

**SPECIAL STUDY REPORT**  
**CANADIAN RADIO-TELEVISION AND**  
**TELECOMMUNICATIONS COMMISSION**  
**AND CABLE BROADCASTING**

**DECEMBER 1996**

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**PART A. FEATURES OF THE SPECIAL STUDY**

1. INTRODUCTION

When Réseau de l'information (RDI), a 24-hour French-language news network administered by the Canadian Broadcasting Corporation (CBC), began operating in January 1995 and cable companies changed the channel line-up, the Office of the Commissioner of Official Languages received 28 complaints on a variety of subjects. For the purposes of this special study, we divided the complaints into five categories; some complaints were placed in more than one category because they dealt with several issues. The five categories are summarized as follows:

1. *Residents of several communities in southern Ontario and Whitehorse, Yukon, claim that they get Newsworld but not RDI. There are 10 complaints about this situation (Our Ref.: 1813-94-C7, 0002-95-C7, 0003-95-C7, 0079-95-C7, 0125-95-C7, 0134-95-C7, 0227-95-C7, 0356-95-C7, 0539-95-C7 and 0748-95-C7).*
2. *In Quebec City, Newsworld is carried on a discretionary tier, whereas RDI is part of basic cable; this means it costs more to get the English-language network. We received one complaint about this situation (Our Ref.: 1745-94-C7).*
3. *In several communities in British Columbia and Unionville, Ontario, RDI is on a channel higher than 50, which means that consumers with a technically limited converter are unable to get RDI. On the other hand, Newsworld is on a channel below 50. There were two complaints about this situation (Our Ref.: 0254-95-C7 and 1785-95-C7).*

4. *In Ottawa and southwestern Ontario, a number of cable companies pulled some French-language specialty services from the line-up or moved them from basic cable to a discretionary tier, and others do not carry some of the channels. We received nine complaints about these situations (Our Ref.: 1756-94-C7, 1769-94-C7, 1771-94-C7, 1772-94-C7, 1776-94-C7, 1813-94-C7, 0002-95-C7, 0003-95-C7 and 0134-95-C7).*
5. *Residents of Gatineau in Quebec and of Ottawa and Toronto in Ontario claim that the English and French channels of the Cable Parliamentary Channel (CPAC) broadcast public affairs programs in the other official language with no simultaneous interpretation. Further, a resident of Mississauga, Ontario, claims that he does not have access to the French CPAC channel, while a resident of Barrie, Ontario, claims that he cannot get the CPAC channel that broadcasts in the original language. There were nine complaints about these situations (Our Ref.: 1551-94-C7, 0091-95-C7, 0306-95-C7, 0307-95-C7, 0308-95-C7, 0311-95-C7, 0333-95-C7, 0595-95-C7 and 0138-96-C7).*

Since we began our study, the situation has improved in certain regions of the country such that some minority-language communities now have access to a greater number of programs in their language. All the same, a review of the complaints was deemed necessary. All the complaints were reviewed in light of the obligations of the Canadian Radio-television and Telecommunications Commission (CRTC), the federal agency responsible for regulating Canada's broadcasting system. We also looked at the complaints involving RDI and Newsworld in light of the obligations of the CBC, the federal institution of which they are part.

We thank the representatives of the CRTC, CBC, RDI, Newsworld and CPAC who offered their co-operation throughout this study.

## 2. RELEVANT LEGISLATIVE PROVISIONS

Section 58 of the Official Languages Act (OLA) requires the Commissioner to investigate any complaint that, in any particular case, the status of an official language was not or is not being recognized, any provision of any Act of Parliament or regulation relating to the status

or use of the official languages, or the spirit and intent of the OLA, was not or is not being complied with.

A number of provisions in the Broadcasting Act refer to the concept of linguistic duality and the status of English and French, the following among them.

3.(1)(b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty;

3.(1)(c) English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;

3.(1)(k) a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available;

3.(1)(m) the programming provided by the Corporation should:

iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities, ...

vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose,

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;

46.(4) In planning extensions of broadcasting services, the Corporation shall have regard to the principles and purposes of the *Official Languages Act*.

For the purposes of interpretation of subsection 46(4) and our study, the principles and purposes of the OLA that may apply to broadcasting should be examined. Those principles and purposes are:

- to ensure respect for English and French and that the two languages have equality of status and equal rights and privileges as to their use in federal institutions, particularly with regard to communications with and services to the public; and
- to enhance the vitality of the English and French linguistic minority communities in Canada and support and assist their development, and to foster the full recognition and use of both English and French in Canadian society.

