



Broadcasting Decision CRTC 2020-222

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Reference: Part 1 application posted on 9 December 2019

Ottawa, 13 July 2020

St. Andrews Community Channel Inc.

Various locations in New Brunswick

Public record for this application: 2019-1114-9

Complaint by St. Andrews Community Channel Inc. alleging undue preference against Rogers Communications Canada Inc. regarding the distribution of CHCO-TV

*The Commission finds that by distributing its related services OMNI Regional, Citytv and Rogers TV across the province of New Brunswick, and CHCO-TV only in one part of New Brunswick, namely Charlotte County, Rogers Communications Canada Inc. (Rogers) is not conferring an undue preference upon itself. Accordingly, the Commission **dismisses** St. Andrews Community Channel Inc. – CHCO-TV (CHCO-TV)'s undue preference complaint regarding the distribution of its service by Rogers in New Brunswick.*

*Furthermore, the Commission also **dismisses** the complaint that Rogers is in non-compliance with the channel realignment notice requirement set out in section 15.3 of the Broadcasting Distribution Regulations, as alleged by CHCO-TV.*

Finally, the Commission reminds Rogers that altering or deleting the content of a programming service is prohibited. As such, the Commission could take regulatory action in the future, should it be provided with evidence of other instances of inappropriate alteration and deletion of content.

Parties

1. CHCO-TV is a low-power community-based television station originating in St. Andrews, New Brunswick. As a low-power station, it qualifies as a local television station in areas where it is available over-the-air (OTA) and therefore benefits from mandatory distribution in such serving areas.¹

¹ Pursuant to paragraph 17(1)(c) of the *Broadcasting Distribution Regulations* and to paragraph 6(a) of the *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, as set out in the Appendix to Broadcasting Regulatory Policy 2017-319 and Broadcasting Order 2017-320 (the BDU Exemption Order).

2. Rogers Communications Canada Inc. (Rogers) operates a number of broadcasting distribution undertakings (BDUs) in New Brunswick, both exempt² and licensed. Rogers offers television services on two different platforms:
 - Its traditional digital cable service; and
 - An Internet Protocol Television (IPTV) service marketed as Ignite TV (launched on 21 August 2019 in New Brunswick).
3. Rogers also operates six community channels, all branded as Rogers TV, on a zone-based model³ in New Brunswick.

Complaint

Undue preference

4. On 31 October 2019, St. Andrews Community Channel Inc. – CHCO-TV (CHCO-TV) filed an application alleging that Rogers is conferring an undue preference on itself by distributing its own community channel, Rogers TV, and its related conventional stations, Citytv and OMNI Regional, across New Brunswick, while limiting the distribution of CHCO-TV to Charlotte County.
5. CHCO-TV argued that, as the only locally-owned and operated television station in New Brunswick, the news, public affairs, and entertainment programming that it produces is just as important as the community programming produced by Rogers (and broadcast on Rogers TV) and more relevant to New Brunswick than the non-local content presented on Citytv or OMNI Regional, which have no transmitters in the province. More generally, CHCO-TV expressed the view that Rogers has made it unnecessarily difficult to run its community station by restricting CHCO-TV's programming to St. Andrews, while at the same time putting it in a competitive situation with Rogers TV for both sponsorships and TV Bingo.
6. CHCO-TV therefore requested that its station be distributed provincially throughout New Brunswick by Rogers.

² Pursuant to the BDU Exemption Order.

³ The zone-based approach recognizes individual communities that make up a specific community of interest (for example, a municipality, a regional county municipality, or a county). Zones may be comprised of both licensed and exempt BDUs, which are generally permitted to count local and access programming produced by one undertaking in the zone as local and access programming for all undertakings included within the zone. The Commission has generally approved the use of this approach where community channels serving very small licensed areas face significant difficulties in meeting local and access programming requirements. This approach can benefit BDUs by, among other things, allowing them to inform subscribers of activities and events in a community of interest and providing greater economies of scale.

