



Broadcasting Public Notice CRTC 2005-102

Ottawa, 16 November 2005

*The Commission has received the following applications. The deadline for submission of interventions/comments is **21 December 2005**.*

Item Applicant and Locality

1. **Rogers Cable Communications Inc.**

Barrie, Bolton, Camp Borden, Collingwood, Keswick, Kitchener, London, Newmarket, Orangeville, Orillia, Oshawa, Ottawa, Owen Sound, Pickering, Richmond Hill, St. Thomas, Tillsonburg, Toronto (5 licences) and Woodstock, Ontario; St. John's, Newfoundland and Labrador; Allardville, Bathurst, Bouctouche, Browns Flat, Burtts Corner, Campbellton, Caraquet, Caron Brook, Centre Napan, Centre-Acadie, Chatham, Clair, Dalhousie, Davis Mill, Edmundston, Fredericton, Grand Falls, Harvey, Highway 505, Jacquet River, Keatings Corner, Lac Baker, Ludford Subdivision, McAdam, Moncton, Morrisdale, Musquash Subdivision, Nasonworth, Noonan, Patterson, Petitcodiac, Richibucto, Rogersville, Saint-John, Saint-Ignace, Salmon Beach, Shediac, Shippagan, St-Antoine, St-Joseph-de-Madawaska, Ste-Anne-de-Kent, Ste-Marie-de-Kent, Sussex, Tracadie, Tracy, Welsford and Willowgrove, New Brunswick.

2. **Shaw Communications Inc.**

Shaw Cablesystems (SBC) Ltd.

New Westminster and Whiterock, British Columbia

Shaw Cablesystems (SSK) Limited

Prince Albert and Saskatoon, Saskatchewan

Prairie Co-Ax T.V. Limited

Moose Jaw, Saskatchewan

Videon Cablesystems Inc.

Edmonton, High River, Okotoks, Headingley, Selkirk and Winnipeg, Manitoba

Shaw Cablesystems Limited

Agassiz, Burnaby, Castlegar, Chilliwack, Coquitlam, Courtenay, Cranbrook, Creston, Duncan, Invermere, Kamloops, Kelowna, Langford, Lions Bay, Nanaimo, Nanoose Bay, Parksville, Penticton, Port Alberni, Prince George, Saanich, Vancouver (2 licences), Vernon and Victoria, British Columbia; Calgary, Edmonton, Fort McMurray, Lethbridge, Medicine Hat and Red Deer, Alberta; Sault Ste. Marie and Thunder Bay, Ontario

Shaw Cablesystems (SMB) Limited
Winnipeg, Manitoba

1. **Barrie, Bolton, Camp Borden, Collingwood, Keswick, Kitchener, London, Newmarket, Orangeville, Orillia, Oshawa, Ottawa, Owen Sound, Pickering, Richmond Hill, St. Thomas, Tillsonburg, Toronto (5 licences) and Woodstock, Ontario; St. John's, Newfoundland and Labrador; Allardville, Bathurst, Bouctouche, Browns Flat, Burtts Corner, Campbellton, Carquet, Caron Brook, Centre Napan, Centre-Acadie, Chatham, Clair, Dalhousie, Davis Mill, Edmundston, Fredericton, Grand Falls, Harvey, Highway 505, Jacquet River, Keatings Corner, Lac Baker, Ludford Subdivision, McAdam, Moncton, Morrisdale, Musquash Subdivision, Nasonworth, Noonan, Patterson, Petitcodiac, Richibucto, Rogersville, Saint-John, Saint-Ignace, Salmon Beach, Shediac, Shippagan, St-Antoine, St-Joseph-de-Madawaska, Ste-Anne-de-Kent, Ste-Marie-de-Kent, Sussex, Tracadie, Tracy, Welsford and Willowgrove, New Brunswick.**

Application No. 2005-1195-8

Application by **Rogers Cable Communications Inc.** (Rogers) to amend the licences of its cable broadcasting distribution undertakings serving the above-noted localities.

The licensee proposes to replace the condition of licence relating to the use of local availabilities, which reads:

The licensee may, at its option, insert certain promotional material as a substitute for the "local availabilities" (i.e. non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25% of the commercial availabilities may be made available for the promotion of discretionary programming services and packages, customer service information, channel realignments, cable FM service and additional cable outlets.

with the following condition:

The licensee may, at its option, insert certain promotional material as a substitute for the "local availabilities" (i.e. non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25% of the local availabilities may be made available for the promotion of discretionary

programming services and packages, customer service information, channel realignments, cable FM service, additional cable outlets **and to promote non-programming services, such as Internet and local telephony.**
[emphasis added]

Rogers submitted that this proposed change to its conditions of licence will improve its ability to compete in the current communications market.

The Commission notes that it recently issued Broadcasting Public Notice CRTC 2005-88 in which it rejected a request by the Canadian Cable Telecommunications Association (CCTA) to permit the use of local availabilities for commercial advertising. In addition, the CCTA had also requested that broadcasting distribution undertaking be permitted to use local availabilities to promote non-programming services in a manner similar to that proposed by the licensee in this application. The Commission rejected the CCTA proposal in that context and considered that the CCTA had failed “to make a compelling case under the Act to justify the use by cable BDUs of local availabilities ... for the promotion of telephony or other non-programming services.” Parties may wish to refer to Broadcasting Public Notice CRTC 2005-88 in formulating their comments in this proceeding.