Taking into account the right of members of the public to be served in their preferred language and the important role access to television in their own language plays in supporting and assisting the development of linguistic minority communities, we conducted a special study to determine the extent to which CRTC regulations, directives and policies and the conditions of licence to which RDI and Newsworld are subject enable the CRTC to respect the principles and purposes of the OLA. We also looked at how the CBC meets its obligations in this regard.

### 3. PURPOSE

The purpose of the study was to determine the extent to which:

1. the distribution of RDI and Newsworld respects the right of members of the public to be served in their preferred language and the principles and purposes of the OLA; and



2. the CBC and the CRTC meet their obligations to enhance the vitality and support and assist the development of the English and French minority communities and foster the full recognition and use of English and French in Canadian society.

4. METHODOLOGY

We set out to gather evidence that would indicate whether the CBC and the CRTC were or were not meeting the objectives of the OLA. Our approach was to review the Broadcasting Act, broadcasting licences issued by the CRTC to RDI, Newsworld, CPAC and others, as well as various CRTC notices, regulations and policies. We also met with officials of the CBC, RDI, Newsworld, the CRTC and CPAC. In addition, we contacted the cable companies in the regions in which the complaints originated in order to verify the complainants' allegations. Finally, we consulted the Fédération des communautés francophones et acadiennes du Canada (FCFA), which represents French-speaking minority communities across Canada.

5. GENERAL CONTEXT

We thought it would be appropriate to begin with a brief overview of the broadcasting industry.

The cable system offers consumers a wide array of television channels. The system is operated by private undertakings known as cable companies or cable operators; there are 2,082 cable companies in Canada. Almost 7.7 million of the 10 million homes in Canada have cable. There are also half a million commercial subscribers to cable, bringing the total number of subscribers to close to 8.2 million<sup>1</sup>. Access to cable is most restricted in rural areas.

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<sup>1</sup> Mediastats' Report on Pay and Specialty Services, August 1996.

Cable television is regulated by the CRTC, whose role includes granting licences to cable companies, television networks and stations as well as to specialty channels which focus on a particular area such as news, music or sports. Under the regulations, cable companies are required to include specific television networks and stations in their line-up. They do, however, have some leeway in packaging the channels they make available to consumers, because only in a few instances does the CRTC stipulate which licensed networks and stations are to be carried. The programming available to consumers therefore varies from one cable company to the next.

Many cable companies offer two types of service: basic and discretionary. These are defined as follows:

basic service: programming services distributed as a package and composed of the services the distribution of which is required by the CRTC and any other services chosen by the cable company for a basic monthly fee;

discretionary service: programming services that are not included in the basic service and that are distributed to subscribers on a discretionary basis for a fee separate from and in addition to the basic monthly fee.

In a number of regions of the country, consumers have no alternative to the packages of services offered by the cable company that serves their region. Some cable companies face competition from operators of community antenna television systems who distribute programs to residents of apartment buildings. Cable companies will also shortly have competition from three new direct-to-home satellite distribution companies and a regional multipoint distribution company which have obtained licences from the CRTC. We refer the reader to Part D.1 of this report for further information in this regard.

## **PART B. CBC SPECIALTY SERVICES**

The CBC, Canada's public broadcaster, produces and distributes television and radio programming in English and French. It operates four different television networks; we shall refer to two of these networks as the primary service and the other two as specialty services. The primary service comprises two networks - one English, one French - and is available to all Canadians. They are transmitted by microwave and landline and can be received directly, that is, without cable. The specialty services are 24-hour English and French news networks called Newsworld and RDI respectively; the specialty networks are transmitted by satellite and by cable.

In 1987, the CRTC granted the CBC a broadcasting licence to operate Newsworld. In 1994, it granted the corporation another licence to operate a similar French-language service called RDI (Réseau de l'information); RDI went into operation on January 1, 1995.

Under CRTC regulations, the CBC's two 24-hour news networks are considered specialty services. This means they are available to the public through cable. Both networks are subject to conditions set out in their licences.

### **1. RDI'S CONDITIONS OF LICENCE**

RDI's licence states that the network is a specialty service and must therefore be made available to cable companies on a dual-status basis and in accordance with the rules on distribution and linkage. Let us look at these rules individually.

