



## Broadcasting Notice of Consultation CRTC 2009-714

Ottawa, 23 November 2009

### **Call for comments on the proposed addition of Benfica TV, a non-Canadian sports service, to the lists of eligible satellite services for distribution on a digital basis**

1. The Commission has received a request dated 10 July 2009 from CityWest Cable and Telephone Corporation (CityWest) to add Benfica TV, a non-Canadian Portuguese-language sports service with an emphasis on soccer, to the lists of eligible satellite services for distribution on a digital basis (the digital lists).
2. CityWest described Benfica TV as a high-quality non-Canadian sports service that would contribute significantly to the diversity of programming available in the Portuguese language in Canada.
3. The Commission's current approach to requests to add non-Canadian third-language services to the digital lists is set out in *Improving the diversity of third-language television services – A revised approach to assessing requests to add non-Canadian third-language television services to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-96, 16 December 2004.<sup>1</sup> In that notice, the Commission indicated that in the case of non-Canadian third-language services that provide narrowly targeted or “niche” programming, it would continue to apply a case-by-case assessment to determine whether the service would compete with Canadian pay or specialty services and should therefore not be authorized for distribution in Canada. The Commission noted that in assessing competitiveness, it takes into account such factors as the nature and genre of programming, the target audience, the language or languages in which the programming is broadcast, the source of programming and any relevant competitive concerns raised by parties, in order to determine the degree of overlap that might exist to make the non-Canadian service competitive with any Canadian pay or specialty service. The Commission added that in applying the competitiveness test to these non-Canadian services, it would not take into consideration unlaunched ethnic Category 2 services, unless a Category 2 service presents compelling evidence that launch of the service is imminent.
4. The Commission will rely primarily on the comments filed to identify the Canadian pay and specialty services with which Benfica TV might be totally or partially competitive and which therefore should be included in the assessment of the competitiveness of the service. Parties wishing to argue that Benfica TV would be competitive should therefore name the specific Canadian pay or specialty service with which they consider the service would compete and provide details to support their views, such as comparisons as to nature and

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<sup>1</sup> In *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008, the Commission indicated that as of 31 August 2011, niche non-Canadian third-language services will be subject to the same approach for authorization as general interest non-Canadian third-language services – that is, they will generally be approved.

genre of service, programming schedules, programming sources and supply, and target audience.

### **Call for comments**

5. The Commission calls for comments on CityWest's request to add Benfica TV to the digital lists. Parties submitting comments on the request should also submit a true copy of their comments to the Canadian sponsor, CityWest, at the following address:

CityWest Cable and Telephone Corporation  
248 3<sup>rd</sup> Ave. West  
Prince Rupert, British Columbia  
V8J 1L1  
Attention: Lisa Marogna  
  
E-mail: [lisa.marogna@cwtc.ca](mailto:lisa.marogna@cwtc.ca)  
Fax: 250-627-0910

6. Proof that comments have been sent to CityWest must accompany the original version of the comments sent to the Commission.
7. Comments on CityWest's request must be received by the Commission no later than **23 December 2009**. A copy of the comments must be received by CityWest no later than the deadline for receipt of comments by the Commission. The Commission cannot be held responsible for postal delays and will not notify a party whose intervention is received after the deadline date. The intervention will not be considered by the Commission and will not be part of the public file.
8. CityWest may file a written reply to any comments received concerning its request. This reply should be filed with the Commission, and a copy sent to the person who submitted the comments, by no later than **11 January 2010**.
9. The Commission will not formally acknowledge comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

### **Procedures for filing comments**

10. Interested parties can file their comments to the Secretary General of the Commission in **only one** of the following formats:

**by using the**  
[\[Broadcasting interventions/comments form\]](#)

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

or

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

11. The Commission advises those who file and serve by electronic means to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.
12. Parties must ensure that, before initiating service through electronic mode, they will be able to satisfy the Commission, upon request, that service of the notification was completed.
13. Submissions longer than five pages should include a summary.
14. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line **\*\*\*End of document\*\*\*** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

**Important notice**

15. Note that all information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website 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 website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
16. The personal information that parties 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.
17. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, 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.
18. Please note that the information that parties 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 web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

19. The Commission encourages interested parties to monitor the public examination file and the Commission's website for additional information that they may find useful when preparing their comments.

### **Examination of documents**

20. A list of all comments will be available on the Commission's website. An electronic version of all comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.
21. Documents are also available during normal office hours at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications, or, upon request, within two (2) working days, at any other Commission offices and documentation centres.

### **Location of Commission offices**

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

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

Les Terrasses de la Chaudière  
Central Building  
1 Promenade du Portage, Room 206  
Gatineau, Quebec  
J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

### ***Regional offices***

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  
TDD: 204-983-8274  
Fax: 204-983-6317

2220 – 12th Avenue  
Suite 620  
Regina, Saskatchewan  
S4P 0M8  
Tel.: 306-780-3422

10405 Jasper Avenue  
Suite 520  
Edmonton, Alberta  
T5J 3N4  
Tel.: 780-495-3224

580 Hornby Street  
Suite 530  
Vancouver, British Columbia  
V6C 3B6  
Tel.: 604-666-2111  
TDD: 604-666-0778  
Fax: 604-666-8322

Secretary General

*This document 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>.*