Channel realignment

7. CHCO-TV also alleged that when Rogers launched its new IPTV platform, Ignite TV, in August 2019, it allocated channel 133 to CHCO-TV, while the service is distributed on channel 126 on Rogers' legacy digital cable platform. According to CHCO-TV, the fact that Rogers allocated a different channel to its service on the new IPTV platform without prior notification is contrary to section 15.3 of the *Broadcasting Distribution Regulations* (the Regulations).
8. CHCO-TV argued that placement on channel 126 was mutually agreed upon by both parties in 2017 at Rogers' licence renewal proceeding. It also claimed that the fact that its station is now distributed on different channels depending on the platform creates difficulties regarding the branding of CHCO-TV. For example, CHCO-TV explained that, for over a year, it has been branding its news "CHCO-TV NewsBreak26" and "News26", which mirrors its distribution on UHF (channel 26), Bell Fibe (channel 26) and Rogers traditional cable platform (channel 126).
9. CHCO-TV added that a change of branding would entail changes to business cards, print media, TV Bingo point-of-sale signage, and to channel placement information included on its website, which come at a major financial cost. CHCO-TV mentioned that it has not made such changes yet, hoping that the outcome of this complaint would allow it to be placed on channel 126 on Rogers' Ignite TV platform.
10. In light of the above, CHCO-TV requested that Rogers be required to distribute CHCO-TV on channel 126 on Rogers' Ignite TV platform.

Interruptions of service

11. CHCO-TV alleged that Rogers subjected CHCO-TV and its viewers to interruptions of service on 30 September 2019 and 8 December 2019.⁴ It argued that during the 30 September 2019 incident, Rogers Ignite TV subscribers trying to watch CHCO-TV received a "Please Stand By" message saying that the broadcaster was experiencing technical difficulties. CHCO-TV indicated that its signal was in fact provided to Rogers (as illustrated by the fact that there was no service interruption for CHCO-TV on Rogers' legacy digital cable platform), but that Rogers was experiencing technical difficulties with its Ignite TV platform.
12. CHCO-TV added that on 8 December 2019, during the broadcast of a telethon on CHCO-TV, Rogers substituted the signal of its own community channel, Rogers TV, over the signal of CHCO-TV on channel 133 of its Ignite TV platform. According to CHCO-TV, the problem persisted for 45 minutes after Rogers was notified of the

⁴ The description of the 8 December 2019 incident, during which CHCO-TV alleged that Rogers substituted its own community channel Rogers TV over the signal of CHCO-TV, was not part of the original complaint, but filed as additional information through a complementary letter sent by CHCO-TV on 10 December 2019, prior to the close of record. Commission staff was of the view that the information was relevant to the complaint and, by a letter dated 18 December 2019, extended the timeframe for Rogers and interested parties to comment.

situation and could have affected its ability to raise funds. CHCO-TV considers that by altering the content of its service, Rogers was in violation of section 7 of the Regulations.

13. CHCO-TV argued that both above-noted instances of interruption of service provided evidence that Rogers cannot monitor CHCO-TV from Toronto. It also added that the problems were signaled by viewers, as CHCO-TV itself does not have the resources to pay for multiple cable subscriptions in order to monitor the various service providers distributing its service.

