



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

October 29, 2004

Via Email

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television and
Telecommunications Commission
1, Promenade due Portage
Hull, Quebec
K1A 0N2

Dear Ms. Rhéaume:

RE: Public Notice CRTC 2004-66: Application no. 2004-0200-1 by Rogers Cable Communications Inc.

The Canadian Association of Broadcasters (CAB), the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services – including private television and radio stations, networks, and specialty and pay and pay-per-view television services – is pleased to submit its intervention with respect to the above-noted application.

Attached is a copy of the CAB's submission.

Sincerely,

David Keeble
Senior Vice-President, Policy and Regulatory Affairs

Encl.

c.c. Pamela Dinsmore, Rogers Cable Communications Inc.

**A Submission to the Canadian Radio-television and
Telecommunications Commission**

With respect to

Broadcasting Public Notice CRTC 2004-66

**Application No. 2004-0200-1
by Rogers Cable Communications Inc.**

Prepared by



L'Association canadienne des radiodiffuseurs
Canadian Association of Broadcasters

October 29, 2004

Executive Summary

1. **The CAB strongly opposes the Rogers application, as filed.** The fundamental premise upon which the application is based, parity with DTH, is inappropriate and fails to address the significant harm being caused to local television broadcasters as a result of the importation by Rogers of distant Canadian signals.
2. Any arrangement between broadcasters and distributors on the issue of distant signal carriage can do no more than suspend the provisions of section 43 of the *Broadcasting Distribution Regulations* (BD Regs), which otherwise gives a local broadcaster the clear right to obtain deletion of duplicated programming in distant signals in protection of its program rights.
3. The CAB acknowledges the Commission's long-standing concerns about the disruption that would be caused to BDU subscribers were local television broadcasters to insist on exercising their entitlement to non-simultaneous program deletion on distant signals. Consequently, broadcasters have been prepared to negotiate compensatory arrangements with distributors, with terms of limited duration.
4. The CAB submits that time limits on BDU compensation arrangements are necessary, since all parties agree that the full systemic impact of distant signal importation in "time-shifting" packages has not yet been felt. When more is known about the effects of this practice, the CAB anticipates it may be necessary to re-visit the entire question and determine whether the practice can continue and, if so, on what basis.
5. For the purposes of achieving a solution in the current proceeding that will permit the parties to move forward, the CAB submits that a valid compensation arrangement at this time can only be based on compensation for the damage done to local broadcasters. Therefore, without prejudice to future attempts to reach a more permanent arrangement, **the CAB submits that compensation based on the impact of distant signal carriage is the appropriate basis for current BDU compensation arrangements.**
6. In its application, Rogers claims to be working from a principle of parity with DTH. Their situation, however, is quite different from that of the DTH distributors whose arrangement they seek to emulate. The CAB strongly submits that this is the wrong approach, since the impact of cable carriage is not in any way parallel to that of DTH.
7. If the Rogers application were approved as filed, Rogers would be authorized to continue to distribute a duplicate set of U.S. 4+1 signals and Canadian distant signals on a digital basis without the need to carry out program deletion requirements, provided it adheres to certain new provisions including the payment of \$0.25 per subscriber per month to the CAB on behalf of affected broadcasters in respect of the U.S. 4+1 signals and the contribution of 0.4% of its gross annual broadcasting revenues derived from digital subscribers to the Canadian production fund for small-market independently owned broadcasters in respect of the distant Canadian signals.

8. Although the CAB maintains that the rate of \$0.25 per subscriber for discretionary carriage of a second set of U.S. 4+1 signals is not a true reflection of the impact of these signals in local markets, for reasons outlined in this submission, **the CAB does not take issue with Rogers' proposed rate of \$0.25 per subscriber per month provided that Rogers is required to source these signals from time zones that maximize the opportunity for simultaneous substitution with the distant Canadian signals it distributes.**
9. However, the CAB submits that Rogers' approach with respect to the compensation for the carriage of distant Canadian signals, which entails payments to a programming fund designed to support local television broadcasters in markets not served by Rogers, has no basis in logic and should be rejected. Instead, the Commission should adopt an approach that is directly linked to the actual harm that is caused to local television broadcasters in markets served by Rogers, calculated on a per subscriber basis.
10. To this end, the CAB commissioned Strategic Inc. to undertake an impact analysis to assess the level of damage incurred by local broadcasters due to Rogers' discretionary carriage of 9 to 10 Canadian distant signals on a digital basis and determine an appropriate rate of compensation. Strategic Inc.'s impact analysis estimated the impact of Canadian distant signals in the markets served by Rogers during the period of January 2002 to December 2003 to be in the range of \$1.66 to \$2.49 per subscriber per month.
11. Accordingly, **the CAB submits that a rate of \$2.00 per subscriber per month for the discretionary carriage of Canadian distant signals would be appropriate, in the short term.** The CAB submits that this is a very conservative rate in that, while it reflects the actual impact on local broadcasters resulting from Rogers' original distant signal offering, it would not fully compensate local broadcasters for the future impact that will be incurred as a result of the substantial changes to Rogers' Canadian distant signal offering that were not contemplated in Strategic Inc.'s analysis.
12. Furthermore, the CAB submits that, once the rate of compensation for Rogers' discretionary carriage of duplicate U.S. 4+1 and Canadian distant signals is determined by the Commission, **Rogers should be required to provide these monies directly to the CAB which will act as a collective on behalf of its membership.**
13. Finally, **the CAB strongly urges the Commission to authorize these rates for a period of no more than two years** in order to provide an opportunity to re-assess the impact of Canadian distant signals on local stations going forward. The CAB submits that it is essential to re-evaluate the impact of Canadian distant signals on local stations within the next two years, particularly in light of Rogers increased offering of these signals and the implications of its "digital basic" packaging arrangement.

Introduction

1. The Canadian Association of Broadcasters (CAB) – the national voice of Canada’s private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view televisions services – is pleased to submit this intervention in respect of Application No. 2004-0200-1 by Rogers Cable Communications Inc. (Rogers) to amend its licences for its cable distribution undertakings in Ontario, Québec, New Brunswick and Newfoundland.
2. In this application, Rogers is proposing to amend the provision of approval required to suspend program deletion requirements with respect to the distribution of distant Canadian signals and a second set of U.S. 4+1 signals on its cable systems in Ontario and Atlantic Canada. The proposed amendment, if approved, would authorize Rogers to continue to distribute these signals without the need to carry out program deletion requirements, provided it adheres to certain new provisions including the payment of \$0.25 per subscriber per month to the CAB on behalf of affected broadcasters in respect of the U.S. 4+1 signals and the contribution of 0.4% of its gross annual broadcasting revenues derived from digital subscribers to the Canadian production fund for small-market independently owned broadcasters (Small Market Local Programming Fund) in respect of the distant Canadian signals.
3. For the reasons outlined in this submission, **the CAB strongly opposes the Rogers application as filed.** The CAB submits that the application is seriously flawed, both in its fundamental premise and in its detailed provisions. Moreover, the application fails to address in any meaningful way the significant harm done to local television broadcasters in Rogers’ markets as a result of the importation of distant signals, in particular distant Canadian signals, and accordingly the proposed compensation for such harm is grossly inadequate.
4. Finally, based on a CAB assessment of the impact of the importation of distant Canadian signals by Rogers into local markets served by Canadian television broadcasters, **the CAB proposes alternative measures that would ensure appropriate compensation for the loss in value of program rights caused by those distant signals.**

History of CAB/Rogers Negotiations

5. In Decision CRTC 2000-437 dated November 8, 2000 (Decision 2000-437) Rogers received approval to distribute any of the Canadian signals listed on the Commission’s list of Part 3 eligible satellite services and a second set of U.S. 4+1 network signals on a digital basis. This authorization was subject to the requirement that Rogers adhere to the requirements regarding non-simultaneous program deletion as set out in section 43 of the *Broadcasting Distribution Regulations* (BD Regs).
6. As a condition of approval, the Commission further specified that the application of the program deletion requirement could be suspended upon the Commission’s approval of

an executed agreement between Rogers and broadcasters dealing with issues related to the protection of program rights arising in connection with the discretionary carriage of these signals on Rogers' digital service.

