



## Broadcasting Decision CRTC 2006-691

Ottawa, 21 December 2006

### **Cogeco Cable Quebec Inc.**

Alma, Baie Comeau, Drummondville, Louiseville, Magog, Rimouski, Sainte-Adèle, Saint-Georges-de-Beauce, Saint-Hyacinthe, Sept-Îles, Thetford Mines, Trois-Rivières, Valleyfield, Grand-Mère, Nicolet, Roberval, Sainte-Agathe-des-Monts, Saint-Jovite/Mont-Tremblant; Acton Vale, Bécancour (zone Gentilly), Courcelles, Danville, Daveluyville, East Broughton, Forestville, Lac Carré, La Guadeloupe, Notre-Dame-du-Bon-Conseil, Rivière Beaudette, Saint-Anicet, Saint-Benoît-Labre, Saint-Donat-de-Montcalm, Sainte-Anne-des-Lacs, Sainte-Gertrude, Saint-Ephrem-de-Beauce, Saint-Ferdinand (zone Bernierville), Saint-Léonard d'Aston, Saint-Prosper-de-Dorchester, Saint-Théodore-d'Acton, Saint-Théophile, Saint-Vital-de-Lambton, Tring-Jonction and Valcourt, Quebec

*Application 2006-0746-8*

*Broadcasting Public Notice CRTC 2006-83*

*7 July 2006*

### **Amendment of Class 1, 2 and 3 regional licences in Quebec**

*The Commission **approves** the application by Cogeco Cable Quebec Inc. to amend its Class 1, 2 and 3 regional licences in Quebec to include new conditions of licence authorizing a zone-based approach to community programming that involves establishing twelve zones grouping all the authorized service areas of its broadcasting distribution undertakings serving the above-mentioned locations.*

### **The application**

1. The Commission received an application by Cogeco Cable Quebec Inc. (Cogeco) to amend the Class 1, 2 and 3 regional licences<sup>1</sup> for its broadcasting distribution undertakings (BDUs) serving the above-noted locations in Quebec. Cogeco requested conditions of licence that would vary the application of certain provisions of the *Broadcasting Distribution Regulations* (the Regulations), in order to implement a zone-based approach for its community programming. This approach may be summarized as follows:

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<sup>1</sup> In *Class 1 regional licence for broadcasting distribution undertakings in Quebec, Class 2 regional licence for broadcasting distribution undertakings in Quebec, and Class 3 regional licence for broadcasting distribution undertakings in Quebec*, Broadcasting Decisions CRTC 2006-462, 2006-463 and 2006-464, 31 August 2006, the Commission approved the licensee's applications for Class 1, 2 and 3 regional broadcasting licences to continue operating its broadcasting distribution undertakings in Quebec. In these decisions, the Commission indicated that Cogeco's application to establish 12 community programming zones would be covered under a separate decision to be issued at a later date.

For the purpose of community programming, the authorized service areas would be divided into twelve zones. Each zone would include a Class 1 or 2 service area with its own headend and studio facilities interconnected with one to ten smaller service areas (Class 2 or 3 service areas) [see Appendix 1].

Cogeco made a commitment that, in each of these twelve zones, it would:

- broadcast a minimum of 60% of local community television programming that would be reflective of the community and produced either by Cogeco, by members of the community being served, or by a television corporation residing in the zone; and
- broadcast a minimum of 30% of community access television programming produced by individuals, by groups or by television corporations residing in the zone.

2. To implement this approach, Cogeco proposed new conditions of licence establishing twelve zones that would be considered service areas pursuant to sections 27, 27.1, 28, 29 and 35 of the Regulations. Cogeco also proposed other conditions of licence pertaining to application of sections 27.1(1) and 27.1(3) of the Regulations.
3. Cogeco's proposal to use a zone-based rather than a service-area-based approach to community programming involves adopting, by means of conditions of licence, measures and approaches that constitute exceptions to the Regulations. According to Cogeco, this more flexible approach takes into account the rural and dispersed nature of the communities it serves and allows for wider distribution of community programming in the territories served by its BDUs in Quebec.

### **The regulatory framework**

4. Section 27(1) of the Regulations, which applies specifically to Class 1 and 2 cable distribution licensees, stipulates that, except as otherwise provided under a condition of its licence, the licensee shall devote not less than 60% of the programming distributed on the community channel in the licensed area in each broadcast week to the distribution of local community television programming, and not less than 30% to the distribution of community access television programming. Section 35(2), which applies to Class 3 licensees, stipulates that, except as otherwise provided under a condition of its licence, a licensee that elects to distribute community programming under paragraph 33(g) shall devote not less than 60% of the programming distributed on the community channel during each broadcast week to the distribution of local community television programming, and not less than 30% to the distribution of community access television programming.