Rogers' answer

Undue preference

14. Rogers submitted that there is no evidence that its distribution of Rogers TV and the conventional TV channels Citytv and OMNI Regional in New Brunswick constitutes an undue preference.
15. Rogers explained that its requirement to distribute CHCO-TV is limited to its BDU serving St. Andrews. This is due to the fact that as an exempt BDU that serves less than 2,000 subscribers, it is only required to carry local OTA stations, and CHCO-TV is a low-power OTA community television station which, based on the contours of the station, is only local in St. Andrews. Rogers added that while CHCO-TV is considered distant to the St. Stephen and St. George systems, Rogers made a voluntary commitment during its licence renewal proceeding in 2017 to expand CHCO-TV's distribution to include these two BDUs in Charlotte County. Rogers noted that it was recognized by the Commission at that time that this carriage was done voluntarily and was not a regulatory obligation.
16. Rogers argued that it offers its community channel, Rogers TV, in New Brunswick in accordance with a zone-based model that the Commission initially approved in 2006 and renewed as recently as 2018. Under the zone-based model, Rogers distributes community programming through distinct community channels serving six separate regions (or zones) in the province. Rogers stated that the community channel serving the Saint John zone is the one distributed in the Charlotte County systems and that its distribution of the Saint John channel is limited to the BDUs that make up the Saint John region. The same approach is taken with Rogers' other zone-based community channels distributed in New Brunswick, which are each only distributed in the region that it serves.
17. With respect to the distribution of OMNI Regional, Rogers explained that it distributes OMNI Regional as part of the basic service in New Brunswick pursuant to the mandatory distribution order issued by the Commission.
18. In regard to Citytv, Rogers noted that it includes Citytv as part of its basic service in New Brunswick to provide viewers with access to a conventional station that acquires national rights to popular programming that is of general interest to viewers across New Brunswick and throughout the rest of Canada. It added that this distribution is

consistent with the Regulations, which authorize BDUs to carry up to ten licensed television stations as part of the basic service, including conventional stations that may be distant to a given BDU.

Channel Realignment

19. Rogers noted that its systems in Charlotte County are exempt systems, and therefore are not subject to section 15.3 of the Regulations, which requires BDUs to provide notice to those affected before any channel realignment.
20. Additionally, Rogers argued that the launch of its new IPTV platform, Ignite TV, in New Brunswick on 21 August 2019 did not constitute a channel realignment, as evidenced by the fact that CHCO-TV continues to be made available on the same channel numbers on Rogers' digital cable platform in the Charlotte County Systems,⁵ in addition to being offered on channel 133 on the Ignite TV platform.
21. Rogers explained that channel 133 had to be allocated to CHCO-TV since the Ignite TV platform has a harmonized channel lineup above channel 100, meaning that a programming service is carried on the same channel number across all of Rogers' serving areas in Ontario, New Brunswick and Newfoundland. Rogers also argued that the importance of channel placement is decreasing in a digital environment and that, as such, claims of a negative impact on viewership due to the assignment of CHCO-TV to channel 133 on Ignite TV are greatly overstated. To support this claim, Rogers noted that Ignite TV subscribers unaware of the channel position of a specific service have access to a variety of methods to find it, including the traditional on-screen channel guide, where customers would see that CHCO-TV is on channel 133, just a few spots below channel 126; and a remote control with voice-activated search capabilities designed to make it very easy for someone to search for and tune to a specific programming service.
22. Rogers finally noted that CHCO-TV has yet to update its own website to advise its viewers of the availability of its service on channel 133 on Ignite TV, thereby opting to exclude any information about its Ignite TV channel position on its home page despite listing its channel location on the lineups of other television service providers. As such, Rogers considers that CHCO-TV is more interested in using this issue to justify its demand for broader distribution on Rogers.
23. Nonetheless, Rogers acknowledged that its failure to advise CHCO-TV of its position on the Ignite TV platform was an oversight and that it had mistakenly assumed it had notified all of the services that would be offered on a different channel on Ignite TV during an outreach it conducted in 2018 (prior to the launch of the platform in Ontario).

⁵ CHCO-TV is offered on channels 9 and 126 in St. Andrews and on channel 126 in St. Stephen and St. George.

