



Broadcasting Decision CRTC 2007-161

Ottawa, 1 June 2007

Cogeco Cable Canada Inc., on its own behalf and on behalf of its subsidiary Cogeco Câble Québec inc.

Various locations in Ontario and Quebec

Application 2007-0190-6, received 5 February 2007

Broadcasting Public Notice CRTC 2007-31

26 March 2007

Distribution of satellite subscription radio services

*The Commission **approves** an application by Cogeco Cable Canada Inc., on its own behalf and on behalf of its subsidiary Cogeco Câble Québec inc., to amend the broadcasting licences for its cable broadcasting distribution undertakings serving various locations in Ontario and Quebec, in order to add a **condition of licence** authorizing the licensee to distribute, at its option, the audio programming service of one or more licensed satellite subscription radio undertakings on a digital basis.*

The application

1. The Commission received an application by Cogeco Cable Canada Inc., on its own behalf and on behalf of its subsidiary Cogeco Câble Québec inc. (collectively Cogeco), to amend the broadcasting licences for its Class 3 Ontario (individual) and its Class 2 and Class 3 Quebec (regional) cable broadcasting distribution undertakings (BDUs) serving various locations in Ontario and Quebec. The licensee requested that it be authorized, by condition of licence, to distribute, at its option, the audio programming service of one or more licensed satellite subscription radio (SSR) undertakings on a digital basis.
2. The Commission did not receive any interventions in connection with this application.

Commission's analysis and determinations

3. In *Distribution of satellite subscription radio services*, Broadcasting Decision CRTC 2006-650, 28 November 2006 (Decision 2006-650), the Commission approved, subject to specific provisions, an application by Rogers Cable Communications Inc. (Rogers) to distribute one or more licensed SSR services on a digital basis on its BDUs serving various locations in Ontario, New Brunswick, and Newfoundland and Labrador.
4. The Commission notes that Cogeco's BDUs operate under similar circumstances as those of Rogers. The Commission also notes that, in *Distribution of satellite subscription radio services*, Broadcasting Decision CRTC 2007-64, 15 February 2007, it also approved the addition of this condition of licence to Cogeco's Class 1

individual cable distribution undertaking licences serving various locations in Ontario as well as its Class 1 regional licence for its cable distribution undertakings serving various locations in Quebec. The Commission concludes that, consistent with Decision 2006-650 and 2007-64, it is appropriate to authorize Cogeco to distribute the SSR services on a digital basis subject to the same provisions as imposed on Rogers. The Commission finds that it is appropriate to authorize Cogeco to distribute SSR services, under provisions in respect of such distribution that will place those services on a relatively equal competitive footing with pay audio services, which are subject to a linkage ratio of one Canadian service to one non-Canadian service. The Commission further finds it appropriate that the applicable provisions offer some incentive to distributors to continue to distribute pay audio services, as well as the SSR services. In this way, both subscribers and the Canadian broadcasting system can potentially benefit from a greater diversity in audio services. At the same time, the use of Canadian creative and other resources in the provision of audio programming on BDUs can be maximized.

5. The Commission is imposing a **condition** on each licence, as set out below, specifying that conventional radio signals, with the exception of those required under section 22 of the *Broadcasting Distribution Regulations* (the Regulations),¹ may not be used to fulfil the preponderance requirement set out in section 6(2) of the Regulations, unless a subscriber is already receiving at least 40 channels of pay audio.² The Canadian-produced channels of the SSR service being distributed may also be used to fulfil the requirements set out in section 6(2) of the Regulations; that is, the Canadian-produced channels of the SSR service being distributed will be considered Canadian programming services for the purposes of section 6(2) of the Regulations.
6. In light of the above, the Commission **approves**, with the provisions described above, the application by Cogeco Cable Canada Inc., on its own behalf and on behalf of its subsidiary Cogeco Câble Québec inc. to amend the broadcasting licences for its Class 3 Ontario (individual) and its Class 2 and Class 3 Quebec (regional) cable BDUs serving various locations in Ontario and Quebec, in order to add the following **condition** to each licence:

The licensee is authorized to distribute, at its option, the audio programming service of any licensed satellite subscription radio undertaking on a digital basis. The distribution of satellite subscription radio signals is subject to the following provisions:

¹ Under section 22 of the Regulations, broadcasting distribution undertakings must distribute local community, campus and native radio programming undertakings as well as at least one Canadian Broadcasting Corporation radio programming undertaking operating in English and one operating in French.

² The Commission notes that the requirement set out in section 6(2) of the Regulations applies to each of analog and digital technology, as well as to audio and video channels, separately. Thus, conventional radio stations, whether or not they must be distributed pursuant to section 22 of the Regulations, can only be taken into account for these purposes if they are distributed on a digital basis.

- (i) Subject to the exception outlined in (ii), the licensee may not count the signals of conventional radio programming undertakings for the purpose of fulfilling the preponderance requirement set out in section 6(2) of the *Broadcasting Distribution Regulations* (the Regulations) unless a subscriber is already receiving at least 40 channels of one or more licensed pay audio programming undertakings.
- (ii) A licensee is entitled to count the signals of conventional radio programming undertakings that a licensee is required to distribute under section 22 of the Regulations for the purpose of fulfilling the preponderance requirement set out in section 6(2) of the Regulations.
- (iii) The Canadian-produced channels offered by the satellite subscription radio undertaking are deemed to be “Canadian programming services” for the purposes of section 6(2) of the Regulations.

Secretary General

This decision is to be appended to each licence. It 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>