7. On November 22, 2000, following a meeting of the CAB Television Board, the CAB provided a letter to Rogers indicating that it was prepared to begin negotiations for an agreement regarding the protection of program rights. The CAB indicated, among other things, that private broadcasters expected that an agreement with Rogers would be substantially similar to agreements negotiated with other cable distributors. However, the CAB indicated that private broadcasters were not prepared to have the existing terms of their DTH agreements apply to cable distributors.
8. On December 11, 2001, Rogers and the CAB, on behalf of its members, concluded a comprehensive agreement that contained interim terms and conditions with respect to the monthly fees payable by Rogers to the CAB for Rogers' carriage of distant Canadian signals and a second set of U.S. 4+1 network signals. The original interim compensation agreed to by the CAB and Rogers was \$1.00 per subscriber per month for the nine distant Canadian signals that Rogers proposed to distribute, and \$0.87 per subscriber per month for the second set of U.S. 4+1 signals. The agreement identified the specific signals that Rogers would distribute and set out additional opportunities for simultaneous substitution.
9. The CAB and Rogers further agreed to negotiate final rates once the compensation agreements between CAB and DTH distributors were finalized.
10. As indicated in Rogers' application, since the release of Broadcasting Public Notice CRTC 2003-37 *Direct-to-Home (DTH) broadcasting distribution undertakings – simultaneous and non-simultaneous substitution program deletion and the carriage of local television signals in smaller markets* (BPN 2003-37), the CAB and Rogers have had a number of discussions regarding the establishment of a final rate for the carriage of a second set of U.S. 4+1 network signals and an expanded number of distant Canadian signals. Throughout these discussions, the CAB has maintained its original position that, while it is prepared to consider the same rate as that paid by DTH distributors for the carriage of the duplicate set of U.S. 4+1 network signals, compensation for cable carriage of Canadian distant signals must take into consideration the economic impact of the distribution of these signals on local television broadcasters operating in markets served by Rogers' cable systems.
11. In February 2004, the CAB received Rogers' proposal for final rates for the distant Canadian signals and duplicate set of U.S. 4+1 signals received by Rogers' digital subscribers. Central to Rogers' proposal was its belief that, in the interest of parity with DTH undertakings, its compensation to the CAB in lieu of program deletion must be comparable to the compensation that the DTH undertakings provide for their carriage of time-shifted signals.
12. In rejecting Rogers' proposal, the CAB indicated that, given the fundamental disagreement of both parties on the underlying premise to be used to determine

appropriate and fair compensation for the protection of program rights of local broadcasters, it would, pursuant to paragraph 11 of the interim agreement with Rogers and in accordance with section 12 of the BD Regs, refer the issue to the Commission for dispute resolution as the most appropriate and expedient approach to resolving the matter in a timely manner.

13. Recognizing that it would not be able to obtain its desired remedy through the Commission's dispute resolution process, Rogers filed the present application with the CRTC in March 2004 to amend the provision of approval required to suspend program deletion requirements for its licensed cable systems in specified areas. Specifically, Rogers is seeking an alternative to the current requirement that it execute an agreement with broadcasters dealing with the protection of program rights in order to suspend its program deletion obligations.
14. In June 2004, with the understanding that Rogers had filed the above-noted application with the CRTC, and to demonstrate its members' good faith, the CAB agreed to amend its interim agreement with Rogers with respect to interim rates for the duplicate U.S. 4+1 signals and distant Canadian signals and the list of distant Canadian signals Rogers is permitted to distribute, effective June 1, 2004¹. In its letter accepting Rogers' proposal, the CAB emphasized that the revised interim payments did not reflect the actual impact on local television broadcasters of the importation of distant signals into their markets and in no way should be interpreted as representing the CAB's view as to the appropriate level of compensation.
15. As noted above, having been unable to negotiate a final agreement with Rogers, the CAB had originally planned, in accordance with the terms of its interim agreement, to refer the matter of appropriate compensation for cable carriage of a second set of U.S. 4+1 signals and distant Canadian signals to the Commission for dispute resolution. Rogers has opted however to circumvent the terms of the agreement by filing the current application and requesting that the Commission set appropriate compensation rates for cable carriage of time-shifted signals. While Rogers had explicitly agreed to seek dispute resolution for the negotiation of new or revised terms of its agreement with the CAB, it explains in its application that Rogers now "...firmly believes that dispute resolution will not provide us with a result that would be fair, equitable and in the public interest."

Rogers' Application

16. Rogers has requested that the Commission replace the existing provision of approval required to carry those signals set out in Decision 2000-437 with the following new provision:

The Commission may suspend the application of this provision upon its approval of an executed agreement between Rogers and the broadcasters that deals with issues related to the protection of program rights arising in connection with the discretionary carriage of the second set of U.S. 4+1

¹ The CAB understands that Rogers has forwarded the Commission a copy of the amended interim agreement and therefore trusts the Commission is familiar with the particulars of the agreement.

signals and distant Canadian signals as approved in this decision, and/or Rogers meets the following terms and conditions:

- *Rogers pays to the CAB a monthly rate that is equal to the monthly rate paid by the DTH BDUs for each digital customer receiving a second set of U.S. 4+1 signals;*
- *Rogers sources the U.S. 4+1 signals from a time zone that maximizes the opportunity for simultaneous substitution with the distant Canadian signals distributed by Rogers;*
- *Rogers contributes to the CAB's local fund, 0.4% of the annual gross broadcasting revenues of its digital subscribers (paid on a monthly basis).*
- *Rogers continues to perform simultaneous substitution as required by section 30 of the regulations.*

17. Rogers has filed the current application "...in order to achieve a compensation arrangement that is symmetrical between Rogers and DTH operators...". In Rogers' view a symmetrical compensation arrangement would involve paying the same monthly compensation rate as DTH distributors for the carriage of a second set of U.S. 4+1 signals and distant Canadian signals, in lieu of carrying out program deletion.

General Comments

18. In considering the Rogers application, the CAB emphasizes, first of all, that any arrangement between broadcasters and distributors on the issue of distant signal carriage can do no more than suspend the provisions of section 43 of the BD Regs, which otherwise gives a local broadcaster the clear right to obtain deletion of duplicated programming in distant signals in protection of its program rights.

19. The CAB acknowledges the Commission's long-standing concerns about the disruption that would be caused to BDU subscribers were local television broadcasters to insist on exercising their entitlement to non-simultaneous program deletion on distant signals. Consequently, broadcasters have been prepared to negotiate compensatory arrangements with distributors, with terms of limited duration.

20. The CAB submits that time limits on BDU compensation arrangements are necessary, since all parties agree that the full systemic impact of distant signal importation in "time-shifting" packages has not yet been felt. When more is known about the effects of this practice, the CAB anticipates it may be necessary to re-visit the entire question and determine whether the practice can continue and, if so, on what basis.

21. The CAB further notes that, based on what we currently know, there are several approaches under which an arrangement can be negotiated between distributors and affected broadcasters. The first approach, which the CAB advances in this submission, is to estimate or measure the damage to local stations caused by distant signals, in order to determine the appropriate level of compensation from the distributor. An alternative approach would be to estimate or measure the commercial value of the distant signal package to the distributor, and base compensation on a share of that value. A third approach is the one adopted by Rogers, to design a compensation formula based on a close parallel with that applicable to a non-cable distributor.

22. For the purposes of achieving a solution in the current proceeding that will permit the parties to move forward, the CAB believes that a valid compensation arrangement at this time can only be based on the first approach, compensation for the damage done to local broadcasters. The second has advantages, but it is premature to attempt to make estimates of value at this time. Therefore, without prejudice to future attempts to reach a more permanent arrangement, the CAB submits that compensation for the damage done by distant signals is the appropriate basis for current BDU compensation arrangements.
23. In its application, Rogers claims to be working from the third principle, parity, though, as will be demonstrated below, their situation is quite different from that of the DTH distributors whose arrangement they seek to emulate. The CAB strongly submits that, even if the Rogers proposal truly sought parity with DTH, it would be the wrong solution, since the impact of cable carriage is not in any way parallel to that of DTH.