#### **i) What is dual status?**

Dual status means that specialty services must be carried on basic cable unless the programming service licensee (RDI, for example) agrees to have its service carried on a discretionary tier.

An internal CBC policy states as a principle that RDI and Newsworld must be available on the basic service in majority-language markets. In minority-language markets, they will be carried on a high-penetration discretionary tier. According to the CRTC, a market is considered a Francophone market when the population whose mother tongue is French makes up more than 50% of the total population served by the cable company. An Anglophone market is similarly defined.

ii) What are the rules on distribution and linkage?

The linkage rules that came into effect on January 1, 1995, state that cable companies must offer one Canadian service for every additional foreign service they carry.

The rules on distribution and linkage may make RDI an attractive service for cable companies because of its low rate in Anglophone markets (see next paragraph) and because an additional foreign service attractive to subscribers can then be offered.

iii) Rates

The CRTC approved wholesale monthly rates for RDI of \$0.90 and \$0.10 in French- and English-language markets respectively. The Commission approved rates for Newsworld of \$0.55 and \$0.15 in English- and French-language markets respectively. In both cases, the approved rates are the maximum that can be charged when the service is carried on basic, as the CRTC does not regulate the rates for services other than those carried on basic.

2. WHY IS DISTRIBUTION OF RDI NOT MANDATORY?

In its licence application to the CRTC, the CBC did not ask for mandatory distribution of RDI. It did this for a number of reasons. First, RDI, like Newsworld, is not subsidized by the federal government, in contrast to other CBC services. Because most of its revenue comes from cable subscribers, RDI felt it had to operate under free market rules, just as its

competitors do. Second, RDI said it was confident that it would reach the greatest possible number of Francophone households outside Quebec without mandatory distribution being required. It said it was putting forward a major marketing strategy that included the following features:

- attractive programming at a low rate;
- high demand among Francophones;
- a service reflecting one of Canada's linguistic communities to the other; and
- linkage rules that came into effect in January 1995 allow cable operators distributing RDI to offer an additional foreign service attractive to subscribers.

The CBC said that should it fail to reach distribution agreements that would ensure significant penetration for RDI outside Quebec, it would apply to the CRTC to have distribution of the service declared mandatory in all markets. The Minister of Canadian Heritage said he shared the communities' fears that the network might not be available to cable subscribers outside Quebec and indicated that the government would, if necessary, support a new application to the CRTC seeking mandatory distribution of RDI.

The CRTC can determine that a programming service is of national public interest and license it as a mandatory service to be distributed as part of the basic service. The CRTC indicated that it did not make mandatory distribution of RDI a condition of licence because the CBC did not request that status. However, the Commission did say it would welcome an application for mandatory distribution. The Commission also stated that requiring cable companies to carry RDI would have led to delays because of the CRTC's various obligations, among them requirements to hold public consultations and to publish notices in the *Canada Gazette*. The CRTC also felt that it was better to allow negotiations between RDI and cable companies to take their course and let local communities make their own decisions, thereby ensuring compliance with the principle of local democracy.

The CRTC noted the important role of public proceedings in the licensing process. In its view, public proceedings give all Canadians an opportunity to be involved in the development of new services and new ideas. In the specific case of RDI, the CRTC said it took the interventions from Francophone groups into account and that this led to lower rates for RDI in Anglophone markets. The CRTC also indicated that there were similar interventions when Newsworld was granted a licence and substantially lower wholesale rates were permitted in Francophone markets.

At the time RDI was applying for and receiving its licence, the Commissioner made it known that he supported the principle of mandatory distribution in order to ensure general access to this service for all Canadians.

3. ARE THE CONDITIONS APPLICABLE TO THE DISTRIBUTION OF RDI AND NEWSWORLD DIFFERENT?

The conditions set out in RDI's and Newsworld's broadcasting licences are identical in some respects but not in others. For the purposes of our study, we endeavoured to determine the extent to which the conditions applicable to the distribution of the two services were similar. We reviewed the licences and came to the conclusion that RDI and Newsworld are subject to the same distribution rules, that is, the dual-status rules and the rules on distribution and linkage. These rules mean that cable companies are not required to carry RDI or Newsworld, but that when they do so, the same distribution rules apply.

