



Broadcasting Decision CRTC 2014-503

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Ottawa, 30 September 2014

Videotron Ltd. and 9227-2590 Quebec Inc., partners in a general partnership carrying on business as Videotron G.P.

Across Canada

Application 2014-0688-5

Canal Indigo – Licence amendment

*The Commission **approves** the application by Videotron Ltd. and 9227-2590 Quebec Inc., partners in a general partnership carrying on business as Videotron G.P., to amend the broadcasting licence for the French-language pay-per-view (PPV) television service Canal Indigo to make it a bilingual PPV service.*

*The licensee shall adhere to the standard **conditions of licence** set out in the appendix to Revised regulatory framework for pay-per-view services, Broadcasting Regulatory Policy CRTC 2013-561, 23 October 2013, as amended from time to time, with the exception of condition of licence 5, which will be replaced by the following **condition**:*

The licensee shall maintain a French-to-English ratio of 4:1, including a minimum of three English-language signals in addition to the French-language barker channel.

Accordingly, consumers living in Quebec official language minority communities will continue to have access to English-language PPV programming in the French-language market despite the closure of the English-language PPV service Viewer's Choice.

Application

1. Videotron Ltd. and 9227-2590 Quebec Inc., partners in a general partnership carrying on business as Videotron G.P. (Videotron), filed an application to amend the broadcasting licence for the French-language pay-per-view (PPV) television service Canal Indigo (Indigo) to make it a bilingual PPV service. The Commission did not receive any interventions regarding this application.
2. Videotron also requested an amendment to condition of licence 5 set out in the appendix to *Revised regulatory framework for pay-per-view services*, Broadcasting Regulatory Policy CRTC 2013-561, 23 October 2013 (Broadcasting Regulatory Policy 2013-561), to:

- a) change the established ratio requiring that a bilingual PPV programming service offer one French-language signal for every three English-language signals (1:3) so that, in the French-language market, Indigo be instead required to offer four French-language signals for every English-language signal (4:1);
 - b) offer at least two English-language signals instead of five French-language signals.
3. Videotron indicated that its application was based on the 15 July 2014 announcement by Bell Media Inc. and Rogers Broadcasting Limited, partners in Viewer's Choice Canada Inc., in which they stated their intent to discontinue the operation of Viewer's Choice Canada (Viewer's Choice) on 30 September 2014 to concentrate on operating their respective PPV services, Bell TV On Demand and Rogers Sportsnet PPV.
4. Videotron indicated that in light of the discontinuation of the operation of Viewer's Choice, Indigo's change to a bilingual service would compensate for the loss of English-language PPV programming currently provided by Viewer's Choice, given that the service would provide English-language signals to its subscribers.
5. Videotron added that it would be more equitable and logical if the ratio of French-to-English signals in the French-language market was based on a majority of French-language signals.

Background

6. Indigo is a French-language PPV television service subject to the standard conditions of licence and expectations set out in the appendix to Broadcasting Regulatory Policy 2013-561. Indigo is not currently authorized to offer English-language programming.
7. Viewer's Choice is an English-language PPV television service offered to distributors in Eastern Canada, namely in Ontario, Quebec and the Atlantic Provinces. Viewer's Choice stated that it intended to cease operations on 30 September 2014.
8. There are currently three PPV television services that offer English-language programming to Quebec subscribers: Bell TV On Demand, Shaw Pay-Per-View (direct-to-home) and Viewer's Choice. Bell TV On Demand and Shaw Pay-Per-View are offered only to Bell and Shaw subscribers, while Viewer's Choice is offered by several Quebec distributors, including Cogeco and Videotron.
9. The loss of Viewer's Choice will mean that consumers, particularly those of Quebec English-language official language minority communities (OLMCs), will lose a source of English-language PPV programming. Consequently, the loss of Viewer's Choice in the French-language market will result in Videotron's subscribers losing the only source of English-language PPV programming currently available to them.