Licensee's address:

Rogers Cable Communications Inc.
333 Bloor Street East
9th Floor
Toronto, Ontario
M4W 1G9
Fax: (416) 935-4875
E-Mail: cable.regulatory@rci.rogers.com

Examination of application:

At the licensee's address

[\[Broadcasting intervention/comments form\]](#)

2. **Shaw Cablesystems (SBC) Ltd.**
New Westminster and Whiterock, British Columbia

Shaw Cablesystems (SSK) Limited
Prince Albert and Saskatoon, Saskatchewan

Prairie Co-Ax T.V. Limited
Moose Jaw, Saskatchewan

Videon Cablesystems Inc.

Edmonton, High River, Okotoks, Headingley, Selkirk and Winnipeg, Manitoba

Shaw Cablesystems Limited

Agassiz, Burnaby, Castlegar, Chilliwack, Coquitlam, Courtenay, Cranbrook, Creston, Duncan, Invermere, Kamloops, Kelowna, Langford, Lions Bay, Nanaimo, Nanoose Bay, Parksville, Penticton, Port Alberni, Prince George, Saanich, Vancouver (2 licences), Vernon and Victoria, British Columbia; Calgary, Edmonton, Fort McMurray, Lethbridge, Medicine Hat and Red Deer, Alberta; Sault Ste. Marie and Thunder Bay, Ontario

Shaw Cablesystems (SMB) Limited

Winnipeg, Manitoba

Application No. 2005-0951-5

Application by **Shaw Communications Inc.** (Shaw), on behalf of its wholly owned subsidiaries mentioned above, to amend the licences of the cable distribution undertakings serving the above mentioned localities.

Shaw proposes to replace the condition of licence relating to the use of local availabilities, which reads:

The licensee may, at its option, insert certain promotional material as a substitute for the "local availabilities" (i.e. non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25% of the commercial availabilities may be made available for the promotion of discretionary programming services and packages, customer service information, channel realignments, cable FM service and additional cable outlets.

with the following condition:

The licensee may, at its option, insert certain promotional material as a substitute for the "local availabilities" (i.e. non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25% of the local availabilities may be used to promote cable services related to programming, such as discretionary programming packages or cable FM services, to provide customer service information, **and to promote non-programming services, such as Internet and local telephony.** [emphasis added]

Shaw submitted that the market circumstances in which it operates have changed since

the establishment of the local availabilities policy in Decision CRTC 95-12, in which the Commission approved an application by Rogers Cable TV Limited for the insertion of certain promotional material in the local availabilities. Shaw argued that the licences of its wholly-owned cable subsidiaries should be modified to reflect the new market circumstances.

The Commission notes that Broadcasting Public Notice CRTC 2005-88 was issued 9 September 2005, after the Shaw application was received by the Commission. In that public notice, the Commission rejected a request by the Canadian Cable Telecommunications Association (CCTA) to permit cable broadcasting distribution undertakings (BDUs) to use the local availabilities for the insertion of commercial advertising. In addition, the Commission rejected the CCTA request to permit messages promoting BDU and BDU-affiliate non-programming services, including telephony services in the 25% of the local availabilities made available for the promotion of affiliated programming services and customer service information. The Commission considered that the CCTA had failed “to make a compelling case under the Act to justify the use by cable BDUs of local availabilities, as contained in the U.S. satellite programming services, for the promotion of telephony or other non-programming services.” Parties may wish to refer to Broadcasting Public Notice CRTC 2005-88 in formulating their comments in this proceeding.

Licensee's address:

Shaw Communications Inc.
630-3rd Avenue South West
Suite 900
Calgary, Alberta
T2P 4L4
Fax: (403) 750-4501

Examination of application:

At the licensee's address

[\[Broadcasting intervention/comments form\]](#)

Public Participation

Deadline for Interventions/Comments

21 December 2005

The intervention must be received by the CRTC and by the applicant on or before the above-mentioned date. The Commission cannot be held responsible for postal delays.

Your intervention will be considered by the Commission, and will form part of the public record of the proceeding without further notification to you, provided the procedure set out below has been followed. You will be contacted only if your submission raises procedural questions.

Submit your written intervention to the Secretary General of the Commission in **only one** of the following formats:

by using the
Broadcasting Intervention/Comments Form
located below the description of each application within this public notice

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
(819) 994-0218

A true copy must be sent to the applicant and proof that this has been done must accompany the intervention sent to the Commission.

The Commission advises those who file and serve by electronic mode to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.

Before initiating service through electronic mode, please ensure that you will be able to satisfy the Commission, upon request, that service of the notification was completed.

Where the intervention is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Each paragraph of the document should be numbered.

Your intervention should clearly identify the application and indicate whether you support or oppose the application, or if you propose changes to it, include the facts and grounds for your proposal.

Important

All information submitted, including your email address, name and any other personal information as provided, will become part of the public record and can be viewed on the Commission's Web site.

Documents sent in electronic format will be put on the Commission's Web site exactly as we received them, and in the official language and format in which they are sent. Documents not received electronically will be scanned and put on the Web site.

Examination of Documents

An electronic version of applications is available from the Commission's web site by selecting the application number within this notice.

A list of all interventions/comments will also be available on the Commission's Web site. An electronic version of all interventions/comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's Web site.

Documents are also available during normal office hours at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications or, upon request, within 2 working days, at any other CRTC offices and documentation centres.

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Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
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Vancouver, British Columbia V6C 3B6
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FAX: (604) 666-8322

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site:

<http://www.crtc.gc.ca>