4. REACTION FROM LINGUISTIC MINORITY COMMUNITIES

French-speaking communities in Canada were delighted when RDI was granted a licence; they had been lobbying for such a service since Newsworld began broadcasting in 1989. The joy was tempered, however, by the fact that distribution was not mandatory and that there was therefore no guarantee that the communities would have access to the service. The

Société Saint-Thomas-d'Aquin (SSTA), the main organization representing Acadians in Prince Edward Island, and the Association franco-yukonnaise, amongst other groups, regretted that RDI was not being carried by any cable companies in their communities.

The FCFA said it doubted RDI would be successfully distributed and wanted distribution to be mandatory, citing national public interest. After RDI was licensed, the FCFA filed a notice of motion with the Federal Court of Appeal for leave to appeal the CRTC's decision. The FCFA felt that only mandatory distribution of RDI on basic was a viable solution for minority communities. The Court denied the motion on October 6, 1994, without giving reasons for its decision.

In the winter of 1995, the FCFA did a survey of RDI distribution based on 110 French-speaking communities outside Quebec.<sup>2</sup> The results showed that 81 of the 110 communities did not get RDI and that 6 of the 110 were only partially served. Our review of the data led to the following observations:

- the 110 communities covered only part of Canada (outside Quebec);
- the 110 communities did not match the service areas of cable companies;
- some of the 110 communities were not served by a cable company and therefore were unable to receive RDI; and
- some cable companies were operating at full capacity and were therefore unable to add RDI to their line-up.

In our view, the FCFA data reflected only partly the distribution of RDI outside Quebec. The next section of our report presents up-to-date data on the distribution of RDI in the 110 communities.

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<sup>2</sup> These communities were identified by Canadian Heritage and represent the main groups of French-speaking Canadians outside Quebec. However, they do not include all Francophones outside Quebec.

5. DISTRIBUTION OF RDI

i) Across Canada

We should begin by reiterating that there are almost 8.2 million commercial and residential cable subscribers in Canada. When it began broadcasting, on January 1, 1995, RDI was available to approximately 5.2 million subscribers. By the end of August 1996, penetration had increased to more than 6.3 million. At the same time, more than seven years after it began broadcasting, Newsworld had nearly 7.4 million subscribers.<sup>3</sup>

We took a closer look at the situation in the 110 Francophone communities outside Quebec in Prince Edward Island and in Whitehorse. Our findings are outlined below.

ii) In the 110 Francophone communities outside Quebec

In November 1996, RDI reached 94% of cable subscribers in the 110 Francophone communities outside Quebec, a major breakthrough considering the penetration rate presented by the FCFA when RDI went into operation. This means that only 6% of subscribers in the 110 communities do not currently get RDI. In this regard, RDI told us that it is actively pursuing its negotiations with cable companies in the communities that are not being served.

iii) In Prince Edward Island

There are 23 cable distribution territories in Prince Edward Island, four of them operating at full capacity. None offers RDI and five do not offer Newsworld.

The SSTA has lobbied to have RDI distributed on the Island, but to no avail. RDI itself has made several attempts to be distributed on the Island and is continuing to work in that direction.

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<sup>3</sup> Mediastats' Report on Pay and Specialty Services, August 1996.



iv) In Whitehorse

The sole cable company in Whitehorse carries Newsworld but not RDI. It was operating at full capacity when RDI went on the air, and technical reasons at the time prevented it from offering new channels.

6. CONCLUSION

Nationally, RDI has a penetration rate of 77.8%; Newsworld's penetration stands at 90.3%. The CRTC told us that of all the specialty services, RDI has recorded the highest penetration rate in a given period and Newsworld is the most widely distributed.

The fact remains, however, that there are Canadians who cannot get RDI, just as there are Canadians who cannot get Newsworld. This situation is primarily attributable to the fact that some cable companies lack the technical capability to offer new services as their spectrum is full. There is also a percentage of cable companies that do not offer RDI by choice.

There are two factors that will help make RDI available to more cable subscribers. First, RDI's goal is to be distributed throughout Canada; with this in mind, it is pursuing an intense marketing strategy aimed at cable companies that do not carry the service. Second, broadcasting technology is developing rapidly. A new technique that is currently being introduced, digital video compression, will enable cable companies to increase their channel capacity and at the same time lower per-channel transmission costs. We expect that limited spectrum capacity will soon no longer be an obstacle to the distribution of RDI.