Different Remedies for Different Regulatory Regimes

24. The CAB submits that the underlying premise of Rogers' application, that the rate payable by cable for Canadian distant signals should mirror the rate payable by DTH distributors, is fundamentally flawed. The CAB strongly submits that cable compensation for the discretionary carriage of Canadian distant signals should not be assumed to be identical to DTH but instead should take into account the impact that cable carriage of these signals has on the local stations involved.
25. In taking this position, the CAB submits that Rogers has oversimplified the compensation arrangement established by the Commission in BPN 2003-37 for carriage of a second set of U.S. 4+1 signals and distant Canadian signals by DTH distributors. As noted by the Commission in its correspondence with the applicant, DTH distributors are required to meet a number of additional alternative measures over and above those proposed by Rogers, such as:
- distribution (including backhaul and uplink costs) of 17 small-market independently owned television stations;
 - equitable distribution of television stations from 8 large broadcasting groups;
 - establishment of an auditing mechanism for payments to the CAB related to the distribution of a second set of U.S. 4+1 signals; and
 - partial black-out or deletion of same time zone/same network Canadian television signals in select small markets (ExpressVu) or channel override of same time zone/same network Canadian television signals in select small markets (Star Choice).
26. These additional measures were established by the Commission in recognition of the fact that the carriage of out-of-market signals by DTH has the potential to erode program rights and impinge on the ability of local broadcasters to fulfill their programming obligations and responsibilities. Accordingly, the Commission developed a compensation structure specific to DTH distribution that would address its impact on local broadcasters. For Rogers to then take certain elements of this compensation structure and assume that it addresses the impact of cable carriage of time-shifted signals

on local broadcasters, notwithstanding that cable has high digital penetration levels in large urban markets and operates under a separate and distinct regulatory regime with differing requirements and obligations respecting signal carriage, dismisses the entire premise upon which compensation is based.

27. In Public Notice CRTC 1995-217 the Commission stated as reasons for imposing non-simultaneous program deletion requirements on DTH distributors that "...the protection of program rights purchased by Canadian television programming undertakings is fundamental to maintaining the integrity of the Canadian rights market, and to protecting the advertising base of local and regional television stations so that they meet their commitments to Canadian programming." However, in light of the operational and practical limitations of this regulatory protection, the Commission indicated it would accept alternatives to program deletion requirements that were agreed upon by all parties.
28. Since the launch of DTH services in Canada, the CAB has discussed and negotiated a variety of alternative measures with satellite operators to address the protection of program rights, including a combination of carriage and compensation arrangements, some of which were ultimately adopted by the Commission in BPN 2003-37.
29. In Decision 2000-437, the Commission also imposed program deletion requirements on cable operators authorized to carry time-shifted signals on a digital basis. In that Decision, similar to its policy for DTH, the Commission again indicated that it would consider suspending this requirement should the cable licensee and broadcasters reach an agreement on the protection of program rights.
30. By requiring distribution undertakings to negotiate separate agreements with broadcasters, the Commission itself recognized that different remedies would likely be needed to address the protection of program rights taking into consideration, among other things, the nature and class of the distribution system, the markets involved, and the number of time-shifted signals the distributor intended to carry. In the CAB's view, the Commission's approach acknowledges that a "one size fits all" solution is not appropriate, otherwise it would have established a uniform rate for all distribution undertakings.
31. For these reasons, the CAB strongly submits that compensation for the discretionary carriage of Canadian distant signals by Rogers must be based on the impact of these signals on the local stations involved.

Small Market Local Programming Fund

32. In its application, Rogers proposes to contribute to the CAB's Small Market Local Programming Fund 0.4% of the annual gross broadcasting revenues of its digital subscribers (paid on a monthly basis) as its sole compensation for the carriage of Canadian distant signals.

33. As noted by the Commission in its correspondence with the applicant, the Commission's rationale for the creation of the Small Market Local Programming Fund was based on the recognition that the distribution of out-of-market stations by DTH BDUs has contributed to the decline in the advertising base of certain small-market independently owned television stations. As a result, this fund was devised as one part of a number of measures that, taken together, constituted an alternative to DTH licensees' program deletion obligations. The Small Market Local Programming Fund is intended to assist the 17 small market independently owned television stations identified in BPN 2003-37 in meeting their commitments to local programming.
34. The CAB notes that Rogers has acknowledged that it "... does not operate in any of the markets where those television stations eligible to access the fund broadcast their signals." Given this fact, the CAB submits that it makes little sense to direct monies tied to compensation for local broadcasters affected by the importation of distant signals in the markets served by Rogers to local broadcasters in other markets. The CAB fails to understand how providing compensation to local broadcasters in other markets in any way addresses issues related to the protection of program rights arising in connection with the discretionary carriage of these signals on Rogers' digital service. By even making such a proposal Rogers demonstrates that it has entirely missed the point of the Commission's existing provision of approval for the suspension of its program deletion requirements.
35. Finally, the CAB notes that if Rogers was truly seeking parity with DTH distributors for the rate payable to local broadcasters for the carriage of Canadian distant signals, they should have proposed a contribution of 0.4% of the annual gross broadcasting revenues derived from **all Rogers subscribers**, not just their digital subscribers, consistent with Bell ExpressVu and Star Choice's obligations as set out in BPN 2003-37.

CAB's Position

CAB Agreements with Other Cable Distributors

36. The CAB also notes that, while it was not successful in negotiating an agreement with Rogers for the distribution of time-shifted signals, it was successful in reaching agreements over the past year and a half with a number of other cable distributors, specifically Vidéotron, MTS Communications Inc., SASKTEL and TELUS Communications Inc.
37. In each of these agreements, the CAB accepted a rate of \$0.25 per subscriber per month for the second set of U.S. 4+1 signals. The rate for Canadian distant signals varies from agreement to agreement depending on a variety of relevant factors, including a general assessment of the impact these signals would have on the markets involved and the number of signals being carried. In each case, however, the negotiated rate for Canadian distant signals is comparable on a per signal basis with the interim rate originally negotiated with Rogers, and is significantly higher than the level of compensation now being proposed by Rogers for a greatly expanded package of signals.

Proposed Rate for the Discretionary Carriage of a Second Set of U.S. 4+1 Signals

38. In July 2001, the CAB contracted Strategic Inc. to undertake an analysis of the impact of a second set of U.S. 4+1 signals on Canadian local broadcasters.² The impact analysis prepared for the CAB analyzed the effect on ratings to local services attributable to the delivery of identical programming in a non-simultaneous schedule by the U.S. 4+1 services.
39. In August 2002, the CAB negotiated a comprehensive agreement with Bell ExpressVu regarding program substitution and deletion, and the carriage of a second set of U.S. 4+1 signals and distant Canadian signals. As part of this agreement, which also included a number of other measures in addition to compensation in lieu of program deletion, it was agreed that Bell ExpressVu would pay to the CAB \$0.25 per month per DTH subscriber for every subscriber that purchases a second set of U.S. 4+1 signals. Although the CAB's July 2001 impact analysis determined appropriate compensation to be much higher than \$0.25, this rate was agreed to as part of a number of compromises made in an effort to reach a negotiated solution specific to DTH carriage of time-shifted signals. Furthermore, it was not the intention of the parties involved that this provision be severed from the other provisions of the agreement. However, in BPN 2003-37, the Commission severed certain provisions of the CAB's agreement with Bell ExpressVu and determined that the proposed rate of \$0.25 per month per DTH subscriber was appropriate as part of a set of measures constituting an alternative to DTH's existing program deletion conditions of licence.
40. Although the CAB maintains that the rate of \$0.25 per subscriber for discretionary carriage of a second set of U.S. 4+1 signals is not a true reflection of the impact of these signals in local markets, the CAB has always acknowledged that a uniform rate for the second set of U.S. 4+1 signals is appropriate for both DTH and cable distributors. Accordingly, the CAB does not take issue with Rogers' proposed rate of \$0.25 per subscriber per month for duplicate U.S. 4+1 signals, provided that Rogers is required to source these signals from time zones that maximize the opportunity for simultaneous substitution with the distant Canadian signals it distributes.

Proposed Rate for Discretionary Carriage of Canadian Distant Signals

41. As noted above, Rogers proposes to pay 0.4% of the annual gross broadcasting revenues of its digital subscribers (paid on a monthly basis) to the CAB's Small Market Local Programming Fund, as its sole compensation for the carriage of Canadian distant signals.
42. Even if Rogers had proposed to pay this amount to the local television broadcasters directly affected by the carriage of distant signals by Rogers, rather than to the Small Market Local Programming Fund, the CAB submits that such a level of compensation is grossly inadequate to offset the actual damage done by the importation of distant signals.

