



Broadcasting Decision CRTC 2011-127

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Ottawa, 23 February 2011

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 2010-1893-7 and 2010-1913-3, received 21 December 2010

Deletion of licensed areas under a broadcasting licence

*The Commission **approves** the application 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 Appendix 1 to this decision from its Class 1 regional licence for terrestrial broadcasting distribution undertakings (BDUs) in Ontario.*

*The Commission also **approves** the application 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 Appendix 2 to this decision from its Class 2 regional licence for terrestrial BDUs in Quebec.*

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 undertaking:
 - (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 and Class 2 regional licences, respectively, 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 and offer substantial community programming that meets criterion c) above.

Commission's analysis and determinations

6. The Commission notes 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 programming specific to those areas. The Commission finds that Cogeco Cable Canada LP's Class 1 undertaking and Cogeco Cable

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.

Québec GP's Class 2 undertakings listed in Appendices 1 and 2 meet the discrete operation test regarding community programming expenditures. The Commission therefore **approves** the application 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 Appendix 1 to this decision from its Class 1 regional licence for terrestrial BDUs in Ontario. The Commission also **approves** the application 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 Appendix 2 to this decision from its Class 2 regional licence for terrestrial BDUs in Quebec.

7. 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 Appendices 1 and 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 2011-127

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 2010-1913-3</i>		
Class	Location	Province
Class 1 regional licence ⁽¹⁾	Leamington	Ontario
	Hamilton / Central-East	Ontario

(1) The Commission notes that Belleville, Burlington, Georgetown, Hamilton / Dundas, Hamilton / Stoney Creek, Kingston, 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.

Appendix 2 to Broadcasting Decision CRTC 2011-127

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 2010-1893-7</i>		
Class	Location	Province
Class 2 regional licence ⁽²⁾	Nicolet	Quebec
	Sainte-Agathe-des-Monts	Quebec

(2) The Commission notes that 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.