We can therefore conclude that RDI's penetration is a success on the whole and that the approach proposed by RDI, that is, non-mandatory distribution at an attractive rate in English-language markets, coupled with a major marketing strategy, has yielded rather positive results. We note that RDI reaches a large proportion of Francophones in minority

communities in Canada and that certain obstacles to distribution of the service are technical in nature.

Moreover, and as mentioned earlier, the broadcasting system is constantly changing and technical limitations should soon no longer be an obstacle to the distribution of a wide array of channels, including RDI and Newsworld.

We also noted that the CRTC makes it possible for Canada's official-language minorities to express their concerns in public hearings. When it grants licences, it makes every effort to address the various needs of communities, within the confines of market principles and local democracy and with a view to maintaining balance in Canada's broadcasting system.

In our opinion, the CRTC has generally met its obligations under Part VII of the OLA, namely to enhance the vitality and support and assist the development of the English and French linguistic minority communities in Canada. We also believe that the CBC generally meets its obligations under Parts IV and VII of the OLA. However, we will continue to monitor the situation closely and if the problems brought to our attention do not continue to improve, we will re-examine the possibility of recommending the mandatory distribution of RDI. Furthermore, we believe that RDI should be distributed to communities that demand it. The Commissioner therefore recommends that RDI:

- 1. continue its marketing efforts aimed at ensuring the eventual distribution of Réseau de l'information to all French-speaking communities, with priority given to distribution in Prince Edward Island and Whitehorse.**

## PART C. REVIEW OF COMPLAINTS

Let us now turn our attention to the complaints in the five categories identified at the beginning of the report.

### 1. RDI

Subject of the 10 complaints:

*Residents of several communities in southern Ontario and Whitehorse, Yukon, claim that they get Newsworld but not RDI.*

The situation has changed in some areas since the complaints were received and RDI is now available in those areas. RDI was made available to subscribers in Welland and St. Catharines and elsewhere on the Niagara Peninsula in June 1995. The situation described in six of the complaints has therefore been rectified.

The other four complaints come from Hamilton, Chatham and Sault Ste. Marie, Ontario, and Whitehorse, Yukon. In all four cases, the cable companies were operating at full capacity at the time we conducted our research. They are therefore prevented by technical constraints from offering RDI, although three of the four have a policy of offering the network to their subscribers. We learned that the four cable companies will in the months ahead explore the possibility of expanding the spectrum so that they can offer their subscribers more channels. The first recommendation of this report, which concerns distribution of RDI, also applies here.

2. NEWSWORLD

Subject of the complaint:

*In Quebec City, Newsworld is carried on a discretionary tier, whereas RDI is part of basic cable; this means it costs more to get the English-language network.*

We contacted the cable company in question and were told that the complainant's account of the situation was accurate. Basic service costs \$24.74 a month, while discretionary service, Newsworld included, costs \$32.69, a difference of \$7.95 a month.

We reviewed the conditions of licence to which Newsworld and RDI are subject, as well as a number of CRTC notices. We found that application of the dual-status rule allows specialty services to be offered on a discretionary tier. However, cable companies cannot do this without first obtaining approval from the channel licensee, in this case, Newsworld.

Our research shows that Newsworld is distributed nationally on a discretionary tier 2.3% of the time, and reaches 169,848 subscribers by this means. RDI is distributed on a discretionary tier 7.5% of the time and reaches 475,164 subscribers by this means. Newsworld is therefore distributed on basic cable 97.7% of the time, compared with 92.5% of the time for RDI.<sup>4</sup>

In conclusion, given that:

- . the discretionary distribution of Newsworld and RDI is comparable;
- . the two networks are primarily carried on basic;
- . both aim to reach the entire population; and
- . the broadcasting sector is currently undergoing rapid change,

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<sup>4</sup> Mediastats' Report on Pay and Specialty Services - August 1996.

we feel that no intervention is needed at this time. However, we will monitor the situation closely.

### 3. CHANNEL PLACEMENT

Subject of the two complaints:

*In several communities in British Columbia and Unionville, Ontario, RDI is on a channel higher than 50, which means that consumers with a technically limited converter are unable to get RDI. On the other hand, Newsworld is on a channel below 50.*

We checked the complainants' allegations with the cable companies and learned that their account of the situation is in fact accurate. The reason is that some consumers have cable converters that do not receive channels higher than 49; this means they cannot receive programming services on higher channels. In an effort to rectify the situation, some cable companies rent, at a low cost, converters that are able to receive channels higher than 50. The fact remains, however, that consumers who want to get RDI but do not have the right converter have to pay more, while those who want to get Newsworld do not.