Commission's analysis and decisions

10. The objective of Videotron's application is to allow Quebec subscribers to continue to enjoy English-language PPV programming after the loss of Viewer's Choice. The Commission notes that there is currently no bilingual PPV service in the French-language market and that Indigo would be the first service of this type.
11. Under sections 3(1)(c) and 5(2)(a) of the *Broadcasting Act*, the Commission must adapt its regulation to the realities of both linguistic markets. The two sections read as follows:
 3. (1) It is hereby declared as the broadcasting policy for Canada that

...

(c) English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;
 5. (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that

(a) is readily adaptable to the different characteristics of English- and French-language broadcasting and to the different conditions under which broadcasting undertakings that provide English- or French-language programming operate[.]
12. Since the objective of this application is to satisfy a need in the French-language market, particularly among the English-language OLMCs, the Commission finds that Videotron's application is justified. However, the Commission considers it appropriate to amend Indigo's regulatory obligations to better reflect the operating conditions of the broadcasting market in which Videotron operates the service.
13. In Broadcasting Regulatory Policy 2013-561, the Commission set out standard conditions of licence for PPV television services. Under that policy, services of the same nature are subject to the same regulatory obligations.
14. The Commission notes that the ratio established in standard condition of licence 5 makes no distinction between the two linguistic markets. Specifically, in markets where a bilingual service is offered, the licensee must provide one French-language signal for every three English-language signals, including a minimum of five French-language signals in addition to the French-language barker channel. Consequently, regardless of the market in which a bilingual PPV television service is operated, the standard condition of licence requires that such a service offer more English-language signals than French-language signals.
15. In its application, Videotron indicated that it did not wish to be subject to standard condition of licence 5. It instead proposed to be subject to the following condition of licence:

The licensee shall maintain a French-to-English ratio of at least 4:1, including a minimum of two English-language signals in addition to the French-language barker channel.

16. Videotron's proposal to change the ratio established in standard condition of licence 5 and to increase it to 4:1 would allow it to offer more French-language signals than English-language signals.
17. Given the circumstances of the French-language market, the Commission considers it appropriate that the bilingual service proposed by Videotron offer a majority of French-language signals. Such a ratio would therefore be better adapted to the reality of the French-language market while allowing Videotron to offer a minimum number of English-language signals to serve Quebec English-language OLMCs.
18. Further, with respect to this new ratio, Videotron proposed to offer at least two English-language signals. According to the Indigo website, the service currently offers 14 French-language signals to its subscribers.
19. The Commission notes that given the 4:1 French-to-English ratio proposed by Videotron, the minimum number of signals offered by Indigo would be 8 French-language signals for every 2 English-language signals, for a total of 10 signals. In that case, there could be a significant decrease in the number of French-language signals offered by Indigo.
20. Consequently, to maintain a number of signals comparable to that currently offered, the Commission requires that Indigo offer at least 3 English-language signals. With this minimum of English-language signals, Videotron must offer at least 12 French-language signals to meet the ratio. Accordingly, Videotron will be able to maintain a level of service comparable to that currently offered by its French-language service.

Conclusion

21. In light of all of the above, the Commission **approves** the application by Videotron Ltd. and 9227-2590 Quebec Inc., partners in a general partnership carrying on business as Videotron G.P., to amend the broadcasting licence for the French-language PPV television service Canal Indigo to make it a bilingual PPV service.
22. Videotron shall adhere to the standard **conditions of licence** and expectations set out in the appendix to *Revised regulatory framework for pay-per-view services*, Broadcasting Regulatory Policy CRTC 2013-561, 23 October 2013, as amended from time to time, with the exception of condition of licence 5, which shall be replaced by the following **condition of licence**:

The licensee shall maintain a French-to-English ratio of 4:1, including a minimum of three English-language signals in addition to the French-language barker channel.

23. Consumers living in Quebec OLMCs will thus continue to have access to English-language PPV programming in the French-language market despite the closure of Viewer's Choice.

Secretary General

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