



Broadcasting Decision CRTC 2012-78

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Ottawa, 8 February 2012

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

Saint-Jovite/Mont-Tremblant, Quebec

Application 2011-1667-4, received 22 December 2011

Deletion and exemption of licensed service area, and revocation of licence

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 include terrestrial BDUs that serve fewer than 20,000 subscribers under a single exemption order. The Commission further decided that BDUs operating in both small and large markets under a single regional licence would be permitted to determine whether there would be greater benefits for these BDUs to continue operating in all markets under a single licence, or to conduct their operations in smaller markets in such a way that those operations would constitute a “discrete operation” that would be eligible for exemption. To this end, the Commission permitted BDUs operating under regional licences to apply to “carve out” (i.e., remove, or delete) certain service areas from their licences, provided they met certain conditions.
2. The Commission’s new exemption order for terrestrial BDUs that serve fewer than 20,000 subscribers was issued in Broadcasting Order 2009-544. In that exemption order, the Commission stated that parties seeking to qualify for exemption from licensing requirements should file applications with the Commission in order to request a revocation of licence.
3. In regard to BDUs operating under regional licences, the Commission set out criteria to assess whether or not a BDU’s operations in a specific area constituted a discrete operation that would be eligible for exemption under Broadcasting Order 2009-544. Specifically, the Commission stated that it would consider applications 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 service 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 that, in order to qualify under (c) above, BDUs that do not operate a community channel specific to the particular service area¹ must demonstrate that 5% of the gross broadcasting revenues derived from that service area has been spent on community programming specific to that area in the past broadcast year.
 5. 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), has applied to carve out its Saint-Jovite/Mont-Tremblant, Quebec licensed service area under its regional licence on the grounds that this service area has fewer than 20,000 subscribers and meets the discrete operation test with respect to community programming expenditures. Given that the licensee has filed documentation demonstrating that it spends 5% or more of the broadcasting revenues derived from this licensed service area on community programming specific to this area, the Commission **approves** the application by Cogeco to delete the Saint-Jovite/Mont-Tremblant licensed service area.
 6. The Commission notes that, following the carve-out of this licensed service area under the regional licence, there will be no remaining licensed service areas under this licence. This results in the revocation of this licence.
 7. The Commission reminds Cogeco that it must, at all times, comply with the criteria set out in the appendix to Broadcasting Order 2009-544, as amended from time to time, for the Saint-Jovite/Mont-Tremblant service area.
 8. The Commission notes that in Broadcasting Order 2011-753, it amended the exemption order for terrestrial BDUs that serve fewer than 20,000 subscribers set out in Broadcasting Order 2009-544. In Broadcasting Order 2011-753, the Commission required each exempt BDU to, among other things, make a contribution to Canadian programming in each broadcast year of an amount not less than 5% of that undertaking's gross revenues derived from broadcasting activities in the year, less any contribution to local expression made by the undertaking in that year. However, in order to continue operating its undertaking as a discrete operation that is eligible for exemption under this exemption order, Cogeco will need to maintain its current minimum contribution (5%) to community programming for this carved out service area, as stipulated in Broadcasting Order 2009-544.

Secretary General

Related documents

- *Amended exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers – provision of community television channels, Broadcasting Order CRTC 2011-753, 7 December 2011*

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.

- *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