² A random selection of markets was selected to estimate the impact.

43. Rogers' proposal to pay 0.4% of the gross revenues of its digital subscribers is roughly equivalent to \$0.40 per digital subscriber per month, or less than \$0.02 per signal, even if one assumes that a typical digital subscriber generates as much as \$100 of monthly subscription revenues for his/her combined analog and digital service. This level of compensation is significantly below the level of harm suffered by local television stations operating in Rogers' markets.
44. In practice, a calculation based on gross revenues is more difficult to make with any degree of precision. More and more, subscribers are buying bundles of services from Rogers, with analog and digital cable service bundled with Internet access, wireless communications and, in the future, telephone service using Voice-over-Internet Protocol. The bundling of a number of services into a comprehensive package of services with a single monthly bill that includes bundling discounts makes it difficult, if not impossible, for a third party to separate out the component parts for the purpose of determining, for example, the broadcasting component of the total bill.
45. In order to properly administer a system based on calculating a percentage of gross broadcasting revenues, one would have to establish clear procedures and rules for identifying the appropriate component of a bundled bill that should be allocated to broadcasting revenues, and provide for a follow-up audit mechanism to verify the accuracy of monthly payments.
46. The CAB submits that the Rogers' approach with respect to the payment of compensation for the carriage of distant Canadian signals should be rejected in favour of an approach that is directly linked to the actual harm that is caused to local television broadcasters, calculated on a per subscriber basis.

Impact Analysis

47. To this end, the CAB commissioned Strategic Inc. to undertake a second impact analysis to assess the level of damage incurred by local broadcasters due to Rogers' discretionary carriage of Canadian distant signals on a digital basis and to determine an appropriate rate of compensation (see attached Appendix A). Strategic Inc.'s impact analysis focuses primarily on the period of January 2002 to December 2003 during which time Rogers was authorized, under its agreement with the CAB, to carry 9 or 10 Canadian distant signals on each of its systems in Ontario, New Brunswick and Newfoundland.
48. Canadian distant signals duplicate the majority of the schedules offered by local broadcasters in a given market, which consequently erodes tuning that would have otherwise gone to the originating local station. The CAB submits that a fundamental premise for estimating impact on local stations is the recognition that audience gains to distant Canadian signals do not translate into new or additional revenues for Canadian broadcasters. Advertising agencies plan, buy and post on a market-by-market basis, so while "spill audiences" are noted they are not paid for because they are not within the market being purchased. In other words, tuning to a Canadian distant signal that would have otherwise gone to the originating station is simply lost value to the system and is non-recoupable.

49. In order to attribute a monetary value to the tuning that goes to Canadian distant signals at the expense of local stations, the Strategic Inc. analysis calculated the average revenue potential of an hour tuned to local stations in Ontario and Atlantic Canada³ and applied this value to the collective hours tuned to Canadian distant signals by cable subscribers in Rogers' markets.
50. As noted above, because the programming offered by Canadian distant signals is for the most part identical to what is offered locally, it is reasonable to assume, for a number of reasons, that viewers will frequently substitute the distant signal for the local signal. Accordingly, in order to calculate lost revenue to the originating station, Strategic Inc.:
- measured the hours of cable tuning in Rogers' markets to the distant Canadian signals that Rogers carries, using Fall 2003 BBM diary data;
 - assigned a monetary value to the tuning to distant signals, by calculating the average revenue potential of an hour of tuning to local television broadcasters in Ontario and Atlantic Canada, and applying that revenue potential to the tuning to the distant signals imported by Rogers;
 - estimated how much of that revenue potential would have otherwise been achieved by the local stations, had the distant signals not been present on Rogers' cable systems; and
 - related this lost revenue to a per subscriber calculation, using the number of digital subscribers reported by Rogers in December 2003.
51. Recognizing that all viewing to Canadian distant signals is not necessarily at the expense of originating local stations, Strategic Inc.'s impact analysis estimated that one-half to three-quarters of the viewing to Canadian distant signals would have gone to the originating station if the distant signal had not been available in the market. Using the number of Rogers' digital subscribers who received the Canadian distant signal package as of December 2003 (141,000), as reported by Rogers to the CAB in connection with its interim payments for that period, **Strategic Inc. estimated the loss to local television stations due to the impact of Canadian distant signals in the markets served by Rogers to be in the range of \$1.66 to \$2.49 per subscriber per month.**

Future Impact of Rogers' Discretionary Carriage of Distant Canadian Signals

52. During the public process leading up to Decision CRTC 2000-437 authorizing cable's discretionary carriage of a duplicate set of U.S. 4+1 and Canadian distant signals on a digital basis, the CAB objected to the applications on the basis that they did not conform with the Commission's distant signal policy (Public Notice CRTC 1993-73) that required a letter from a broadcaster whose signal a distributor intended to carry indicating that the broadcaster had no objection to being carried and would not solicit local advertising.

³ For the purpose of this study, Strategic Inc. treated Ontario as one market and Atlantic Canada as one market. In other words, a regional revenue figure was used to value tuning across all markets in Ontario and where Rogers operates in Atlantic Canada.

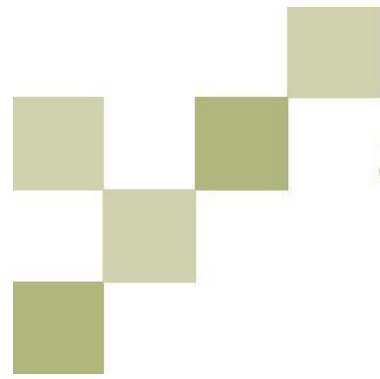
53. In reply to the CAB's objection, both Rogers and Shaw stated that they did not consider that the distant signal policy was relevant in a digital environment. Rogers and Shaw argued that a digital environment is based on the premise that customers may choose the services that are of interest to them. (Decision 2000-437).
54. The CAB notes that, notwithstanding the Commission's authorization for the *discretionary* carriage of time-shifted signals, Rogers has recently started offering "Canadian Timeshifting Channels" to its Rogers digital cable customers as part of a "digital basic" package. According to Rogers website, "[a]ll you need is Rogers Digital equipment to receive the channels". (See website excerpt attached as Appendix B).
55. In summary, the CAB notes that the impact of the Rogers' offering of Canadian distant signals has expanded substantially since the period studied by Strategic Inc., as follows:
- current offering of more than 20 Canadian distant signals in each market;
 - Canadian distant signals now included as part of "digital basic";
 - digital cable penetration has grown significantly since Rogers' introductory offer; and
 - aggressive marketing of time-shifted signals over a period of time.
56. Given that Rogers has increased the number of Canadian distant signals to more than 20 and has moved these signals out of the extra cost digital tier onto "digital basic", the CAB submits that these signals are now widely available to all Rogers digital subscribers thereby significantly increasing the impact on local stations.

CAB Recommendations

57. For the reasons outlined above, the CAB submits that **the Commission should establish a rate of \$0.25 per subscriber for the discretionary carriage of a duplicate set of U.S. 4+1 signals.**
58. With respect to Canadian distant signals, the CAB emphasizes that the Strategic Inc. impact analysis was based on Rogers' introductory offer of 9 or 10 Canadian distant signals during a period when there was relatively small number of digital cable subscribers who received the Canadian distant signal package. The CAB notes that Rogers is currently offering more than 20 Canadian distant signals as part of its "digital basic" package to its more than 590,000 digital cable subscribers, thereby significantly increasing the impact these signals will have on local stations in Rogers' markets.
59. In the absence of viewing data to quantify this impact going forward, the CAB submits that a **rate of \$2.00 per subscriber per month for the discretionary carriage of Canadian distant signals** would be appropriate, in the short term. The CAB submits that this is a very conservative rate in that, while it reflects the actual impact on local broadcasters resulting from Rogers' original distant signal offering, it would not fully compensate local broadcasters for the future impact that will be incurred as a result of the substantial changes to Rogers' Canadian distant signal offering that were not contemplated in Strategic Inc.'s analysis.