Interruptions of service

24. With respect to the 30 September 2019 incident, Rogers indicated that a “technical difficulties” slate did replace the CHCO-TV signal while an internal investigation was conducted to identify the problem (which only impacted the Ignite TV platform and was ultimately resolved).
25. With respect to the 8 December 2019 incident, Rogers admitted that after discovering that there was a signal issue with CHCO-TV, a decision was made by a Rogers employee to assign a Rogers TV signal to channel 133 in the meantime. Rogers indicated that its staff member incorrectly assumed that since channel 133 is used to distribute community programming, Rogers TV should be placed on this channel as a backup signal. Rogers argued that this decision was not made in accordance with its internal troubleshooting process. Further, Rogers also acknowledged that, once becoming aware of this incident, it completed a full review of the process that should be followed to address a signal loss or impairment, which is to contact the affected broadcaster and to insert a “technical difficulties” slate on the impacted channel should the matter not be resolved within a reasonable timeframe.
26. Finally, with respect to CHCO-TV’s argument that Rogers “cannot actually monitor CHCO-TV in Toronto”, Rogers indicated that its Network Operations Centre proactively monitors all broadcast feeds, 24 hours a day. It explained that a signal loss or signal impairment triggers an alarm, which leads to an investigation and actions to restore the signal. To demonstrate the above, Rogers enumerated a number of instances (seven in total) that occurred in 2019, where Rogers was directly engaged with CHCO-TV to address signal loss and impairment issues, all of which appear to have originated with CHCO-TV.

Interventions

27. The Commission received 18 interventions from individuals and local organizations from New Brunswick supporting CHCO-TV’s complaint against Rogers, with most of them arguing that CHCO-TV provides important coverage of local events that is not offered by other broadcasters.
28. Some interveners referred to Rogers’ practices as “bullying tactics” and were of the view that, instead of aiming to limit the availability and the viewership of CHCO-TV, Rogers should be distributing CHCO-TV programming throughout all of New Brunswick, or even nationally.
29. One intervener highlighted the fact that, although she resides in an area that is adjacent to Charlotte County, she does not receive CHCO-TV through her Rogers subscription.

Commission’s analysis and decisions

Undue preference test

30. The Commission is required by the *Broadcasting Act* (the Act) to regulate and supervise all aspects of the Canadian broadcasting system with a view to

implementing the broadcasting policy set out in section 3(1) of the Act and having regard to the regulatory policy set out in section 3(2). The Act grants the Commission the authority to make regulations, in furtherance of its objects, pursuant to section 10(1).

31. In particular, the Commission may make regulations respecting for example, the carriage of programming services by distribution undertakings; for resolving disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings; and with respect to other matters as the Commission deems necessary for the furtherance of its objects, pursuant to sections 10(1) (g), (h), and (k) respectively.
32. Consistent with these powers, the Commission made section 9 of the BDU Regulations which provides that,
 - (1) No licensee shall give an undue preference to any person, including itself, or subject any person to an undue disadvantage.
 - (2) (...) the burden of establishing that any preference or disadvantage is not undue is on the licensee that gives the preference or subjects the person to the disadvantage.
33. When the Commission examines a complaint alleging an undue preference or an undue disadvantage, it must first determine whether there is a preference or disadvantage. The preference or disadvantage is generally defined as a dissimilar treatment of comparable entities.
34. If the Commission finds that a preference has been given or a person has been subjected to a disadvantage, it must then determine whether that preference or disadvantage is undue. Specifically, the Commission considers whether the preference or disadvantage has had, or is likely to have, a material adverse impact on the complainant or on any other person. It also considers the impact the preference or disadvantage has had, or is likely to have, on the achievement of the objectives set out in the Act.
35. Pursuant to section 17(1)(c) of the Regulations and consistent with the Community television policy,⁶ BDUs are required to distribute the programming service of a community-based low-power television station, such as CHCO-TV, to the subscribers of the distribution undertaking whose residence or other premises are located within the service area of that station. Rogers currently distributes the programming service of CHCO-TV to its subscribers who are located within the service area of the station, that being St. Andrews. Rogers also indicated in its reply that it voluntarily expanded the distribution of CHCO-TV to include two other BDUs in Charlotte County, both the St. Stephen and St. George systems, despite CHCO-TV being outside of those service areas. As such, the Commission considers that the current distribution of CHCO-TV by Rogers is compliant with this requirement.

⁶ See Appendix 2 to Broadcasting Regulatory Policy 2016-224 (the *Policy framework for local and community television*).

