



## Broadcasting Public Notice CRTC 2007-48

Ottawa, 8 May 2007

### Call for comments on the elimination of the winback rules

*In this public notice, the Commission seeks public comment on whether it should eliminate the winback rules applicable to incumbent cable broadcasting distribution undertakings that have 6,000 or more subscribers and that serve multiple-unit dwellings.*

#### The request

1. The Commission received a request dated 5 April 2007 from Rogers Cable Communications Inc. (Rogers) for the elimination of the remaining winback restrictions applicable to incumbent cable broadcasting distribution undertakings (BDUs) that have 6,000 or more subscribers and that provide service to multiple-unit dwellings (MUDs), as set out in *Changes to the winback rules for broadcasting distribution undertakings*, Broadcasting Public Notice CRTC 2004-62, 13 August 2004 (Public Notice 2004-62).
2. In support of its request, Rogers submitted, among other things, that the imposition of winback rules on the cable industry creates an asymmetry in the broadcasting system. Rogers argued that this asymmetry serves to protect the telephone companies that have entered the BDU market, as well as Canada's two direct-to-home companies, from the normal workings of a competitive market at the expense of consumers who are deprived of the benefits of competition. Rogers expressed its firm belief that it is time for the regulatory framework to embrace competitive activity from cable distributors as something to be encouraged, not prohibited.
3. Rogers also stated that a similar winback restriction has recently been removed with respect to local exchange carriers, even in markets where the incumbent telephone companies have close to 100% of the market share (see the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532).<sup>1</sup> Rogers submitted that, if a winback rule is not appropriate in that type of market, it would be difficult to argue that the restriction should still apply in a broadcasting distribution market where competitors hold a market share close to 30%.

#### The current winback rules

4. The current winback rules are set out in Public Notice 2004-62. In that public notice, the Commission stated that the winback rules govern the conduct of incumbent cable BDUs with 6,000 or more subscribers, in their dealings with customers who reside in MUDs, and that such distributors should refrain, for a period of 90 days, from:

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<sup>1</sup> Effective 4 April 2007

- directly contacting customers who, through an agent, have notified their cable company of their intention to cancel basic cable service; and
  - offering discounts or other inducements not generally offered to the public, in instances when customers personally initiate contact with the cable company for the purpose of cancelling basic cable service.
5. In addition, in Public Notice 2004-62, the Commission prohibited incumbent cable companies from initiating communication with residents of a MUD for a period of 90 days from the date on which a new entrant enters into an access agreement to provide service in the MUD. The Commission further required incumbent cable companies to refrain from the targeted marketing of all residents of a MUD, or from offering those discounts or other inducements not generally available to the public, for a period of 90 days following the date on which a new entrant enters into an access agreement to offer services in the MUD.

### **Call for comments**

6. The Commission calls for comments on whether it should eliminate the remaining winback rules applicable to incumbent cable BDUs that have 6,000 or more subscribers and that provide services to MUDs. Parties wishing to provide comments may do so on or before **6 June 2007**. The Commission will not formally acknowledge comments. It will, however, fully consider all comments received, and they will form part of the public record, provided that the procedures for filing set out below have been followed.

### **Procedures for filing comments**

7. Interested parties can file their comments to the Secretary General of the Commission:
- **by using the**  
Broadcasting Intervention/Comments Form

OR

  - **by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

OR

  - **by fax at**  
819-994-0218

8. Submissions longer than five pages should include a summary.
9. Please number each paragraph of your submission. In addition, please enter the line \*\*\*End of document\*\*\* following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

**Important notice**

10. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's Web site at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's Web site. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
11. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
12. Documents received electronically or otherwise will be put on the Commission's Web site in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
13. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the webpage of this particular public process. As a result, a general search of our Web site with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.
14. The Commission encourages interested parties to monitor the public examination file and the Commission's Web site for additional information that they may find useful when preparing their comments.

**Examination of public comments and related documents at the following Commission offices during normal business hours**

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building  
Les Terrasses de la Chaudière  
1 Promenade du Portage, Room 206  
Gatineau, Quebec K1A 0N2  
Tel.: 819-997-2429  
Fax: 819-994-0218

Metropolitan Place  
99 Wyse Road  
Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel.: 902-426-7997  
Fax: 902-426-2721

205 Viger Avenue West  
Suite 504  
Montréal, Quebec H2Z 1G2  
Tel.: 514-283-6607

55 St. Clair Avenue East  
Suite 624  
Toronto, Ontario M4T 1M2  
Tel.: 416-952-9096

Kensington Building  
275 Portage Avenue  
Suite 1810  
Winnipeg, Manitoba R3B 2B3  
Tel.: 204-983-6306  
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Cornwall Professional Building  
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Regina, Saskatchewan S4P 3X3  
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10405 Jasper Avenue  
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Edmonton, Alberta T5J 3N4  
Tel.: 780-495-3224

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Secretary General

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