5. The Regulations define “local community television programming” as follows:

In relation to a licensed area, programming that is reflective of the community served in the licensed area and that is produced:

a) by the licensee in the licensed area, by the members of the community served in the licensed area or by a community television corporation residing in the licensed area; or

b) by another licensee in a licensed area within the same municipality as the licensee referred to in paragraph (a), by the members of the community served in that licensed area or by a community television corporation residing within that licensed area.

6. The Regulations define “community access television programming” as follows:

Programming produced by an individual, group or community television corporation residing within the licensed area of a cable distribution undertaking.

## **Interventions**

7. The Commission received several interventions in connection with Cogeco’s application, the majority of which were in support. The Commission also received an opposing intervention by the Fédération des télévisions communautaires autonomes du Québec (FTCAQ) as well as interventions by some of its members supporting its intervention: i.e., Télévision communautaire des Bois-Francs, Télévision communautaire Télé-Soleil inc. de Mont-Louis, Télévision communautaire de la région de l’Amiante, Télévision communautaire de la vallée de la Matapédia, the Société d’information Lac-St-Jean (Télévision locale Dolbeau-Mistassini TVLDM 9), Télévision communautaire Laurentides-Lanaudière (TCLL), Télévision communautaire du Témiscamingue, Diffusion communautaire de La Mitis, Télévision communautaire Frontenac and Télévision Régionale de la Péninsule.
8. According to the FTCAQ, the zone-based approach for community programming as defined by Cogeco calls into question key sections of the *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002 (the Strategic Framework) and the sections of the Regulations pertaining to local and access programming percentages for each authorized service area. The interveners further noted that Cogeco’s proposed regulatory exemption would establish a precedent that would compromise application of the Commission’s policy set out in the Strategic Framework, and could open the door to similar applications.
9. With respect to the ability of the Class 2 and 3 service areas to produce local and access programming, the FTCAQ was of the view that the vitality of local and access programming cannot be determined solely on the basis of the number of clients served. The FTCAQ submitted that a set of factors contributes to making local community programming strong (e.g., the participation of people from local communities in

producing programs, the financial and material resources provided by the community and the cable company, etc.). The intervener further explained that some of its members currently broadcast on Cogeco's community channel and offer a significant volume of local and access programming, thus helping Cogeco meet its regulatory obligations. The FTCAQ pointed out that the vitality of these local community television corporations stems from their roots in their community, the participation of the population they serve and the visibility of local programming on the community channel.

10. The interveners maintained that Cogeco's proposed approach could result in a reduction in local and access programming in each location taken separately because the amount of community programming and its distribution is not necessarily equitable across all communities within a single zone. Consequently, according to TCLL, given that the current regulations apply to each area individually, combining three service areas within a single sector for the purposes of calculating local and access programming percentages would dilute local and access programming for each of the communities located within the same zone. In addition, TCLL expressed the view that, if the terrestrial BDUs were able to interconnect their systems to achieve efficiency gains and reduce their operating costs, this interconnection should not be detrimental to community programming. The FTCAQ also argued that maintaining a broadcasting system for each service area provides the flexibility required to give local programming priority.

#### **Cogeco's reply**

11. In response, Cogeco stated that its proposed zone-based approach goes beyond the historical boundaries that define the existing service areas. The applicant noted that the service area boundaries do not always indicate the end of one community and the beginning of the next and that, in fact, its proposed twelve zones constitute unique and integrated communities of interest. In Cogeco's view, these new zones are much more consistent with the natural grouping of the regions served than are the current boundaries. Cogeco also maintained that, in regions that have small populations and are located far from major centres, local and regional programming produced in the adjacent service areas is of interest to all the communities within the service area.
12. Cogeco reiterated its commitment to fulfil the minimum 60% local programming and 30% access programming required by the Regulations within the proposed twelve zones. It stated that only programming produced within each zone would be considered as local programming within each of these zones. Furthermore, Cogeco made a commitment to maintain both TVCOGECO community channels in the Rimouski service area. These community channels are based in Rimouski and Matane.
13. Cogeco submitted that it is essential that the Commission allow it the regulatory flexibility it requested to ensure that the small communities in its Class 2 and 3 service areas can continue accessing TVCOGECO's community programming, which has been made available via its interconnection efforts. Cogeco added that, of the 43 service areas still authorized by the Commission and included in this application, 30 are regional Class 2 and 3 licences, of which 25 are regional Class 3 licences. The average number of subscribers in its Class 2 service areas is 3,985, and the average for Class 3 service areas

is 488. According to Cogeco, insufficient financial resources make it impossible to provide community programming that would meet the Regulations' minimum requirements (60% local programming and 30% access programming) on an individual basis in all these Class 2 and 3 service areas.