60. Furthermore, the CAB submits that, once the rate of compensation for Rogers' discretionary carriage of duplicate U.S. 4+1 and Canadian distant signals is determined by the Commission, Rogers be required to provide these monies directly to the CAB which will act as a collective on behalf of its membership. As the collective, the CAB will then formulate a distribution methodology internally that ensures broadcasters are compensated according to the impact they have suffered in their market. For reasons noted above, the CAB sees no logic in directing these monies to the Small Market Local Programming Fund, which assists broadcasters in markets not served by Rogers.
61. Moreover, the CAB notes that it already acts as a collective for DTH compensation in relation to duplicate U.S. 4+1 signals, and for cable compensation for carriage of duplicate U.S. 4+1 and Canadian distant signals. The CAB sees no value in diverging from this established practice by creating a new fund for the allocation of Rogers' compensation payments.
62. Finally, the CAB strongly urges the Commission to authorize these rates for a period of no more than two years in order to provide an opportunity to re-assess the impact of Canadian distant signals on local stations going forward. The CAB submits that it is absolutely essential to re-evaluate the impact of Canadian distant signals on local stations within the next two years, particularly in light of Rogers increased offering of these signals and the implications of its "digital basic" packaging arrangement.
63. The CAB notes that its current agreements with other cable BDUs are set to expire on August 12, 2006. In addition, the suspension of both Star Choice's and Bell ExpressVu's program deletion requirements is also set to expire on this date. The CAB therefore submits that it would be appropriate for the Commission to review the rates payable by all distribution undertaking for both the duplicate set of U.S. 4+1 and Canadian distant signals prior to that time.
64. The CAB appreciates the opportunity to provide these comments respecting the application by Rogers, and urges the Commission to proceed quickly to establish appropriate compensation, as proposed in this intervention, with respect to the carriage by Rogers of a second set of U.S. 4+1 network signals and more than 20 distant Canadian signals.

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strategic inc

The Impact of Distant Canadian Signal Carriage

by Rogers Cable

October 29, 2004

THE IMPACT OF DISTANT CANADIAN SIGNAL CARRIAGE BY ROGERS CABLE

October 29, 2004

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Overview



In December of 2001, Rogers Cable Inc. negotiated an interim compensation agreement with the Canadian Association of Broadcasters. In exchange for receiving authorization to carry Canadian distant signals and a second set of US 4+1 signals without having to carry out non-simultaneous program deletion, Rogers agreed to pay broadcasters an interim rate of \$1.00 and \$.87 per subscriber per month respectively for each group of services. Subsequent to the CRTC's July 2003 determination with respect to its DTH policy on the carriage of local and distant signals, Rogers is seeking to revise the rates it is paying for the Canadian and US signals. For the US services, it would compensate broadcasters \$.25 for each subscriber per month. For the Canadian services, Rogers would not pay compensation to local broadcasters in the markets it serves, but instead would contribute 0.4% of its revenues from digital subscribers to the CAB's local programming fund for small-market, independently-owned broadcasters. As stated by Rogers in its application to the CRTC, these proposals are "...based on the fundamental principle that Rogers' compensation to the CAB in lieu of performing program deletion must be comparable to the actual compensation the DTH operators are providing to the CRTC for their carriage of time-shifted signals."

In view of Rogers' proposal to pay no compensation to local television broadcasters in respect of the importation of distant Canadian signals into their markets, the CAB asked Strategic Inc. to examine the impact of the carriage of these signals and to estimate a monetary damage if possible. Furthermore, Strategic Inc. was asked to examine if parity with satellite is a reasonable position, given the relative market shares of cable and satellite.

The conclusions of this analysis are:

- Cable is the dominant provider for television services in all major markets. Therefore, changes in carriage, compensation arrangements or packaging that occur in the cable universe have a much larger impact on the industry as a whole.
- Markets in which Rogers operates are among the highest cable-penetrated markets in Canada.
- The Canadian distant signals provided by Rogers duplicate for the most part existing services and, therefore, the real value to consumers is the ability to time shift their viewing of television programs.
- The impact of this duplication is clearly demonstrated by the declining share of tuning to local stations within station groups and the increase of tuning to distant signals from the same group. This loss of viewing results in a loss of revenue for local stations.
- The value of this inventory (hours of tuning) is lost to the system as a whole, since tuning to non-originating stations is not recoverable in the commercial model used by advertisers in the Canadian system. That is, advertisers will not pay for

additional viewing achieved in distant markets; they will pay only for the viewing in the local market of each station.

- Using Fall 2003 data, the monetary impact of losing this inventory was valued at over \$5.6 million annually at that time. Even after significantly discounting the impact (range of 25 to 50%) to account for the possibility of Canadian distant signals contributing new hours of tuning, the loss was in the range of \$2.8 million to \$4.2 million annually.
- When the digital subscriber counts for Rogers in December 2003 are divided into the total revenue loss, an impact in the range of \$1.66 to \$2.49 per month per subscriber can be assigned to the carriage of Canadian distant signals by Rogers Cable in 2003.

Penetration of Cable in Rogers' Markets

Overview of Cable Penetration in Canada

Cable penetration has declined 10 percentage points but it remains the “television signal distribution” choice of over two-thirds of Canadians. As indicated in table 2.1, cable was declining by an average of 2 points per year, but slowed down in 2003, losing only one point relative to the previous year. While it is too early to consider this a trend, on the market level, in some areas, cable has actually reversed its position, posting some modest growth.

Table 2.1

Cable Penetration - Total

	1997	1998	1999	2000	2001	2002	2003
Total Canada	77	77	75	73	71	68	67

Source: BBM Fall Diary

Cable's dominance is particularly evident in major markets. As indicated in table 2.2, Toronto-Hamilton, the largest market in Canada, has over 80% of homes cabled. In both of Halifax and Kitchener, the decline in cable subscription has actually reversed and there has been a slight year-over-year increase.

Table 2.2

Cable Penetration - Major Markets

	1997	1998	1999	2000	2001	2002	2003
Halifax	76	79	77	77	74	69	70
Québec	74	75	68	72	67	61	61
Montréal	73	72	69	70	68	62	62
Ottawa-Gatineau	78	78	79	75	74	71	69
Toronto-Hamilton	86	88	88	83	86	83	83
Kitchener	72	70	68	69	65	62	63
London	74	75	72	70	67	65	64
Winnipeg	70	75	68	72	72	69	68
Calgary	78	77	76	73	73	70	69
Edmonton	71	70	65	61	61	60	57
Vancouver-Victoria	92	89	91	89	87	85	84
Average Major Market	76.7	77.1	74.6	73.7	72.2	68.8	68.2

Source: BBM Fall EM Statistics

Rogers' Cable Markets

The markets in which Rogers operates show a clear preference for cable as their distribution method for television signals. Only one market – Saint John/Moncton -- has shown any recent significant decrease in subscription. All others have either slowed or reversed.

Table 2.3

Cable Penetration - Rogers' Cable Markets									
	1995	1996	1997	1998	1999	2000	2001	2002	2003
Ottawa-Gatineau	78	79	78	78	79	75	74	71	69
Toronto-Hamilton	86	84	86	88	88	83	86	83	83
Kitchener	75	74	72	70	68	69	65	62	63
London	77	77	74	75	72	70	67	65	64
St. John's-Corner Brook	82	80	83	81	80	83	75	73	72
Saint John-Moncton	73	72	76	73	67	69	65	71	55

Source: BBM Fall EM Statistics

Table 2.4 shows that on average, cable subscriptions in Rogers' markets are held by slightly more than two-thirds of the population.

Table 2.4

Cable Penetration - Rogers' Cable Markets									
	1995	1996	1997	1998	1999	2000	2001	2002	2003
Average	78.5	77.7	78.2	77.5	75.7	74.8	72.0	70.8	67.7

Source: BBM Fall EM Statistics

Growth of Share of Tuning of Distant Signals

Only some of the markets in Canada have sufficient sample within the meter panel to produce market level data. Therefore, it is impossible to examine current data in each of the markets in which Rogers operates. However, Ontario (the largest subscriber area for Rogers) can be viewed using meter data as a region. While all of the distant Canadian signals distributed by Rogers are not reported by BBM, an examination of the three signals that are reported shows that, in fact, hours of viewing to these services have increased in the past two years. As shown in Table 3.1, since October of 2002, the hours spent viewing these services have increased by almost 38%.

