



## Broadcasting Decision CRTC 2010-64

Route reference: 2009-461

Additional references: 2009-461-2, 2009-461-3 and 2009-461-4

Ottawa, 10 February 2010

**Sogetel inc.**  
Saint-Liboire, Quebec

*Application 2009-0966-6, received 26 June 2009*  
*Public Hearing in the National Capital Region*  
*29 October 2009*

### **Class 1 terrestrial broadcasting distribution undertaking to serve Saint-Liboire**

*The Commission **approves** the application by Sogetel inc. for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Saint-Liboire, Quebec.*

#### **The application**

1. The Commission received an application by Sogetel inc. (Sogetel) for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking (BDU) to serve Saint-Liboire. The Commission did not receive any interventions concerning this application.
2. Sogetel inc. is a corporation controlled by Michel Biron through his holding company Gestion Michel Biron inc., which directly holds 77.62% of the voting rights of Sogetel. Mr. Michel Biron is a “Canadian” within the meaning of the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998.
3. Sogetel also requested authorization to:
  - distribute, at its option, as part of the basic service, the signals WCAX-TV (CBS) Burlington, WPTZ (NBC) Plattsburgh, WVNY (ABC) and WFFF-TV (FOX) Burlington and WCFE (PBS) Plattsburgh, or alternatively for each signal set out in the *List of Part 2 Eligible Satellite Services*, the signal of another affiliate of the same network located in the same time zone;
  - distribute any of the distant Canadian television signals set out in the *List of Part 2 Eligible Satellite Services* and a second set of signals that provides the programming of the four large U.S. commercial networks (CBS, NBC, ABC,

FOX) and the non-commercial PBS network (referred to as the U.S. 4+1 signals); and

- insert, at its option, certain promotional material as a substitute for the “local availabilities” (i.e., non-Canadian advertising material) of non-Canadian satellite services.
4. Sogetel indicated its willingness to accept a condition of licence requiring that it provide one or more simple means of accessing described programming, whether in an open or embedded format.

### **Commission’s analysis and determination**

5. The Commission has examined and **approves** the application by Sogetel inc. for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Saint-Liboire. The operation of this undertaking will be regulated pursuant to the *Broadcasting Distribution Regulations* (the 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.
6. Further, based on its examination of the application, the Commission has identified the following issues to be addressed in its determinations:
- distribution of the U.S. 4+1 signals as part of the basic service;
  - distribution of distant Canadian television signals and a second set of U.S. 4+1 signals;
  - insertion of promotional material as a substitute for “local availabilities”; and
  - implementation of the Commission’s determinations on accessibility of services.

### **Distribution of U.S. 4+1 signals as part of the basic service**

7. The Commission notes that it has already authorized BDUs to distribute as part of the basic service the U.S. 4+1 signals or the signal of another affiliate of the same network located in the same time zone.<sup>1</sup> The authorization requested by the applicant is consistent with authorizations previously granted by the Commission in similar cases.
8. Accordingly, the Commission authorizes Sogetel to distribute, at its option, as part of the basic service, the signals WCAX-TV (CBS) Burlington, WPTZ (NBC) Plattsburgh, WVNY (ABC) and WFFF-TV (FOX) Burlington and WCFE (PBS) Plattsburgh or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area. The alternative signal must appear on the *List of Part 2 Eligible Satellite Services*, as amended from time to time and approved by the Commission. A **condition of licence** to that effect is set out in the appendix to this decision.

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<sup>1</sup> For example, see Broadcasting Decisions 2008-238 and 2008-365.

### **Distribution of distant Canadian television signals and a second set of U.S. 4+1 signals**

9. The Commission has also already authorized BDUs to distribute on a discretionary digital basis distant Canadian signals and a second set of U.S. 4+1 signals on the condition that the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the Regulations.<sup>2</sup>
10. The Commission may suspend the application of this provision for signals to be distributed upon its approval of an executed agreement between the licensee and the broadcasters. The 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 and of Canadian distant television signals solely on the licensee's digital service.
11. The Commission considers that the authorization requested by the applicant is consistent with authorizations previously granted by the Commission in similar cases. In light of the foregoing, the Commission authorizes Sogetel to distribute on a discretionary digital basis the distant Canadian signals and a second set of U.S. 4+1 signals. A **condition of licence** to that effect is set out in the appendix to this decision.