14. As for the interveners' concerns regarding a reduction in minimum local and access programming percentages, Cogeco replied that some of these concerns are baseless because all of TVCOGECO's community channels have numerous time slots currently taken up with the bulletin board or reruns and many attractive time slots are still available on community television. Cogeco pointed out that local and access programming would not in any way be reduced and that the schedule in all the zones would be more diversified because it would offer more high-quality programming of interest to the communities served, while making the service more attractive to viewers. Cogeco further noted that establishing the proposed zones would stimulate community participation and offer more visibility to program participants and artists because the programs would be distributed throughout a region. Cogeco reiterated that its application does not compromise the existing co-operation between it and the community television channels and that it intends to maintain the broadcast opportunities for each.
15. Finally, Cogeco noted that a lack of volunteers as well as the competition resulting from new broadcasting platforms and numerous television services makes it more difficult to produce community programming. The licensee also submitted that, when a program is broadcast throughout a region, a greater number of people have an opportunity to see it, which constitutes added value for the program's artists and participants. Furthermore, this greater visibility and sharing of knowledge with a greater number of participants and experts could attract more volunteers.

### **Commission's analysis and determination**

16. The Commission still considers that community programming is an important aspect of the Canadian broadcasting system and that it contributes positively and significantly to achieving the objectives set out in the *Broadcasting Act*.
17. The Commission notes that Cogeco's proposed community programming approach, which is based on the creation of zones comprising several authorized service areas, is similar to that proposed by Rogers Cable Communications Inc. for several locations in New Brunswick and Newfoundland and Labrador, and which the Commission approved in recent decisions.<sup>2</sup>

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<sup>2</sup> See *Class 1 regional licence for broadcasting distribution undertakings in New Brunswick and in Newfoundland and Labrador*, *Class 2 regional licence for broadcasting distribution undertakings in New Brunswick and in Newfoundland and Labrador* and *Class 3 regional licence for broadcasting distribution undertakings in New Brunswick and in Newfoundland and Labrador*, Broadcasting Decisions CRTC 2006-459, 2006-460 and 2006-461, 31 August 2006.

18. The Commission evaluates this type of application on a case-by-case basis, taking into account the particular circumstances of each case. It therefore examined Cogeco's arguments concerning the difficulties it has experienced in providing and maintaining quality community programming in its existing Class 2 and 3 service areas. The Commission also considered the concerns raised by the interveners during this proceeding.
19. The Commission considers that the proximity of the municipalities in several of Cogeco's proposed zones would foster the creation of a community of interest at the local and regional levels and allow residents to be better informed of the activities and events taking place in their community. Furthermore, the interconnection of a large number of small Class 2 or 3 service areas with Class 1 BDUs would offer the public expanded programming and preferred access to Cogeco's community programming in their respective regions.
20. The Commission notes that five of Cogeco's proposed twelve zones do not include other service areas and thus remain as currently licensed, i.e., the Saint-Hyacinthe, Rimouski, Sept-Îles, Alma and Roberval zones. The Commission further notes that the Rimouski zone will retain the two TVCOGECO community channels based in Rimouski and Matane.
21. The Commission also notes Cogeco's commitment to broadcast in each of the proposed zones community programming that complies with the Regulations, i.e., a minimum of 60% of local programming and a minimum of 30% of access programming. The Commission further notes that Cogeco specified that only programming produced within each zone would be considered local programming for that zone. Cogeco also intends to maintain its existing co-operation with the community television channels operating in its territory, a model that is adapted to each region based on the needs and requests of the community television channel, the number of subscribers, the size of the territory served and the historical co-operation among the parties.
22. The Commission also considered the fact that small Class 2 and Class 3 service areas lack the financial resources required to maintain community programming. Cogeco explained that, because the financial resources available for community programming are very limited in these small service areas, these areas are not able to acquire the technical facilities and staff required to produce local community programming that complies with the local and access programming requirements set out in the Regulations. Given that cable companies are not required to offer community television services, the Commission considers that the communities affected by this application would be better served by local and regional community programming than by no access at all. People in these communities would thus have access to local and regional programming and to programming that is more diversified and varied.

23. Finally, the Commission took into account the support indicated for this application in the majority of the interventions received. Several interveners supported Cogeco's proposed zone-based approach because they would benefit from greater visibility in their communities and better information on local and regional activities and events. Cogeco pointed out that most of the agencies in the territories served operate under a regional entity and need a television window to reach people in the region. For example, the Regional County Municipality of Amiante explained that [TRANSLATION] "reciprocal broadcasting in the Amiante and Beauce regions is a major asset in terms of information on local and regional issues in each region and the concerted effort required for the development of the Chaudière-Appalaches region." For its part, the Société des Arts Visuels de Mont-Tremblant stated in its intervention that [TRANSLATION] "informing the community by broadcasting local as well as regional information is extremely important today. In viewing local and regional information, people see themselves reflected, learn and discover. The varied programming offered by TVCOGECO faithfully reflects the spirit of our community."
24. In light of the above, the Commission considers it appropriate to authorize Cogeco to implement its zone-based community programming plan in its Quebec service areas and accordingly, **approves** Cogeco's application. The licensee must abide by its commitments, as set out below, in each of the proposed twelve zones.
- to broadcast a minimum of 60% of local community television programming that is reflective of the community and produced either by Cogeco, by members of the community being served, or by a television corporation residing in the zone; and
  - to broadcast a minimum of 30% of community access television programming produced by individuals, by groups or by television corporations residing in the zone.
25. The **conditions of licence** that will enable Cogeco to implement its proposed zone-based approach are set out in Appendix 2 to this decision.