Cable companies have some leeway in choosing services and assigning channels. The CRTC does not become involved in these matters as long as priority Canadian programming services are distributed on unlimited channels, that is, channels on which there is no interference. It agrees that the issue of channel placement is important. Earlier this year, the CRTC took the following position : "However, due to the complexity of these issues, the number of parties involved, and the difficulty and regulatory burden associated with establishing rules applicable to a myriad of circumstances, yet that would be capable of accommodating various necessary exceptions, the Commission has concluded that such matters should properly be the subject of negotiation between the parties concerned."<sup>5</sup>

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<sup>5</sup> Public Notice CRTC 1996-60.

We also learned that RDI is sensitive to its placement on the spectrum. It cited as an example the city of Ottawa, where until April 1996 it was distributed on channel 56 and therefore was not available in hotels, etc. Bolstered by interventions from various parties, RDI approached the cable company and was moved to channel 4, a channel that is received by all cable subscribers.

What is clear is that we are in the midst of a transition in which specialty channels are entering the market and digital video compression, which will provide space for more channels, is being introduced. Eventually, the placement of channels on the spectrum will not be a problem. In the meantime, the Commissioner recommends that RDI:

2. develop and include in its marketing plan objectives aimed at securing channel placement that allows the service to be distributed to as many subscribers as possible.

#### 4. FRENCH-LANGUAGE SPECIALTY SERVICES

Subject of the nine complaints:

*In Ottawa and southwestern Ontario, a number of cable companies pulled some French-language specialty services from the line-up or moved them from basic cable to a discretionary tier, and others do not carry some of the channels.*

For the purposes of our study, we deal with the complaints related to French-language specialty services in two parts.

- a) *In Ottawa, one cable company pulled the French-language specialty channels MétéoMédia and MusiquePlus from the line-up and moved TV5 from basic to a discretionary tier. We received five complaints about this situation.*

In December 1994, an Ottawa cable company announced that the French-language specialty channels MusiquePlus and MétéoMédia had been pulled from the line-up and that TV5, another specialty service, had been moved from basic cable to a discretionary tier. The Francophone community reacted strongly to the decision, as did a number of other interveners, the Commissioner among them. As a result of the reaction, the cable company reviewed its decision and put the channels back in its line-up. However, it placed them on a discretionary tier. The cable company has thus rectified in part the situation brought to our attention in the complaints.

b) *In southwestern Ontario (Chatham, Hamilton, Welland and the Niagara Peninsula), some cable companies do not carry TV5. We received four complaints about this situation.*

The situation has changed since we received the complaints. In two of the four cases (Welland and elsewhere on the Niagara Peninsula), cable companies have been offering TV5 on a discretionary tier since June 1995. However, the channel is still not offered by the cable company that serves Chatham or by the company, named in the complaint, that serves the Hamilton area. In this regard, the CRTC has contacted the cable companies to inform them of the complaints received and make them aware of the requests of their subscribers.

Under the CRTC's distribution and linkage rules, cable companies are not required to distribute specialty services, including TV5, MusiquePlus and MétéoMédia on basic or a discretionary tier. In 1994, the Canadian Cable Television Association (CCTA) issued *The CCTA Access Commitment* which states the guiding principles for the cable industry. It indicates that cable operators are encouraged to broadcast English-Canadian specialty services in French markets and vice versa. The CRTC accepted the principles set out in the commitment. Thus, it encourages cable operators to provide Canadian specialty services in the language of the minority. However, due to the large number of specialty services available on the market, it is impossible for cable companies to offer them all because of the technical limitations that currently exist.

In summary, we find that the CRTC encourages cable companies to carry specialty minority-language services in majority-language markets, that the field of broadcasting is in a period of growth and transition and that, in time, more channels will be available to consumers. To enhance the vitality of the minority-language communities and support their development, we believe that the CRTC should allow minority-language communities to make their concerns known when the cable companies in question apply for licence renewal. Consequently, the Commissioner recommends that the Commission:

3. **place on the public file of the cable companies in Chatham and Hamilton, Ontario, the two complaints concerning the unavailability of TV5 and ensure that the Francophone communities can make their concerns known when the licence of these cable companies is up for renewal.**

#### 5. CPAC

Subject of the nine complaints:

*Residents of Gatineau in Quebec and Ottawa and Toronto in Ontario claim that the English and French channels of the Cable Parliamentary Channel (CPAC) broadcast public affairs programs in the other official language with no simultaneous interpretation. Further, a resident of Mississauga, Ontario, claims that he does not have access to the French-language CPAC channel, and a resident of Barrie, Ontario, claims that he cannot get the CPAC channel that broadcasts in the original language.*

Since the start of our study, CPAC has changed its name. It is now known as the Cable Public Affairs Channel and keeps the same acronym, CPAC.



