



Broadcasting Decision CRTC 2006-538

Ottawa, 20 September 2006

Source Cable and Wireless Limited
Hamilton, Ontario

Application 2006-0918-3
Broadcasting Public Notice CRTC 2006-93
26 July 2006

Licence amendment to replace condition of licence relating to the use of local availabilities in non-Canadian satellite services

*In this decision, the Commission **approves** an application by Source Cable and Wireless Limited to amend the broadcasting licence for the cable broadcasting distribution undertaking serving Hamilton, in order to replace the existing condition of licence relating to the use of local availabilities.*

The application

1. The Commission received an application by Source Cable and Wireless Limited (Source) to amend the broadcasting licence for its Class 1 cable broadcasting distribution undertaking (BDU) serving Hamilton. Specifically, the licensee requested that the Commission replace the condition of licence relating to the use of local availabilities, which currently reads:

The licensee is authorized, by condition of licence, to 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. 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 made available for the promotion of discretionary programming services and packages, customer service information, channel realignments, cable FM service and additional cable outlets.

with the following condition of licence:

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 local availabilities may be used to promote cable FM services, to provide customer service information, and to promote **non-programming services, such as Internet and digital telephone**. [emphasis added]

Interventions

2. The Commission did not receive any interventions in connection with this application.

Commission's analysis and determinations

3. In *Promotion of non-programming services using local availabilities*, Broadcasting Public Notice CRTC 2006-69, 2 June 2006 (Public Notice 2006-69), the Commission set out its conclusion that it is appropriate to update its policy with respect to the use of local availabilities to permit BDUs to use these availabilities to promote non-programming services, subject to certain conditions.
4. Specifically, the Commission concluded that BDUs that seek and receive amendments to their conditions of licence so as to use local availabilities for this purpose will be authorized to use a maximum of 25% of local availabilities for the promotion of discretionary programming services and packages, customer service information, channel realignments, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.
5. In Public Notice 2006-69, the Commission also added that the promotion of non-programming services in local availabilities should generally be limited to those non-programming services that are made available in conjunction with programming services that are offered by the BDU, by an affiliated company, or by a third party pursuant to a marketing arrangement with the BDU. The Commission noted that, should a complaint arise, BDUs should ensure that they are in a position to provide, at the Commission's request, a report with respect to their use of local availabilities. With respect to costs of broadcasting promotions in local availabilities, the Commission reiterated that BDUs may only charge Canadian programming services their share of the direct costs associated with the insertion of their promotional material in local availabilities.
6. The Commission considers that the Source application falls within the scope of its updated policy regarding the use of local availabilities set out in Public Notice 2006-69. Accordingly, and consistent with that policy, the Commission **approves** the application by Source Cable and Wireless Limited and amends the broadcasting licence for its Class 1 cable BDU serving Hamilton by replacing the condition of licence relating to the use of local availabilities with the following **condition of licence**:

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.

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>