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>*

## Appendix 1 to Broadcasting Decision CRTC 2006-691

Zones	Class 1 licence	Class 2 licence	Class 3 licence
1- Mauricie	Trois-Rivières Louiseville	Grand-Mère Nicolet	Bécancour (zone Gentilly) Daveluyville Sainte-Gertrude Saint-Léonard d'Aston
2- Drummondville	Drummondville		Acton Vale Notre-Dame-du-Bon- Conseil Saint-Théodore-d'Acton Valcourt
3- Saint-Hyacinthe	Saint-Hyacinthe		
4- Amiante	Saint-Georges- de-Beauce Thetford Mines		Courcelles La Guadeloupe Saint-Benoît-Labre Saint-Ephrem-de-Beauce Saint-Prosper-de- Dorchester Saint-Théophile Saint-Vital-de-Lambton East Broughton Saint-Ferdinand (zone Bernierville) Tring-Jonction
5- Rimouski	Rimouski		
6- Valleyfield	Valleyfield		Rivière Beaudette Saint-Anicet
7- Laurentides	Sainte-Adèle	Sainte-Agathe-des- Monts Saint-Jovite/ Mont-Tremblant	Lac Carré Saint-Donat-de-Montclam Sainte-Anne-des-Lacs
8- Magog	Magog		Danville
9- Sept-Îles	Sept-Îles		
10- Alma	Alma		
11- Baie-Comeau	Baie-Comeau		Forestville
12- Roberval		Roberval	

## Appendix 2 to Broadcasting Decision CRTC 2006-691

### Conditions of licence amending application of certain requirements of the *Broadcasting Distribution Regulations* pertaining to community programming for the regional Class 1, 2 and 3 licences of Cogeco Cable Quebec Inc.

1. For the purpose of application of sections 27, 27.1, 28, 29 and 35 of the *Broadcasting Distribution Regulations* (the Regulations) and the current conditions of licence, each of the following zones shall be considered an authorized service area:

**Zone 1 (Mauricie):** licences for Trois-Rivières, Louiseville, Grand-Mère, Nicolet, Bécancour (zone Gentilly), Daveluyville, Sainte-Gertrude, Saint-Léonard d'Aston.

**Zone 2 (Drummondville):** licences for Drummondville, Acton Vale, Notre-Dame-du-Bon-Conseil, Saint-Théodore-d'Acton, Valcourt.

**Zone 3 (Saint-Hyacinthe):** licence for Saint-Hyacinthe.

**Zone 4 (Amiante):** licences for Saint-Georges-de Beauce, Thetford Mines, Courcelles, La Guadeloupe, Saint-Benoît-Labre, Saint-Ephrem-de-Beauce, Saint-Prosper-de-Dorchester, Saint-Théophile, Saint-Vital-de-Lambton, East Broughton, Saint-Ferdinand (zone Bernierville), Tring-Jonction.

**Zone 5 (Rimouski):** licence for Rimouski.

**Zone 6 (Valleyfield) :** licences for Valleyfield, Rivière Beaudette, Saint-Anicet.

**Zone 7 (Laurentides):** licences for Sainte-Adèle, Sainte-Agathe-des-Monts, Saint-Jovite/Mont-Tremblant, Lac Carré, Saint-Donat-de-Montcalm, Sainte-Anne-des-Lacs.

**Zone 8 (Magog):** licences for Magog, Danville.

**Zone 9 (Sept-Îles):** licence for Sept-Îles

**Zone 10 (Alma):** licence for Alma.

**Zone 11 (Baie-Comeau):** licences for Baie-Comeau, Forestville.

**Zone 12 (Roberval):** licence for Roberval.

2. For the purpose of application of section 27.1(1) of the Regulations, “local community television programming” in relation to a licensed service area shall constitute programming that is reflective of the community and that is produced by the licensee in the licensed area, by another licensee in the licensed area, by the members of the community served in the licensed area or by a community television corporation residing in the licensed area.
3. For the purpose of application of section 27.1(3) of the Regulations, “community television access programming” shall constitute programming produced by an individual, group or community television corporation residing within the licensed area.