Rouyn-Noranda/Témiscamingue and Jean-Pierre Charron, warden of the Regional County Municipality (RCM) of Témiscamingue. The Société de développement du Témiscamingue (the Société) also supported TV-Témis’ intervention, and noted that

community television is an important communication and development tool for the rural communities of Témiscamingue. The Société was therefore of the view that the Commission should get a commitment from CNQ regarding the broadcast of community programming on a channel reserved exclusively for subscribers in the Notre-Dame-du-Nord and Ville-Marie service areas.

8. TV-Témis also questioned the relevance of the class of licence for the BDU serving Val d'Or. According to TV-Témis, the Commission should change the status of the licence to class 1 (fewer than 20,000 subscribers) so that the BDU is required to contribute 5% of its gross broadcasting revenues, which could be used to fund programs presented on the licensee's community channels.
9. The concerns raised by the Fédération des télévisions communautaires autonomes du Québec (the Fédération) are largely the same as those expressed by CCTV-13 Témiscaming and TV-Témis. The Fédération reiterated to the Commission and the applicant the importance of maintaining a community channel with a local broadcast opportunity to respond to the information and communication needs of the population of the RCM of Témiscamingue. The Fédération indicated that it does not oppose renewing CNQ's licence as long as CNQ formally commits to maintaining a community channel (analog and digital) for the exclusive use of subscribers in the service areas of Notre-Dame-du-Nord, Ville-Marie and Témiscaming (including Kipawa and Tee Lake), failing which the Fédération asked the Commission to impose a condition of licence to that effect. The Fédération also questioned the relevance of the class of licence for the BDU serving Val d'Or and confirmed its support for TV-Témis' request.

The licensee's reply

10. In its response to the interventions, CNQ noted that the interveners do not oppose the renewal of the current licence, or the renewal of its licence for the BDU serving Rouyn-Noranda, and that they all raised similar concerns.
11. CNQ noted that it currently offers a regional community channel to all of its subscribers in addition to the local community channels of CCTV-13 Témiscaming and TV-Témis. CNQ pointed out that the regional community channel it distributes is offered in analog and digital formats, whereas the community channels of CCTV-13 Témiscaming and TV-Témis are currently offered in analog format only. CNQ indicated that it plans to transfer these channels to digital as soon as the Commission authorizes the full migration of the BDU's subscribers to digital pursuant to the rules set out in *The regulatory framework for the distribution of digital television signals*, Broadcasting Public Notice CRTC 2003-61, 11 November 2003.
12. CNQ indicated that it wants to continue to offer a full array of community channels, and therefore committed to continue to distribute local community channels on its network for the term of the licence renewal. As a result, CNQ was of the view that a condition of licence to this effect is not necessary.

Commission's analysis and determinations

13. The Commission has carefully considered the application, the interventions and the applicant's reply, and notes that the concerns raised by the interveners are related to the municipalities served by the CNQ-owned BDUs that have been exempted from licensing since 19 February 2002.² The Commission further notes CNQ's commitment to maintain, for the benefit of its subscribers, local community channels to serve the municipalities cited in the interventions.
14. Accordingly, the Commission **renews** the broadcasting licence of the Class 3 cable broadcasting distribution undertaking serving Val d'Or and surrounding areas, from 1 January 2007 to 31 August 2013. The operation of this undertaking is regulated pursuant to the *Broadcasting Distribution Regulations* and the licence will be subject to the **conditions** specified therein and to the **conditions** set out in the appendix to this decision.
15. Furthermore, given that the Commission has now established head start rules, the Commission **approves** the request by Câblevision du Nord de Québec inc. to be relieved of the restrictions imposed in Decision 99-75.
16. With respect to the status of the licence of the Class 3 BDU serving Val d'Or, the Commission notes that when the *Cable Television Regulations, 1986* took effect, CNQ qualified as a Part III licensee pursuant to those Regulations. The definition of a Part III licensee as set out in the *Cable Television Regulations, 1986* did not take into account the number of a BDU's subscribers. The Commission notes that the licensee is now subject to the *Broadcasting Distribution Regulations* (the Regulations), which took effect 1 January 1998, as a Class 3 licensee. Section 1 of the Regulations defines a Class 3 licensee as follows:

"Class 3 licensee" means

(a) the holder of a Class 3 licence or a Class 3 regional licence issued on or after the coming into force of these Regulations; or

(b) for the remainder of the term of a licence issued before the coming into force of these Regulations,

(i) the holder of a Class 2 licence that carried on an undertaking that had fewer than 2,000 subscribers immediately before the coming into force of these Regulations, or

² In *Revocation of the licences of exempted small cable distribution undertakings*, Broadcasting Decision CRTC 2002-45, 19 February 2002, the Commission revoked the licences of several cable distribution undertakings that serve small and rural communities and have fewer than 2,000 subscribers, subject to their compliance with the criteria set out in *Exemption order respecting cable systems having fewer than 2,000 subscribers*, Public Notice CRTC 2001-121, 7 December 2001.

(ii) a licensee that, immediately before the coming into force of these Regulations, was a Part III licensee within the meaning of section 2 of the *Cable Television Regulations, 1986*.

17. The Commission is satisfied that CNQ meets the definition of a Class 3 licensee as set out in section 1 of the Regulations. The Commission notes that this definition is still not tied to the number of the undertaking's subscribers. In light of the above, and given that the licensee has not requested an amendment to its BDU's licence class, the Commission considers that there is no reason to amend the class of licence issued to CNQ for its BDU serving Val d'Or.

Employment equity

18. 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.

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 2006-682

Conditions of licence

1. The licensee is authorized to distribute, at its option, as part of the basic service, the programming service of the distant station CFTU-TV (Canal Savoir) Montréal.
2. The licensee is authorized to distribute, at its option, as part of the basic service, WHDH (NBC), WCVB-TV (ABC), WBZ (CBS), WFXT (FOX) and WGBH (PBS) Boston, Massachusetts.
3. The licensee is relieved of the requirement under section 25 of the *Broadcasting Distribution Regulations* to distribute CITO-TV-2 Kearns, Ontario, on an unrestricted channel. Should the quality of the signal deteriorate significantly, the licensee shall undertake immediate corrective action including, if necessary, the distribution of the service on another channel.