### **Request to insert promotional material as a substitute for "local availabilities"**

12. On 31 August 2009, in Broadcasting Regulatory Policy 2009-546, the Commission set out general authorizations for BDUs, including an authorization for the use of local availabilities. To implement these authorizations, the Commission issued Broadcasting Regulatory Policy 2009-547, which sets out general conditions of licence that apply to all BDU licensees and includes the following condition of licence:

The licensee is authorized to distribute any service and to undertake any activity authorized in the regulatory policy entitled *General authorizations for broadcasting distribution undertakings*, as amended from time to time, under the terms and conditions set out in that regulatory policy.

13. The Commission notes that Sogetel's request for authorization to insert promotional material as a substitute for local availabilities was made before the issuance of the regulatory policies noted above. In light of the foregoing, Sogetel is authorized to use local availabilities under the terms and conditions set out in Broadcasting Regulatory Policy 2009-546.

### **Implementation of the Commission's determinations regarding accessibility of services**

14. Broadcasting and Telecom Regulatory Policy 2009-430, issued on 21 July 2009, sets out the Commission's policy determinations regarding the accessibility of telecommunications and broadcasting services to persons with disabilities.

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<sup>2</sup> Ibid.

15. As indicated above, the applicant stated that it is prepared to accept a condition of licence requiring it to provide one or more simple means of accessing described programming, whether in an open or embedded format. Those means must require little or no visual acuity. A **condition of licence** to that effect is set out in the appendix to this decision.
16. In addition, consistent with Broadcasting and Telecom Regulatory Policy 2009-430, the Commission expects Sogetel to:
  - ensure that subscribers are able to identify programming with described video in the electronic program guide;
  - promote disability-specific products and services;
  - make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up; and
  - make its website and call centre accessible.
17. The Commission also encourages Sogetel to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.
18. The Commission notes that it may impose further conditions of licence respecting accessibility matters five years into the licence term, if deemed appropriate.

## **Other matters**

### **Local digital television signals**

19. The Commission reminds the applicant that it must provision its network in such a way as to be able to provide to its entire subscriber base, without exception, the high definition signals of all stations received over-the-air in the Saint-Liboire licensed area. The Commission notes that any BDU unable to meet this requirement may file an application with the Commission for relief from this requirement by condition of licence.

### **Mandatory distribution of 9(1)(h) services**

20. The Commission reminds the applicant that as a Class 1 BDU it is required to distribute within its licensed area all services licensed for mandatory carriage as part of the basic service of distribution undertakings pursuant to section 9(1)(h) of the *Broadcasting Act*.

Secretary General

### **Related documents**

- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009

- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Class 1 terrestrial broadcasting distribution undertaking*, Broadcasting Decision CRTC 2008-365, 23 December 2008
- *Class 1 terrestrial broadcasting distribution undertaking serving Regina, Pilot Butte, White City, Saskatoon, Moose Jaw, Prince Albert, Yorkton, Estevan, Weyburn, Swift Current, North Battleford and Battleford, Saskatchewan – Licence renewal and licence amendments*, Broadcasting Decision CRTC 2008-238, 28 August 2008

*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 2010-64**

### **Terms, conditions of licence, expectations and encouragements**

#### **Terms**

##### **Issuance of the broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Saint-Liboire, Quebec**

The licence will expire 31 August 2016.

The licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:

- 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 10 February 2012. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.
- The applicant has provided a website address where its distribution grid(s) is/are posted at the same time it informs the Commission that it is ready to commence operation.

#### **Conditions of licence**

1. The licensee is authorized to distribute, at its option, as part of the basic service, the signals WCAX-TV (CBS) Burlington, WPTZ (NBC) Plattsburgh, WVNY (ABC) and WFFF-TV (FOX) Burlington and WCFE (PBS) Plattsburgh or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area. The alternative signal must appear in the *List of Part 2 Eligible Satellite Services*, as amended from time to time and approved by the Commission.
2. The licensee is authorized to distribute the following signals on a digital discretionary basis:
  - any of the distant Canadian television signals set out in the *List of Part 3 Eligible Satellite Services*; and
  - 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 (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 and distant Canadian 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 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 and distant Canadian signals solely on the licensee's digital service.

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

3. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.

### **Expectations**

The Commission expects the licensee to ensure that subscribers are able to identify programming with described video in the electronic program guide.

The Commission expects the licensee to promote disability-specific products and services.

The Commission expects the licensee to make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up.

The Commission expects the licensee to make its website and call centre accessible.

### **Encouragement**

The Commission encourages the licensee to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.

### **Employment equity**

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.