Table 3.1
Ontario
Hours Tuned to Distant Signals (All Viewers 2+)

Dayparts	Stations	Hours (000)	
		Oct-02	Sep-04
M-Su 2a-2a	CIVT	432	1152
M-Su 2a-2a	CHAN	936	720
M-Su 2a-2a	CKVU	720	1008

Source: BBM Meter

As with hours tuned, there have been substantial increases in the reach of the distant Canadian signals. Tables 3.2 and 3.3 demonstrate the change in average monthly reach of distant signals for All Viewers 2+ and All Cable Viewers 2+, respectively. The increase in the average monthly reach of these signals has been particularly pronounced since June 2004, when Rogers moved its distant signals package to “digital basic”.

Table 3.2
Ontario
Average Monthly Reach Distant Signals (All Viewers 2+)

Dayparts	Stations	Monthly Reach % Change	
		Oct 02 - Dec 03	June 04 - Sept 04
		M-Su 2a-2a	CIVT
M-Su 2a-2a	CHAN	3.0%	-8.20%
M-Su 2a-2a	CKVU	28.8%	62.10%

Source: BBM Meter

Table 3.3
Ontario
Average Monthly Reach Distant Signals (All CABLE 2+)

Dayparts	Stations	Monthly Reach % Change	
		Oct 02 - Dec 03	June 04 - Sept 04
		M-Su 2a-2a	CIVT
M-Su 2a-2a	CHAN	0.0%	850.00%
M-Su 2a-2a	CKVU	0.0%	0.00%

Source: BBM Meter

Conversely, while tuning to distant Canadian signals has grown, tuning to originating stations has declined in Ontario. Relative to the hours tuned in October 2002, the hours in September 2004 are down 30,672,000 or 14%. When the cable universe is isolated, the hours of tuning are down 30,456,000. While this represents a slightly lower loss in percentage terms (12.3%) within the cable universe, almost all of the total hours lost to originating stations were lost from cable subscribers (99.3%). (See Tables 3.4 and 3.5 below)

Table 3.4

Ontario - Hours Tuned to Originating Signals (All Viewers 2+)

Dayparts	Stations	Hours (000)	
		Oct-02	Sep-04
M-Su 2a-2a	CBLT	25,272	29,304
M-Su 2a-2a	CFMT	20,448	13,752
M-Su 2a-2a	CFTO	75,096	73,512
M-Su 2a-2a	CHCH	40,824	30,024
M-Su 2a-2a	CIII	88,632	71,640
M-Su 2a-2a	CITY	58,752	46,224
M-Su 2a-2a	CJMT	5,400	7,848
M-Su 2a-2a	CKXT	0	11,448
M-Su 2a-2a	Total	314,424	283,752

Source: BBM Meter Data October 02 to September 04

Table 3.5

Ontario - Cable Hours Tuned to Originating Signals (All Viewers 2+)

Dayparts	Stations	Hours (000)	
		Oct-02	Sep-04
M-Su 2a-2a	CBLT	18,072	21,456
M-Su 2a-2a	CFMT	15,624	10,944
M-Su 2a-2a	CFTO	57,672	57,672
M-Su 2a-2a	CHCH	33,192	22,680
M-Su 2a-2a	CIII	71,712	53,784
M-Su 2a-2a	CITY	45,648	34,704
M-Su 2a-2a	CJMT	5,112	6,840
M-Su 2a-2a	CKXT	0	8,496
M-Su 2a-2a	Total	247,032	216,576

Source: BBM Meter Data October 02 to September 04

It is particularly instructive to look at the net effect of increased availability of Canadian distant signals on the tuning levels to local services. In Table 3.6, the tuning to local services in markets where Canadian distant signals have increased, either due to increased offerings on satellite or cable, is examined. Relative to 1997 the tuning to the local services has clearly declined in all cases. Of particular note is that, as a percentage of the total tuning to the station groups to which they belong, the local originating stations have also lost ground. Given that the schedules are almost identical, consumers can only be tuning to distant signals over the local service to engage in time shifting.

Table 3.6

Impact of the increase of distant signals on tuning to local service

Market	1997			2003		
	Originating Hrs	Network total Hrs	% originating of total	Originating Hrs	Network total Hrs	% of originating of total
Halifax	3,724,500	3,757,000	99.1	3,089,900	4,271,600	72.3
Lloydminster	462,100	690,600	66.9	185,000	355,000	52.1
Prince George	247,500	293,700	84.3	173,000	238,500	72.5
Medicine Hat	191,600	195,600	98.0	143,000	174,200	82.1

Source: BBM Fall Diary

Impact on Local Services

Distant signals duplicate, in whole or for the most part, the schedules provided by local services. Since the value of these distant signals is to provide consumers with the ability to view programs at different times, their availability will inevitably erode tuning to the local service. Table 4.1 shows the high level of duplication that exists between the CTV originating stations in Rogers' markets and the CTV Canadian distant signals.

Table 4.1

Local Schedules

- duplication with available distant CTV signal schedules

	Sun Oct-17	Mon Oct-18	Tue Oct-19	Wed Oct-20	Thu Oct-21	Fri Oct-22	Sat Oct-23	Total Hours
06:00am	Acorn: The Nature Nut	Local News	Local News	Local News	Local News	Local News	Owl Tv	2.5
06:30am	Kids@Discovery	Canada AM	Canada AM	Canada AM	Canada AM	Canada AM	Kingdom Adventure(DV)	
07:00am	Good Morning Canada						D'Myna Leagues	
07:30am							Leaps And Bounds	
08:00am							Good Morning Canada	
08:30am								
09:00am	Eaglecom	Live with Regis and Kelly	Live with Regis and Kelly	Live with Regis and Kelly	Live with Regis and Kelly	Live with Regis and Kelly		
09:30am	Eaglecom							
10:00am	Infomercial	Balance -	Balance -	Balance -	Balance -	Balance -	Daily Planet	
10:30am	Infomercial	Daily Planet	Daily Planet	Daily Planet	Daily Planet	Daily Planet	Daily Planet	
11:00am		The View	The View	The View	The View	The View	The View	
11:30am	First Story						Unwanted In New Zealand Animal Tracks	
12:00pm	Question Period	Local News	Local News	Local News	Local News	Local News	Bikes On Ice	2.5
12:30pm								2.5
01:00pm	Ben Johnson: Drugs and the Quest for Gold (DV)	Balance - The Bold and the Beautiful	Balance - The Bold and the Beautiful	Balance - The Bold and the Beautiful	Balance - The Bold and the Beautiful	Balance - The Bold and the Beautiful	Eaglecom	
01:30pm							Eaglecom	
02:00pm	CTV Movie: NOW AND THEN	Vicki Gabereau	Vicki Gabereau	Vicki Gabereau	Vicki Gabereau	Vicki Gabereau	Balance -	
02:30pm		Vicki Gabereau	Vicki Gabereau	Vicki Gabereau	Vicki Gabereau	Vicki Gabereau	Balance - Television For Living Well	
03:00pm		General Hospital	General Hospital	General Hospital	General Hospital	General Hospital	Mysterious Ways	
03:30pm								
04:00pm	Less Than Perfect	Oprah	Oprah	Oprah	Oprah	Oprah	Sue Thomas: F.B. Eye (DV)	
04:30pm	My Wife And Kids							
05:00pm	8 Simple Rules	Dr. Phil	Dr. Phil	Dr. Phil	Dr. Phil	Dr. Phil	Charmed	
05:30pm	Hope and Faith							
06:00pm	Local News	Local News	Local News	Local News	Local News	Local News	Local News	2.5
06:30pm								
07:00pm	Desperate Housewives	eTalk Daily	eTalk Daily	eTalk Daily	eTalk Daily	eTalk Daily	Sue Thomas: F.B. Eye (DV)	
07:30pm		Jeopardy	Jeopardy	Jeopardy	Jeopardy	Jeopardy		
08:00pm	Cold Case (HD)	The Benefactor	Corner Gas (DV)	Lost	Charmed	Joan of Arcadia (HD)	Lost	
08:30pm			Degrassi: The Next Generation (DV)(HD)					
09:00pm	Law and Order: C.I. (HD)	Wife Swap	According To Jim	The West Wing	C.S.I. (DV)(HD)	Third Watch (HD)	Lost	
09:30pm			Scrubs					
10:00pm	The Sopranos (HD)	CSI: Miami (HD)	Law and Order: SVU (HD)	Law and Order (HD)	ER	Medical Investigation (HD)	Desperate Housewives	
10:30pm								
11:00pm	CTV News	CTV News	CTV News	CTV News	CTV News	CTV News	CTV News	
11:30pm	Local News	Local News	Local News	Local News	Local News	Local News	Local News	
Total Hours of Non-Duplicated Programming in Rogers' Markets								15

Given the option of viewing local or not viewing the program at all, it is reasonable to assume that some viewers would in fact adjust their schedule, making themselves available to watch at the locally scheduled time. It is impossible to say with any degree of precision what percentage of the consumers would make themselves available at the local time but the fact that consumers report adjusting their schedules to see their favourite show, (appointment viewing) suggests this would happen in this situation.

