CBC Radio-Canada

Filed electronically

2 November 2009

Mr. Robert Morin
Secretary-General
Canadian Radio-Television &
Telecommunications Commission
Ottawa, Ontario
K1A ON2

Re: Broadcasting Notice of Consultation CRTC 2009- 614– Call for comments following a request by the Governor in Council to prepare a report on the implications and advisability of implementing a compensation regime for the value of local television signals, comments of CBC/Radio-Canada

Dear Mr. Morin:

Attached please find CBC/Radio-Canada's comments in regard to Broadcasting Notice of Consultation CRTC 2009-614 – Call for comments following a request by the Governor in Council to prepare a report on the implications and advisability of implementing a compensation regime for the value of local television signals.

As the outcome of this consultation could have a significant impact on CBC/Radio-Canada, we request an opportunity to appear at the public hearing scheduled to begin on 7 December 2009.

All of which is respectfully submitted,

BKirshenblatt

Bev Kirshenblatt
Senior Director, Regulatory Affairs

P.O. Box 3220, Station C
Ottawa, ON
K1Y 1E4

Broadcasting Notice of Consultation

CRTC 2009-614

Call for comments following a request by the Governor in Council to prepare a report on the implications and advisability of implementing a compensation regime for the value of local television signals

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Comments of

Canadian Broadcasting Corporation/Radio-Canada

2 November 2009

Executive Summary

For many years, cable and satellite companies have been raising their rates, increasing their revenues, and enhancing their profitability at the expense of Canadian consumers and Canadian local television stations.

There is no meaningful competition to protect consumers from repeated price increases by cable and satellite companies. And there is no mechanism in place to prevent cable and satellite companies from free-riding on local television broadcasters by using their signals without paying for them.

As a consequence, Canadian consumers are being gouged. And local television broadcasters are financially handicapped to such an extent that the future of local television in Canada is threatened.

There is a simple solution to this problem.

The CRTC should require cable and satellite companies to offer consumers a small, all Canadian basic package which would include all local television stations plus a few other licensed services. The rate for this small basic package would not exceed a maximum rate established by the CRTC. This would ensure the affordability of television service for all Canadians.

Consumers would be free to purchase – but would not be required to purchase – any additional services they may want that are not included in the small basic package. The cable and satellite companies would negotiate with broadcasters to determine the compensation payable for the services they distribute – including the local television services in the basic package. The CRTC would act as arbitrator in any situations where the parties could not agree.

This simple approach – a small, all Canadian basic service – would redress the imbalance that has developed in the Canadian broadcasting system.

Consumers would receive an affordable basic service and enhanced choice for additional services. Local broadcasters would be put on a sustainable financial footing and could continue to provide the local programming Canadians want and enjoy.

And, cable and satellite companies could earn a fair return on their investments and would have significant freedom to package and price their service offerings beyond the small, all Canadian basic service.

I. The Current Review

1 The problem of cable and satellite free-riding has become a major public issue over the past several months as the dismal future for local television stations – a future that has been predicted repeatedly in recent years – is becoming a reality.

2 The public has become aware of and is getting engaged in this issue. They are now beginning to understand that their cable and satellite rates keep going up for one and only one reason – to make the cable and satellite companies richer.

3 In light of the growing public profile of this issue, on 16 September 2009, the Governor in Council (GIC) directed the Commission to investigate and report on a possible compensation regime for the value of local television signals. The GIC indicated that the Commission should take into account public comment, affordability issues and the potential impact on other components of the communications industry in its analysis and report.

4 In response to the GIC directive the Commission issued Broadcasting Notice of Consultation CRTC 2009-614 (BNC 2009-614) on 2 October 2009. In BNC 2009-614 the Commission requested comments from the public on two broad areas related to a possible compensation regime:

1) affordability issues; and
2) the impact of such a regime on various components of the industry.

5 The Commission also invited comments on "other matters" provided they are within the Commission's jurisdiction and they are discussed within the context of the GIC directive.

6 These comments of CBC/Radio-Canada follow the structure set out in

BNC 2009-614: i) affordability; ii) overall impact on the industry; and, iii) other matters. As a preliminary matter, the next section provides an overview of the current economic situation for cable companies, cable consumers, and local broadcasters.

