



## Broadcasting Decision CRTC 2006-6

Ottawa, 12 January 2006

### **Telus Communications Inc.**

Rimouski, Baie-Comeau, Sept-Îles, Gaspé, Sainte-Marie, Saint-Georges and  
Montmagny and their surrounding areas, Quebec

*Application 2005-1354-0*

### **Change of service areas and distribution of signals on a discretionary digital basis**

1. The Commission received a two-part application by Telus Communications Inc. (TELUS). TELUS first proposed to delete the authority it had received to distribute, on a discretionary digital basis, on its regional cable broadcasting distribution undertakings (BDUs) serving the above-mentioned communities, KOMO-TV (ABC), KING-TV (NBC), KIRO-TV (CBS), KCPQ (FOX) and KCTS-TV (PBS) Seattle, Washington, a second set of U.S. 4+1 signals received from a licensed satellite relay distribution undertaking.
2. The licensee proposed to replace, at its option, the U.S. 4+1 signals noted above with a set of U.S. 4+1 network signals<sup>1</sup> selected from the *List of Part 3 eligible satellite services*, as part of the digital discretionary service of its regional cable BDUs serving the above-mentioned communities.
3. Section 19(o) of the *Broadcasting Distribution Regulations* (the Regulations) stipulates that a licensee may distribute “any programming service authorized under a condition of its licence.” One of the conditions of licence that appear on all licences to carry on a cable or multipoint distribution system (MDS) distribution undertaking (generally, condition of licence no. 2) stipulates that:

The written approval of the Commission is required prior to the distribution of any service not authorized in:

  - a) the *Broadcasting Distribution Regulations*;
  - b) the most recent renewal decision or, if there has been no renewal, the initial licensing decision; or
  - c) any subsequent written approvals granted during the term of this licence.
4. TELUS filed the present application as required by its condition of licence.

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<sup>1</sup> A set of U.S. 4+1 signals means a set of signals that provides the programming of the four U.S. commercial networks CBS, NBC, ABC and FOX and of the non-commercial PBS network.

5. The second part of the licensee's application was to amend the service areas of the cable BDUs noted above as follows:
- undertaking serving Rimouski: to include Saint-Anaclet, Le Bic, Sainte-Flavie, Sainte-Luce, Mont-Joli, Price and their surrounding areas;
  - undertaking serving Baie Comeau: to include Forestville, Betsiamites, Chutes-aux-Outardes and their surrounding areas;
  - undertaking serving Sept-Îles: to include Port-Cartier and its surrounding area;
  - undertaking serving Gaspé: Sainte-Marie, Saint-Georges and Montmagny: to include a greater part of the surrounding areas.

### **Commission's determination**

6. The Commission **approves** the change in the service areas of the cable BDUs serving Rimouski, Baie-Comeau, Sept-Îles, Gaspé, Sainte-Marie, Saint-Georges and Montmagny, and their surrounding areas, as noted above.
7. With regard to the first part of the application, the Commission considers the carriage, on a discretionary digital basis of a second set of U.S. 4+1 signals, when coupled with other initiatives such as the carriage of newly licensed Canadian digital services, could serve as an incentive for cable customers to subscribe to the digital service offerings of cable undertakings. The distribution of such services would also increase the choice available to cable subscribers.
8. In *Carriage of Canadian and U.S. 4+1 signals on a digital basis*, Decision CRTC 2000-437, 8 November 2000 (Decision 2000-437), the Commission also recognized the need to protect the program rights acquired by local broadcasters.
9. Accordingly, the Commission also **approves** the application by Telus Communications Inc., to delete its authority to distribute, at its option, the services of KOMO-TV (ABC), KING-TV (NBC), KIRO-TV (CBS), KCPQ (FOX) and KCTS-TV (PBS) Seattle, Washington, on a discretionary digital basis on its regional cable BDUs serving the above-mentioned communities. Instead, as requested by TELUS, the Commission authorizes the licensee to distribute, at its option, a set of 4+1 U.S. network signals selected from the *List of Part 3 eligible satellite services*, as part of the digital discretionary service of its regional cable BDUs serving the above-mentioned communities, so long as the licensee complies with the following:

The distribution on a discretionary basis on the licensee's digital service of U.S. 4+1 signals, in addition to the set of such signals already carried by the undertaking, adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the Regulations. The Commission may suspend the application of this provision in respect of a signal, upon its approval of an executed agreement between the licensee and the broadcaster concerned. 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, as approved in this decision.

10. The Commission reminds the licensee that the simultaneous substitution requirements, as set out in section 30 of the Regulations, also apply with respect to the U.S. 4+1 and distant Canadian television signals.

Secretary General

*This decision is to be appended to each 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>*