



Broadcasting Decision CRTC 2016-70

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References: Part 1 applications posted on 25 January 2016

Ottawa, 24 February 2016

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

Various locations in Quebec

Applications 2016-0056-0, 2016-0059-4, 2016-0060-2, 2016-0061-9, 2016-0062-7 and 2016-0069-3

Various terrestrial broadcasting distribution undertakings in Quebec – Licence amendments

*The Commission **denies** applications to allow Videotron's terrestrial broadcasting distribution undertakings in various locations in Quebec to continue to include certain licensed television stations as part of the basic service beyond 1 March 2016.*

Background

1. In Broadcasting Regulatory Policy 2015-96, which resulted from the Let's Talk TV proceeding, the Commission determined that as of 1 March 2016, broadcasting distribution undertakings (BDUs) will be required to offer a reasonably priced entry-level service. The objective is to maximize choice for Canadians in that they would not have to receive and pay for a large number of discretionary services that they may not want.
2. Accordingly, in Broadcasting Regulatory Policy 2015-514, the Commission announced amendments to the *Broadcasting Distribution Regulations* (the Regulations) to require all licensed terrestrial and direct-to-home (DTH) BDUs to provide to their subscribers by 1 March 2016 a basic service offering at a price of no more than \$25 per month that includes:
 - local and regional Canadian television stations and provincial or territorial educational services required under sections 17 and 46 of the Regulations for terrestrial and DTH BDUs respectively;
 - services designated by the Commission under section 9(1)(h) of the *Broadcasting Act* (the Act) for mandatory distribution on the basic service; and
 - in the case of terrestrial BDUs, the community channel and the proceedings of the provincial legislature, if offered.

3. Under section 17(6) of the amended Regulations, if fewer than 10 local and regional stations are available in a licensed area, terrestrial BDUs will be authorized to include non-local or non-regional over-the-air Canadian stations, for up to a maximum of 10 over-the-air stations.
4. In addition, pursuant to section 17.2 of the Regulations, BDUs will be allowed to provide a first-tier offering larger than the basic service. This offering must include at a minimum the same stations and services that must be included as part of the basic service under paragraph a) of section 17.3(1) of the Regulations, as well at least one Canadian programming service that must be provided pursuant to paragraph b) of section 17.3(1).

Applications

5. Quebecor Media Inc., on behalf of Videotron Ltd. and 9227-2590 Québec inc., partners in a general partnership carrying on business as Videotron G.P. (Videotron), filed applications to amend the broadcasting licences for its terrestrial BDUs in Granby, Sherbrooke, Terrebonne, Montréal, Montréal (West) and Gatineau to authorize them by condition of licence to continue to include the following licensed television stations on the basic service beyond 1 March 2016:
 - Granby and Sherbrooke: Canal Savoir
 - Terrebonne, Montréal and Montréal (West): CTV Ottawa
 - Gatineau: ICI (International Channel/Canal international), TVA Montréal, ICI Radio-Canada Montréal, CTV Montréal and Canal Savoir
6. This would represent an exception to section 17(6) of the Regulations, which requires a BDU to offer to its subscribers a small basic service comprised of a maximum of 10 over-the-air Canadian stations per licensed area. Specifically, the number of stations distributed on the basic service of these BDUs would exceed the regulatory 10-station maximum.
7. In support of its applications, Videotron explained that in some areas, more than 10 local and regional stations are available, which means that non-local and non-regional stations cannot be added to the basic service except as otherwise provided under conditions of licence.
8. Videotron stated that it would not provide a first-tier offering as this would place a burden on its computer systems and the processing of orders, reducing the efficiency of client services and the clarity of its offerings to subscribers. It added that its current basic service was already similar to what is required under section 16.1 of the Regulations, with the following two exceptions:
 - the stations for which it is requesting a condition of licence; and
 - the option to customize by choosing five stations.

9. According to Videotron, approving the applications would result in much simpler client offerings and marketing efforts, while still fulfilling the Commission's intent to offer an affordable basic service that provides subscribers with greater flexibility in making their choices. Videotron further maintained that this would allow it to harmonize its programming grids in each region in Quebec.
10. Moreover, Videotron submitted that if these applications were denied:
 - new and current customers wishing to transfer to the reduced basic service would be at a disadvantage compared with current subscribers whose rights would be grandfathered by continuing to receive the same basic television services as of 1 March 2016;
 - the stations listed in the applications could lose a significant audience, and these losses could result in the loss of advertising revenue.

Interventions and reply

11. The Commission received an intervention in comment from the Public Interest Advocacy Centre (PIAC), to which Videotron replied, as well as a supporting intervention from Canal Savoir. The public record for these applications can be found on the Commission's website at www.crtc.gc.ca or by using the application numbers provided above.
12. PIAC expressed concern that if Videotron were granted an exception to the Regulations, other BDUs wishing to offer their subscribers a personalized version of the basic service could seek similar exceptions and could favour affiliated programming services. PIAC further submitted that Videotron had not provided any reason beyond continuity as to why it chose the additional television stations.
13. PIAC expressed concern about the policy implications that would result from a Commission approval. More specifically, it asked that the Commission clarify under which circumstances exceptions may be granted regarding the inclusion of programming services on the basic service and specify that the exceptions do not affect the appropriateness of the \$25 limit on the monthly cost of the basic service.
14. In its reply, Videotron indicated that it simply wished to exceed the maximum number of 10 stations that can be included on the basic service without diverging from the requirement to offer it at \$25 per month. Videotron submitted that PIAC's comment that some BDUs might request similar exceptions to favour their affiliated programming services did not apply to it, as evidenced by its programming grids.
15. Finally, Videotron indicated that the exceptions requested to the Regulations are in the public interest and are consistent with the objectives of the Act.

Commission's analysis and decisions

16. The Commission considers that Videotron clearly explained that the current basic service in each region is similar to the service required, with the exception of the television stations targeted by its applications. The choice of stations is therefore not random because it reflects Videotron's current offering. Moreover, as Videotron stated in its reply, the additional stations are not owned by Quebecor Media Inc., with the exception of TVA Montréal.
17. However, after examining the applications, the Commission considers that Videotron did not provide sufficiently compelling arguments to justify an exception to the Regulations as it relates to the composition of the basic service of its BDUs. Specifically, Videotron did not raise any technological issues other than the fact that a first-tier offering would place a burden on its computer systems (which would also be the case for all licensed BDUs).
18. In the Commission's view, a basic service comprising more than 10 stations could blur the distinction between the two types of offerings (basic service and first-tier offering). Even if Videotron stated that it would only offer one basic service because a first-tier offering would not represent added value for customers, the Commission considers that this is not a regulatory impediment.
19. Moreover, the Commission agrees with the PIAC that approval of the applications could encourage other BDUs to submit other similar applications, which would be contrary to the Commission's objective of establishing a small basic service for Canadians who may only want to choose a limited number of services.
20. In light all of the above, the Commission **denies** the applications by Quebecor Media Inc., on behalf of Videotron Ltd. and 9227-2590 Québec inc., partners in a general partnership carrying on business as Videotron G.P., for an exception to the Regulations to allow its terrestrial BDUs in Granby, Sherbrooke, Terrebonne, Montréal, Montréal (West) and Gatineau to continue including the licensed television stations set out in paragraph 4 as part of the basic service beyond 1 March 2016.

Secretary General

Related documents

- *Amendments to the Broadcasting Distribution Regulations to implement determinations in the Let's Talk TV proceeding*, Broadcasting Regulatory Policy CRTC 2015-514, 19 November 2015
- *Let's Talk TV – A World of Choice – A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015