36. However, in the present case, CHCO-TV argued that Rogers was conferring an undue preference on itself by distributing its conventional stations, Citytv and OMNI Regional, and its own community channel, Rogers TV, across the province of New Brunswick, while limiting the distribution of CHCO-TV to Rogers' subscribers residing within Charlotte County.

Undue preference – Distribution of Citytv and OMNI Regional

37. With respect to Citytv, the Commission notes that its distribution is not mandatory in New Brunswick, as Rogers does not operate local stations in Atlantic Canada. However, its distribution as part of the basic service is permitted by section 17(6) of the Regulations, which allows terrestrial BDUs to include other, non-local Canadian OTA stations – for a maximum of ten OTA stations – in areas where fewer than ten local and regional stations are available. It is important to note that while this provision allows Rogers to carry other non-local Canadian OTA stations, it is not an obligation.

38. In order to constitute undue preference, there has to be dissimilar treatment of comparable entities. In the Commission's view, a community-based low-power television station such as CHCO-TV cannot be considered comparable to a conventional commercial station like Citytv. The Community television policy establishes that community-based low-power television undertakings should provide a high level of locally-produced, locally-reflective programming "that complements the programming provided by conventional television" and that they "should not replicate the programming offered by existing television services".⁷

39. Hyper-local programming such as that offered by CHCO-TV, while important to the communities served by the undertaking, is not comparable to conventional television, which generally targets a wider audience by producing general-interest programming and acquiring rights to popular content. As such, and consistent with its previous interpretations of undue preference,⁸ the Commission considers that the fact that Rogers does not distribute CHCO-TV in the same manner as it distributes Citytv does not constitute a preference, as these are not comparable entities.

40. The Commission considers that these conclusions are also valid for OMNI Regional, a national, multilingual multi-ethnic service, when compared to CHCO-TV. By its very specific nature of service, OMNI Regional cannot be considered to be comparable to CHCO-TV. Furthermore, OMNI Regional is required to be distributed by BDUs pursuant to Broadcasting Decision 2017-152 and Broadcasting Order 2017-153. As such, a failure to distribute it would put Rogers in a situation of non-compliance. Therefore, the Commission considers that by distributing OMNI Regional to all of its subscribers in New Brunswick, Rogers is not conferring an undue preference upon itself, but rather complying with regulatory requirements.

⁷ See Appendix 2 to Broadcasting Regulatory Policy 2016-224.

⁸ See, for example, Broadcasting Decisions 2016-38 and 2016-82.

Undue preference – Distribution of Rogers TV

41. With respect to CHCO-TV's allegation that Rogers' distribution of its own community channel, Rogers TV, across the province of New Brunswick constitutes undue preference, the Commission considers that, while BDU-operated community channels (such as Rogers TV) and community-based low-power television stations (such as CHCO-TV) operate under different sets of rules and obligations, they are comparable entities since they both need to fulfill the general objectives of the Community television policy, which are to:
- ensure the creation and exhibition of more locally produced, locally reflective community programming; and
 - foster a greater diversity of voices and alternative choices by facilitating new entrants at the local level.
42. As a result, they both produce a type of local programming that is not necessarily offered by conventional stations as well as provide opportunities for new voices to participate in the Canadian broadcasting system.
43. However, the Commission considers that CHCO-TV's assertion that Rogers distributes its own community channel, Rogers TV, across the province does not accurately portray the situation, as Rogers in fact distributes different community channels (all operated as Rogers TV) in different parts of New Brunswick.
44. As noted by Rogers in its response, it distributes community programming through distinct community channels serving six separate regions (or zones) in the province, which is compliant with the zone-based approach to community programming authorized by the Commission. Pursuant to this approach, the programming that is produced in a municipality located within a zone is considered local in all the areas included within the zone.
45. So while Rogers may seem to be distributing Rogers TV across the province, the distribution of each of the six specific Rogers TV channels is in fact limited to the area where the channel is considered local. Accordingly, the Commission considers that Rogers distributes both CHCO-TV and Rogers TV in a comparable manner, i.e. in areas where the service is considered local and that such distribution cannot be considered a dissimilar treatment.
46. In light of the above, the Commission **dismisses** CHCO-TV's undue preference complaint regarding the distribution of its service in New Brunswick.