Using BBM diary data, we can calculate the tuning to the Canadian distant signals that Rogers carries. The most recent full sample survey is Fall 2003 and the total hours of tuning by market and region to all the distant Canadian signals carried by Rogers are summarized in Table 4.2 below. (station lists vary by region) The higher tuning in the Atlantic region is not surprising given the differential in the amount tuned to television overall. On average Atlantic Canada tunes 23.2 hours per week to television while Ontario tunes 20.8.

Table 4.2
**Hours Tuned by Market to Canadian Distant
 Signals carried by Rogers**

Market	Hours
Toronto	141,900
Kitchener	20,900
London	32,700
Ottawa-Hull	70,300
Ontario	265,800
St. John's-Corner Brook	267,200
Saint John Moncton	23,900
Atlantic	291,100

Source: *BBM Diary Fall 2003*

The monetary value to the system of the tuning that goes to Canadian distant signals and is lost to local services can be estimated by calculating the average revenue potential of an hour tuned to the local service and then applying this to the collective hours tuned to Canadian distant signals. Because audience is the basis for valuing commercial inventory, the hours of tuning can be used as the definition of a revenue unit. The number of units (total hours tuned to originating stations in a market) can be divided into the revenues (total advertising revenues reported to the CRTC) to produce an estimate of the value of each unit and its potential in the advertising sales paradigm.

For example, if BBM reports 1000 hours of tuning to all local services in a specific market and the CRTC Financial Summaries show that \$100,000 of ad revenue was generated by those local stations for the fiscal year that included this reporting period, we can state that each hour of tuning reported by BBM was worth \$100 to the station receiving it.

Because of reporting confidentiality surrounding revenues on a market level, only regional data can be examined. In Table 4.3, all of the tuning to the local services in each Ontario and Atlantic market have been calculated and summarized by region.

Table 4.3

Atlantic Canada	
Audience: A2+	Fall 2002
	Hrs
St. John-Cornerbrook	2,545,800
Sydney-Glace Bay	855,500
Halifax	3,876,600
Saint John-Moncton	3,254,600
Total	10,532,500

Ontario	
Audience: A2+	Fall 2002
	Hrs
Pembroke	126,500
Ottawa Anglo	3,000,600
Ottawa Franco	2,129,500
Kingston	491,900
Peterborough	484,900
Toronto	45,671,500
Barrie	1,030,300
Kitchener	2,988,400
London	1,787,200
Sud-Tim-NB	1,840,100
Sault Ste. Marie	447,200
Thunder Bay	741,800
Kenora	38,700
Total	60,778,600

Source: BBM Diary Fall 2002

Using the 2003 CRTC Financial Summaries, the revenue value of an hour of tuning within the region can be calculated. Using a regional revenue figure to value tuning on the market level is a more conservative approach to estimating revenue generation potential because lower-valued markets in both regions are included in the calculations. While this approach tends to depress the markets and undervalues the inventory in major markets like Toronto, Halifax, Kitchener, London and Ottawa, market level data is not available for all of the Rogers' markets. Therefore, these projections should be viewed as being somewhat understated.

Table 4.4

Atlantic		2003
REVENUE (\$)	Reporting units	
Local Time Sales		\$23,014,430
National Time Sales		\$48,323,034
		\$71,337,464
	rev/hour	6.27

Source: CRTC Financial Summaries 2003

Table 4.5

Ontario		2003
REVENUE (\$)	Reporting units	
Local Time Sales		\$91,921,760
National Time Sales		\$777,380,727
		\$869,302,487
	rev/hour	14.30

Source: CRTC Financial Summaries 2003

By using this unit valuation approach, we can determine the net loss or gain in revenue as the supply of hours of tuning to the local station increases or decreases.

Because the product offered by the Canadian distant signals is, for the most part, identical to that offered locally, it is reasonable to assume that consumers are substituting the distant signal for the local one for the same programming. Therefore, calculating loss begins with calculating the total value of the inventory that is being added into the market and what would be returned to the station if the tuning remained with the original station.

Table 4.6

Atlantic Total Hours	Total Hours	291,100
	rev/hour	6.27
	Total Revenue	\$1,826,270.20
Ontario markets	Total hours	265,800
	rev/hour	14.30
	Total Revenue	\$3,800,940.00
Total Revenue		\$5,627,210.20

Source: BBM 2002, 2003, CRTC Financial Summaries 2003

Despite heavily duplicating local services, distant signals may in fact deliver new hours of tuning simply because of the choice of time at which a consumer may view the programs. That is, it may be that a consumer watched a program on a distant signal because that was the only time they were available and in fact, in the absence of a distant signal no tuning to that program would have occurred. It is therefore appropriate to discount the hours of tuning lost. While there is no data to guide this discounting process, the rate of discount is in fact a reflection of how many new hours of tuning we ascribe to the carriage of these signals. If we conservatively assume that half of these hours would never have been spent with a Canadian service, we can apply a discount of 50%. At this rate, the dollar impact of the carriage of Canadian distant signals drops from \$5,627,210 to \$2,813,605. However, an assumption that fully half of the hours tuned would not have been spent watching the exact same programs that were viewed through timeshifting may understate the impact. If we apply a discount of only 25%, assuming one-quarter of the tuning is new, we have an impact level of \$4,220,408. For both of these impact levels we can then calculate a per subscriber impact amount.

Using the number of digital subscribers receiving the distant Canadian signal package as of December 2003 (141,000), as reported by Rogers to the CAB in connection with its interim payments for that period, and using a total net loss to the system discounted by 50% and 25%, the impact on local Canadian broadcasters of the Canadian distant signals ranges between \$1.66 and \$2.49 per subscriber.

Table 4.7

Estimated Per Subscriber Impact of the Carriage of Distant Canadian Signals in Rogers' Markets

	50% Discount	25% Discount
Total Revenue	\$5,627,210.20	\$5,627,210.20
Discount	\$2,813,605.10	\$4,220,407.65
rev per sub/yr	19.95	29.93
rev per sub/mo	1.66	2.49

Source: BBM Fall 2002, 2003, CRTC Financial Summaries 2003

Conclusion

5

Prior to the introduction of Satellite in 1998, Cable enjoyed a monopoly. Despite aggressive competition, Cable still enjoys market dominance and, in the case of Rogers' markets, is preferred in a ratio of 2:1 by consumers. This suggests that changes to compensation in the cable universe will have a much larger effect on the system than changes in the Satellite universe.

Using a model that estimates the revenue potential of an hour of viewing for a local service, the loss incurred by the system when a distant signal is viewed over a local one, has been calculated. A range of per subscriber impact has been created of \$1.66 to \$2.49, depending on the assumptions of how many of these hours tuned are new to the station groups. This estimate is based on subscriber and audience levels that are from the last quarter of 2003. Subsequent to these data being collected, changes have taken place in the cable line-up on Rogers, such that distant Canadian signals are more widely available. As such, this estimate of impact is limited in that it speaks to prior, limited accessibility and hours of tuning based on slightly more than 1% of Canadian homes. The new packaging arrangements alter significantly the exposure distant Canadian signals receive and in fact, increases the potential for greater impact to Canadian Conventional services.