### What is the Cable Public Affairs Channel?

First of all, let us explain what CPAC is. The Cable Public Affairs Channel is a national satellite-to-cable broadcasting service that broadcasts two types of programming, the debates of the House of Commons and public affairs activities. A non-profit company, it is operated as a public service and funded by a consortium of Canadian cable companies. It has a seven-year operating licence from the CRTC, and its service is distributed free of charge to cable subscribers by cable companies.

CPAC can be broadcast on three channels: an English-language channel, a French-language one, and a third that broadcasts its programming in the language in which the event takes place, i.e., the original language. The picture broadcast by the three channels is identical and only the language differs. CPAC therefore has one video feed and three audio feeds. These three audio feeds are transmitted to cable broadcasters, who are free to choose those which they will distribute to consumers.

CPAC has a contract with the House of Commons for live and repeat broadcasts of the proceedings of the House and for delayed broadcasts of the proceedings of any committee of the House which wishes to televise them. Production of these broadcasts is funded by the House of Commons, and all its programming is available on three audio feeds: English, French and language of origin. All the House of Commons programming is therefore available in both official languages.

Since broadcasting the debates does not take up all the broadcast time and the House does not sit every day, CPAC has also undertaken to provide full coverage of public affairs activities taking place in all regions of Canada. Broadcasting the debates of the House takes precedence, however, over such programming. CPAC attempts, insofar as possible, to cover public affairs activities taking place in English and in French for which simultaneous interpretation is provided. In such cases, CPAC picks up and broadcasts the available audio

feeds. However, some of the activities selected take place in only one language. CPAC therefore adds a soundtrack in the other language on some occasions. Nonetheless, its capacity to do so is limited by its budget. Consequently, sometimes a channel of a given language broadcasts programming in another language, and this is the subject of complaints.

The licence awarded to CPAC by the CRTC gives priority to its contractual obligations to the House of Commons and indicates that its programming must reflect Canada's linguistic duality as well as regional characteristics. However, it is not obligatory for cable broadcasters to distribute CPAC, in English, in French or in the original language.

#### Review of complaints

For the purposes of the study, the nine complaints were divided into the following two groups:

Subject of seven complaints:

- a) *In the cities of Gatineau in Quebec and Ottawa and Toronto in Ontario, the English and French CPAC channels broadcast programs in the other official language.*

The situation reported by the complainants concerns public affairs activities programming. As noted above, such programming is not always available in both official languages and CPAC sometimes adds simultaneous interpretation to it. Our study showed that, for the period from June 1994 to May 1995, 78% of all programming broadcast by CPAC was in both official languages, while 10% was in the original language. Therefore, 12% of all programming was broadcast in one language only, either on the English-language or the French-language channel.

We learned that CPAC's interpretation budget will increase from approximately 20% to 30% of its total annual production budget in the next few years. This increase, combined with new technical facilities since September 1995, will enable it to reduce the number of hours of programs broadcast in only one language. We can therefore expect that programming in only one language will be reduced from 12% to a minimal amount.

In conclusion, the French-language CPAC channel sometimes broadcasts programming in English and the English-language CPAC channel sometimes broadcasts programming in French. As the CRTC has an obligation to foster the full recognition and use of both English and French in Canadian society, we are of the opinion that the CRTC should encourage CPAC to make all its programming available in the language of the channel. Consequently and in accordance with Part VII of the OLA, the Commissioner recommends that the Commission:

4. encourage the Cable Public Affairs Channel to broadcast all its programming in English on the English-language channel and in French on the French-language channel.