Channel Realignment

47. Consistent with the Commission's powers to create regulations related to channel realignment, pursuant to sections 10(1) (g), (h), and (k) of the Act, the Commission also created section 15.3 of the Regulations, which sets out a notice requirement for licensed BDUs before any channel realignment may occur: A licensee shall not

realign the channel number on which a Canadian programming service is distributed unless, at least 60 days before the proposed effective date of the realignment, the licensee sends a written notice indicating the intended date of the realignment and the channel number on which the programming service will be distributed to each of the operators of the programming services whose channel placements will be affected by the channel realignment.

48. As an exempt BDU in St. Andrews, St. Stephen and St. George, Rogers is not subject to the Regulations in those areas and, therefore, is not subject to the channel realignment notice requirement set out in section 15.3 of the Regulations. There is no equivalent notice requirement in the BDU Exemption Order.
49. As such, Rogers cannot be found in non-compliance with section 15.3 of the Regulations for failing to have provided notice to CHCO-TV, located in St. Andrews, of a channel realignment.
50. Furthermore, the Commission does not consider that placing a programming service on a different channel on a new platform constitutes “channel realignment”. While the notice requirement for realignment may help minimize disruption and/or confusion for subscribers that make no changes to the service they subscribe to (by allowing the programming service with sufficient time to inform its viewers of the imminent change), subscribers switching to a new platform are more likely to expect some form of change or disruption. Thus, even if section 15.3 of the Regulations was applicable in the current context, the programming service offered by CHCO-TV was still being distributed on channel 126 on Rogers’ digital cable platform.
51. Even if section 15.3 of the Regulations or an equivalent provision in the BDU Exemption Order did apply, the Commission considers that the proposed remedy sought by CHCO-TV, i.e. to mandate the station be offered on channel 126 on Rogers’ Ignite TV, goes beyond the requirement to provide notice from the BDU prior to a channel realignment. In particular, this provision only requires notice and does not afford the programming service with an opportunity to deny or negotiate such a realignment. Requiring Rogers to distribute CHCO-TV on a specific channel (channel 126) on its Ignite TV platform would not be consistent with the Commission’s general approach,⁹ which is that channel placement issues should be the subject of negotiation between the parties concerned and that, generally, the Commission would not be prepared to apply its dispute resolution powers in matters that were essentially commercial in nature.
52. Based on this approach, the Commission has generally refrained from regulating channel placement. Where the Commission has intervened in channel placement related disputes, it has looked at the issue through the lens of “channel

⁹ This approach was first established in Public Notice 1996-60 and reiterated in Broadcasting Decision 2004-188.

neighbourhood”, i.e. the grouping of like channels in close proximity to one another,¹⁰ rather than imposing a specific channel placement.

53. In the present case, by being placed a few channels away from its original channel (from 126 to 133), CHCO-TV remains in the same general channel neighbourhood.
54. The Commission’s general approach not to regulate specific channel placement is even more valid today, in light of the various tools available for subscribers to find a specific channel – including Ignite TV’s remote control with voice-activated search capabilities – and of the various means of communications at the disposal of programming services to communicate with viewers.
55. In light of the above, the Commission **dismisses** the complaint that Rogers’ is in non-compliance with section 15.3 of the Regulations.
56. However, the Commission encourages all parties involved in a commercial relationship to efficiently communicate information that is likely to have an impact on one another, even in the absence of a requirement to notify of upcoming changes.