Appendix

BBM Market TV Hours Tuned

Table 6.1

Rogers Cable Combined Station List - Hours Tuned Trend

		Fall 2001	Fall 2002	Fall 2003
Ontario	Total Hrs (00)	15,349	25,372	26,255
	Cable Hrs (00)	1,456	4,756	5,147
	% hrs to Cable	9.5%	18.7%	19.6%
Toronto	Total Hrs (00)	2,008	6,529	6,261
	Cable Hrs (00)	0	2,771	1,684
	% hrs to Cable	0.0%	42.4%	26.9%
Kitchener	Total Hrs (00)	2,041	2,612	2,817
	Cable Hrs (00)	4	260	266
	% hrs to Cable	0.2%	10.0%	9.4%
London	Total Hrs (00)	1,150	2,010	2,142
	Cable Hrs (00)	0	101	361
	% hrs to Cable	0.0%	5.0%	16.9%
Ottawa-Hull	Total Hrs (00)	717	1,766	2,415
	Cable Hrs (00)	30	374	719
	% hrs to Cable	4.2%	21.2%	29.8%
St. John's-Cornerbrook	Total Hrs (00)	3,353	3,509	4,262
	Cable Hrs (00)	2,252	2,520	2,672
	% hrs to Cable	67.2%	71.8%	62.7%
Saint John-Moncton	Total Hrs (00)	2,555	2,282	3,734
	Cable Hrs (00)	289	378	252
	% hrs to Cable	11.3%	16.6%	6.7%

CRTC Financials

Table 6.2

Total TV - Atlantic											
Reporting Units	8	8	8	8	8						Avg. Ann.
REVENUE (\$)	1999	2000	2001	2002	2003	00/99	01/00	02/01	03/02		Grth Rate
Local Time Sales	21,883,714	21,399,521	22,098,081	22,399,713	23,014,430	-2.21	3.26	1.36	2.74		1.27
National Time Sales	28,298,371	28,985,808	28,559,973	30,739,245	48,323,034	2.43	-1.47	7.63	57.20		14.31
Network Payments	1,768,294	1,669,705	1,863,463	586,951	0	-5.58	11.60	-68.50	-100.00		-100.00
Infomercials	597,716	347,517	355,435	477,553	559,656	-41.86	2.28	34.36	17.19		-1.63
Syndication-Production	554,430	359,509	312,148	308,128	313,062	-35.16	-13.17	-1.29	1.60		-13.31
Other	735,986	778,147	676,061	1,114,009	1,675,045	5.73	-13.12	64.78	50.36		22.83
TOTAL REVENUE	53,838,510	53,540,207	53,865,161	55,625,599	73,885,225	-0.55	0.61	3.27	32.83		8.23

Source: CRTC

Table 6.3

Total TV - Ontario											
Reporting Units	29	29	28	28	25						Avg. Ann.
REVENUE (\$)	1999	2000	2001	2002	2003	00/99	01/00	02/01	03/02		Grth Rate
Local Time Sales	112,690,406	85,967,980	90,364,687	84,251,239	91,921,760	-23.71	5.11	-6.77	9.10		-4.97
National Time Sales	590,672,034	613,418,203	614,879,000	625,949,378	777,380,727	3.85	0.24	1.80	24.19		7.11
Network Payments	11,991,352	13,188,053	13,325,038	4,478,187	2,027,599	9.98	1.04	-66.39	-54.72		-35.87
Infomercials	4,949,210	6,208,881	6,442,413	8,352,329	7,558,277	25.45	3.76	29.65	-9.51		11.17
Syndication-Production	19,914,136	13,248,144	9,458,775	7,525,511	8,722,308	-33.47	-28.60	-20.44	15.90		-18.65
Other	11,147,700	11,974,510	11,680,320	22,423,683	40,855,338	7.42	-2.46	91.98	82.20		38.36
TOTAL REVENUE	751,364,838	744,005,770	746,150,236	752,980,329	928,466,009	-0.98	0.29	0.92	23.31		5.43

Station List

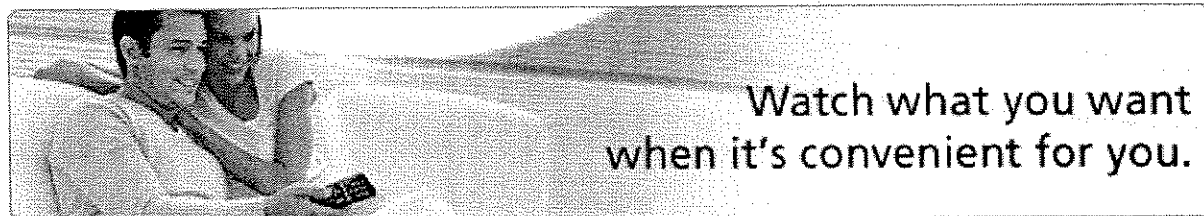
Table 6.4

Roger's Cable Available Distant Signals

ASN	CTV - Atlantic Satellite Network
CFMT	Independent - Toronto
CFTO	CTV Toronto
CHAN	Global Vancouver
CIHF	Global Halifax
CIII	Global Toronto
CITV	Global Edmonton
CITY	Chum - Toronto
CIVT	CTV Vancouver
CJCH	CTV Halifax
CJMT	CTV Moncton
CKVU	Chum - Vancouver
CKY	CTV Winnipeg
KCPQ	US Service
KCTS	US Service
KING	US Service
KIRO	US Service
KOMO	US Service

Home > For Consumers > Cable TV Services > Digital Cable > On Demand Services > Timeshifting

Timeshifting



With Timeshifting you have the freedom to watch your shows on your schedule, at up to five different times during the day. No more rushing through life to make it to the TV. **Canadian Timeshifting** channels are available to all Rogers Digital Cable customers at **no additional charge**. All you need is Rogers Digital equipment† to receive the channels.

Channels offered in Ontario* region:

Channels offered in Atlantic* region:

Canadian Timeshifting channels available to all Rogers Digital Cable customers at no additional charge.†

[> View channel line-up](#)

- CBC St. John's - CBNT
- NTV (Newfoundland) - CJON
- ASN Halifax - ASN
- ATV Halifax - ATV
- CBC Halifax - CBHT
- Global Saint John - CIHF
- CH Montreal - CJNT
- CityTV Toronto - CTY-T
- CBC Toronto - CBLT
- CTV Toronto - CFTO
- Global Toronto - CIII
- A-Channel Winnipeg - CHMI
- CBC Winnipeg - CBWT
- CTV Winnipeg - CKY
- Global Winnipeg - CKND
- CBC Calgary - CBRT
- CTV Calgary - CFCN
- Global Calgary - CICT
- CBC Vancouver - CBUT
- CH Vancouver - CHEK
- CityTV Vancouver - CTY-V
- CTV Vancouver - CIVT
- Global Vancouver - CHAN

- CBC St. John's - CBNT
- NTV (Newfoundland) - CJON
- ASN Halifax - ASN
- ATV Halifax - ATV
- CBC Halifax - CBHT
- Global Saint John - CIHF
- CH Montreal - CJNT
- CityTV Toronto - CTY-T
- CBC Toronto - CBLT
- CTV Toronto - CFTO
- Global Toronto - CIII
- A-Channel Winnipeg - CHMI
- CBC Winnipeg - CBWT
- CTV Winnipeg - CKY
- Global Winnipeg - CKND
- CBC Calgary - CBRT
- CTV Calgary - CFCN
- Global Calgary - CICT
- CBC Vancouver - CBUT
- CH Vancouver - CHEK
- CityTV Vancouver - CTY-V
- CTV Vancouver - CIVT
- Global Vancouver - CHAN

All US network & Canadian specialty Timeshifting channels are available for **\$1.99 per month**.

Order Now

US network & Canadian specialty Timeshifting channels are \$1.99 per month.†

> View channel line-up

Channels offered in Ontario* region:

- ABC - Seattle
- CBS - Seattle
- FOX - Seattle
- NBC - Seattle
- PBS - Seattle
- Comedy - West
- Family Channel - West
- Prime - West
- Showcase - West
- Teletoon - West
- W (W Network) - West
- YTV - West

Channels offered in Atlantic* region:

- ABC - Seattle
- CBS - Seattle
- FOX - Seattle
- NBC - Seattle
- PBS - Seattle
- Comedy - West
- Family Channel - West
- Prime - West
- Showcase - West
- Teletoon - West
- W (W Network) - West
- YTV - West

†Rogers Digital equipment rental or purchase is extra and required.
*Channel availability may vary in some parts of the region.



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