Subject of two complaints:

- b) *A resident of Mississauga, Ontario, claims that he does not have access to the French-language CPAC channel, while a resident of Barrie, Ontario, claims that he cannot get the CPAC channel in the original language.*

As explained above, the CRTC does not require the distribution of the CPAC channels. Cable companies are therefore free to choose the audio feed or feeds that they will offer to their subscribers. Moreover, the CRTC accepted the principles set out in the *Access Commitment*, which invites cable companies to carry Canadian English-language and French-language specialty services in the market of the other official language. However, due to the

large number of specialty services available on the market, it is impossible for cable companies to offer them all because of the technical limitations that currently exist. With regard to the complaints in Mississauga and Barrie, the CRTC has agreed to contact the cable companies in question to inform them of the complaints and make them aware of the requests of their subscribers.

Again, we find that the CRTC encourages cable companies to carry minority-language specialty services in majority-language markets, that the field of broadcasting is in a period of growth and transition and that, in time, more channels will be available to consumers. To enhance the vitality of the minority-language communities and support their development, we believe that the CRTC should allow minority-language communities to make their concerns known when the cable companies in question apply for licence renewal. Consequently, the Commissioner recommends that the Commission:

5. **place on the public file of the cable companies in Mississauga and Barrie, Ontario, the complaints concerning the unavailability of the French-language and original language CPAC channels and ensure that the Francophone communities can make their concerns known when the licence of these cable companies is up for renewal.**

## PART D. CONCLUSION

### 1. A LOOK AHEAD

As stated earlier in this report, the broadcasting sector is growing and changing quickly. Digital video compression will make it possible to increase channel capacity and at the same time reduce per-channel transmission costs. In the end, subscribers will enjoy services better suited to their needs. Direct-to-home (DTH) satellite distribution will also have an impact on the world of television. Companies using this technology to provide service will offer the regular menu of cable and pay television and perhaps several pay-per-view channels.

Since December 1995, the CRTC has approved three new Canadian DTH satellite services, five pay-per-view DTH services, including one French-language service, and the request of a regional multipoint distribution company. One of the licensed DTH satellite services has since indicated it no longer plans to go ahead with the project. The CRTC issued a number of conditions of licence, among them the distribution of:

- . the CBC's primary English- and French-language services;
- . all English- and French-language specialty services;
- . English- and French-language pay television;
- . at least one English-language and one French-language general-interest pay-per-view television programming service.

We find that the licences granted by the CRTC set out conditions that are designed to ensure the distribution of a range of services in each official language. This shows that the CRTC continues to take into consideration its obligations under Part VII of the OLA.

Finally, we recognize the importance of broadcasting as a tool for supporting and assisting the development of minority-language communities. Accordingly, we feel that the CRTC plays a vital role in enhancing the vitality and supporting and assisting the development of

English and French minority-language communities and we encourage the Commission to continue its efforts in this area.

## 2. REACTIONS TO THE DRAFT REPORT

At the conclusion of the study, pursuant to the provisions of subsection 60(2) of the OLA, we sent the report in draft form to the various interested parties. The purpose of this was to give all parties the opportunity to inform us of their comments on the report's findings and conclusions. Among others, we received comments of a technical nature from the CRTC and CPAC, and these have been integrated into the report. We also received comments from two complainants and these were taken into consideration in preparing the final report.

The CRTC informed us, among other things, of the problems involved in implementing recommendations three and five, as we had worded them. In light of these comments, we have reviewed our findings and reformulated the recommendations.

The CBC said that it was in agreement with the content of the report and particularly with the sections concerning RDI and Newsworld.

For its part, the FCFA made a number of comments. It advocated, for example, the mandatory distribution of RDI at a sufficiently low level on the spectrum. It also believes that the interpretation we give to the distribution of RDI in the 110 communities, namely that 94% of subscribers in these communities receive the service, conceals the fact that 45% of the communities do not receive RDI. The FCFA also points out that the cable company in Whitehorse recently added five spaces to the spectrum and two new channels to the schedule, but not RDI.

In light of these comments, we re-examined the information available to us and our conclusions. We recognize that 45% of the communities do not have access to RDI. (Data updated to November 1, 1996 indicates that the percentage has fallen to 41%). However, the size of the 110 territories varies considerably. For example, the territory of L'Anse-à-Canards/Mainland, Newfoundland, has 89 subscribers, while another in Toronto has 642,643. Consequently, we believe that the data on distribution of RDI, rather than being based solely on territory, should also take into account the homes served, because this approach is more representative of RDI's distribution. As indicated earlier, we will continue to monitor the situation closely to ensure that progress in distribution of RDI continues. With regard to the situation in Whitehorse, we are conducting a separate investigation of it. Concerning the other issues raised by the FCFA, we maintain our position.

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