Interruptions of service

57. Pursuant to section 9(4) of the Act, the Commission can, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of Part II of the Act or of a regulation made thereunder, where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy.
58. Pursuant to this power, the Commission created the BDU Exemption Order, which permits BDUs serving less than 20,000 subscribers to operate under specific terms that are set out in Broadcasting Regulatory Policy 2017-319 and Broadcasting Order 2017-320.
59. Section 11 of the BDU Exemption Order prohibits a BDU from altering or deleting the content or format of a programming service in a licenced area in the course of its distribution, except under certain specific circumstances.¹¹ Section 7 of the

¹⁰ For example, in Broadcasting Regulatory Policy 2013-734, the Commission expressed an expectation that if a BDU elects to place some Category C national news services on channels in close proximity to one another, all Category C national news specialty services be grouped in such a manner. On another occasion, in Broadcasting Decision 2008-299, the Commission concluded that placing a mainstream discretionary programming service (OUTtv) on a channel adjacent to adult channels disadvantaged the mainstream service.

¹¹ Such exceptions include, for example, alteration in order to comply with the *Canada Elections Act* or with an order of a court, insertion of a warning to the public announcing imminent danger, execution of simultaneous substitution, etc.

Regulations, which was made pursuant to sections 10(1)(g) and (k) of the Act, also sets out the same prohibition.

60. CHCO-TV stated that its station has been subjected to interruptions of service on two separate occasions (30 September 2019 and 8 December 2019) and that these incidents provided evidence that Rogers cannot monitor CHCO-TV from Toronto.
61. While it is understandable that two interruptions in a time frame of just over two months may be frustrating for a programming service, CHCO-TV has not demonstrated that there is a systemic problem with the provision of its service by Rogers. On the contrary, by providing a list of seven instances that occurred in 2019 where Rogers was directly engaged with CHCO-TV to address signal loss, the Commission finds that Rogers has demonstrated that it was involved in the monitoring of the service and in the search of solutions when necessary. For the seven instances of signal loss noted by Rogers in its answer, CHCO-TV did not deny that such interruptions of service occurred or Rogers' assertion that they appeared to have originated with CHCO-TV.
62. The Commission notes that, while the insertion of a "Please Stand By / Technical Difficulties" slate may be an acceptable practice, the 8 December 2019 incident, during which Rogers inserted a different programming service (its own community channel, Rogers TV) over the signal of the original station (CHCO-TV) constitutes an alteration of a programming service, which is prohibited by section 7 of the Regulations and section 11 of the BDU Exemption Order, for which a valid exception did not apply.
63. However, the Commission acknowledges that the 8 December 2019 insertion appears to be an isolated incident that was rectified relatively quickly by Rogers and that Rogers undertook steps to ensure that such incident will not be repeated in the future. Accordingly, the Commission reminds Rogers that it is prohibited to alter or delete the content of a programming service. Should the Commission receive evidence of other instances of unauthorized alteration and deletion of content, it could take further regulatory action.

Secretary General

Related documents

- *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2017-319 and Broadcasting Order CRTC 2017-320, 31 August 2017
- *OMNI Regional – National, multilingual multi-ethnic discretionary service*, Broadcasting Decision CRTC 2017-152 and Broadcasting Order CRTC 2017-153, 15 May 2017
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016

- *Complaint against Videotron G.P. concerning the distribution of the Category B service Avis de Recherche*, Broadcasting Decision CRTC 2016-82, 3 March 2016
- *Complaint against Bell Canada concerning the distribution of the Category B service Avis de Recherche*, Broadcasting Decision CRTC 2016-38, 4 February 2016
- *Distribution of Canadian Category C national news specialty services*, Broadcasting Regulatory Policy CRTC 2013-734, 19 December 2013
- *Complaint by 6166954 Canada Inc., licensee of OUTtv, against Shaw Cablesystems Ltd. pursuant to section 9 of the Broadcasting Distribution Regulations*, Broadcasting Decision CRTC 2008-299, 4 November 2008
- *Complaint by CTV Television Inc. alleging that Rogers Cable Communications Inc. contravened section 9 of the Broadcasting Distribution Regulations*, Broadcasting Decision CRTC 2004-188, 20 May 2004
- *Access Rules for Broadcasting Distribution Undertakings*, Public Notice CRTC 1996-60, 26 April 1996