



Broadcasting Decision CRTC 2010-892

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Ottawa, 30 November 2010

Cogeco Cable Canada GP Inc. (the general partner) and Cogeco Cable Canada Inc. (the limited partner), carrying on business as Cogeco Cable Canada LP

Various locations in Ontario

Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership

Various locations in Quebec

Applications 2010-1556-1, 2010-1560-3, 2010-1562-8 and 2010-1563-6, received 15 October 2010

Deletion of licensed areas under a broadcasting licence

*The Commission **approves** the applications by Cogeco Cable Canada GP Inc. (the general partner) and Cogeco Cable Canada Inc. (the limited partner), carrying on business as Cogeco Cable Canada LP, to delete the licensed areas set out in Appendices 1 and 2 to this decision from its Class 1 regional licence for terrestrial broadcasting distribution undertakings (BDUs).*

*The Commission also **approves** the applications by Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership, to delete the licensed areas set out in Appendices 1 and 2 to this decision from its Class 1 and Class 2 regional licences for terrestrial BDUs.*

Introduction

1. In Broadcasting Public Notice 2008-100, the Commission decided to expand the scope of its two previous exemption orders for small terrestrial broadcasting distribution undertakings (BDUs) to exempt all such BDUs that are serving fewer than 20,000 subscribers under a single exemption order. The Commission further decided that BDUs serving both small and large markets under a single regional licence would be permitted to determine whether it would be more profitable to continue serving all markets under a single licence, or to conduct their operations in smaller markets as discrete operations that are eligible for exemption. To this end, the Commission authorized BDUs operating under regional licences to “carve out” certain service areas from their licences, provided they met certain conditions.

2. The Commission's new exemption order was issued in Broadcasting Order 2009-544. As stated by the Commission in that order, parties that consider that their operations made them eligible for an exemption should file applications for a revocation of licence.
3. With respect to BDUs operating under regional licences, the Commission set out criteria to assess whether their operations in a given region constituted a discrete operation, which would make them eligible for an exemption under Broadcasting Order 2009-544. Specifically, the Commission stated that it would consider applications by BDUs to carve out a service area from a regional licence if, in that service area, the licensee:
 - (a) has separate head end facilities; or
 - (b) distributes one or more unique priority (local and/or regional) television stations as part of its basic service in that area that are not offered as part of the basic service in other service areas in which the BDU operates under the same regional licence; or
 - (c) offers substantial community programming to its subscribers that is specific to that service area.
4. The Commission included a requirement stating that BDUs that do not operate a community channel specific to the particular service area¹ but wish to qualify under (c) above must demonstrate that 5% of the gross broadcasting revenues derived from the service area has been spent on community programming specific to that area in the past broadcast year.
5. Cogeco Cable Canada GP Inc. (the general partner) and Cogeco Cable Canada Inc. (the limited partner), carrying on business as Cogeco Cable Canada LP (Cogeco Cable Canada LP), and Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership (Cogeco Cable Québec GP), have applied to carve out various licensed service areas under their Class 1 regional licences, as set out in Appendices 1 and 2 to this decision, on the grounds that each of these service areas have fewer than 20,000 subscribers.

Commission's analysis and determinations

6. Cogeco Cable Canada LP's Class 1 undertaking and Cogeco Cable Québec GP's Class 1 and Class 2 undertakings listed in Appendices 1 meet the discrete operation test regarding community programming expenditures. Given that the licensees have filed documentation demonstrating that they devote 5% or more of their gross broadcasting revenues derived from each of the service areas to community

¹ BDUs that operate, for example, video-on-demand based community "channels" or that have adopted a "zone-based" approach to the provision of community programming.

programming specific to those areas, the Commission **approves** the deletion of the licensed areas listed in Appendix 1 to this decision.

7. The Class 1 undertakings of Cogeco Cable Canada LP and Cogeco Cable Québec GP listed in Appendix 2 meet the discrete operation test because they have separate head-end facilities. Given that the licensees have filed documentation demonstrating that they operate separate head-end facilities in each of the service areas, the Commission **approves** the deletion of the licensed areas listed in Appendix 2 to this decision.
8. The Commission reminds Cogeco Cable Canada LP and Cogeco Cable Québec GP that they must comply at all times with the criteria set out in the appendix to Broadcasting Order 2009-544 for each service area listed in Appendices 1 and 2 to this decision. In order to continue operating these undertakings as discrete operations that are eligible for exemption under this order, they must continue to devote at least 5% of their gross broadcasting revenues to community programming for each of the carved out service areas listed in Appendix 1. They must also continue to operate separate head-end facilities for each of the carved-out service areas listed in Appendix 2.

Secretary General

Related documents

- *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2009-544, 31 August 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008

**This decision is to be appended to each licence.*

Appendix 1 to Broadcasting Decision CRTC 2010-892

<p>Cogeco Cable Canada GP Inc. (the general partner) and Cogeco Cable Canada Inc. (the limited partner), carrying on business as Cogeco Cable Canada LP <i>Application 2010-1562-8</i></p>		
Class	Location	Province
Class 1 regional licence ⁽¹⁾	Grimsby	Ontario

<p>Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership <i>Application 2010-1563-6</i></p>		
Class	Location	Province
Class 1 regional licence ⁽²⁾	Louiseville	Quebec
Class 2 regional licence ⁽³⁾	Grand-Mère	Quebec
	Roberval	Quebec

Appendix 2 to Broadcasting Decision CRTC 2010-892

Cogeco Cable Canada GP Inc. (the general partner) and Cogeco Cable Canada Inc. (the limited partner), carrying on business as Cogeco Cable Canada LP		
<i>Application 2010-1560-3</i>		
Class	Location	Province
Class 1 regional licence ⁽¹⁾	Brockville	Ontario
	Chatham	Ontario
	Cobourg	Ontario
	Cornwall	Ontario
	Hamilton/North-East	Ontario
	North Bay	Ontario

Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership		
<i>Application 2010-1556-1</i>		
Class	Location	Province
Class 1 regional licence ⁽²⁾	Alma	Quebec
	Baie-Comeau	Quebec
	Magog	Quebec
	Sainte-Adèle	Quebec
	Saint-Georges-de-Beauce	Quebec
	Sept-Îles	Quebec
	Thetford Mines	Quebec
	Valleyfield	Quebec

(1) The Commission notes that Belleville, Burlington, Georgetown, Hamilton/Centre-East, Hamilton/Dundas, Hamilton/Stoney Creek, Kingston, Leamington, Niagara Falls, Peterborough, Sarnia, St. Catharines and Windsor remain licensed areas under the Class 1 regional licence of Cogeco Cable Canada GP Inc. (the general partner) and Cogeco Cable Canada Inc. (the limited partner), carrying on business as Cogeco Cable Canada LP.

(2) The Commission notes that Drummondville, Rimouski, Saint-Hyacinthe, and Trois-Rivières remain licensed areas under the Class 1 regional licence of Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership in Quebec.

(3) The Commission notes that Nicolet, Sainte-Agathe-des-Monts, Saint-Jovite/Mont-Tremblant and surrounding areas remain licensed areas under the Class 2 regional licence of Cogeco Cable Québec 2009 Inc. and Cogeco Cable Canada Inc., partners in a general partnership carrying on business as Cogeco Cable Québec General Partnership in Quebec.