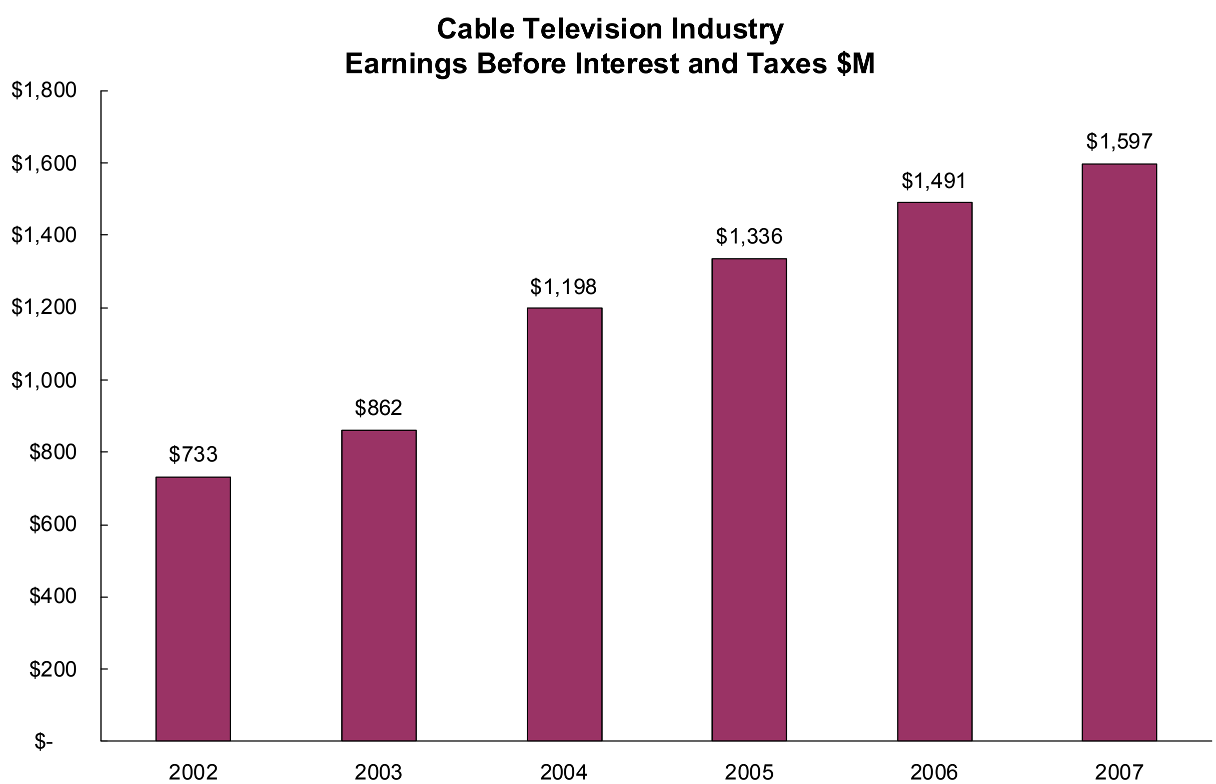
II. The Current Economic Imbalance

I believe it's time for the CRTC to protect consumers like me by regulating basic cable rates. This will prevent cable companies from increasing my basic cable bill whenever they wish.

Ann-Marie Dube
Mississauga, ON

7 The future of local television is in danger.

8 Cable and satellite companies are making hundreds of millions of dollars selling local television signals to Canadian consumers but passing none of that money through to the television broadcasters. Instead, the cable and satellite companies are keeping all of the money for themselves. They are free-riding on local television and enjoying huge profits.



Source: Statistics Canada - Catalogue no 56-001-XIE and 56-209-X

9 The major sources of these profits are no secret: 1) constantly rising rates for consumers (and hence constantly rising revenues for cable and satellite companies); and, 2) free-riding on local television broadcasters.

10 The cable companies are not shy in proclaiming to their shareholders that their revenues keep rising because they can raise cable rates at will. For example, in its recent 2009 financial results, Shaw stated:

> Twelve month service revenue in the Cable division was up 11% to $2.63 billion. **The improvement was primarily driven by customer growth and rate increases.** Twelve month service operating income before amortization improved 10% to $1.27 billion. [1]

11 Shaw's forecast for the coming year is no different. Just a few weeks ago, the company happily told its shareholders that its view for the coming year is again outstanding, with the expectation of "a 14% or more increase in operating earnings before amortization"[2] for 2010.

12 Shaw is not unique. For the 2009 financial year to date, Rogers also announced 7% growth in cable revenues and 8% growth in cable operating income. Rogers' 2009 cable revenue and profit results were so positive that the company was pleased to announce that its cable segment was driving increased profitability: "Cable drives continued margin expansion and healthy growth in cash flow..."[3]

13 In a year with the worst economic recession in decades, when the average Canadian has had to endure severe financial difficulties, the cable industry has continued to push its profit levels ever higher, in large part through repeated cable rate increases which squeeze consumers even more.

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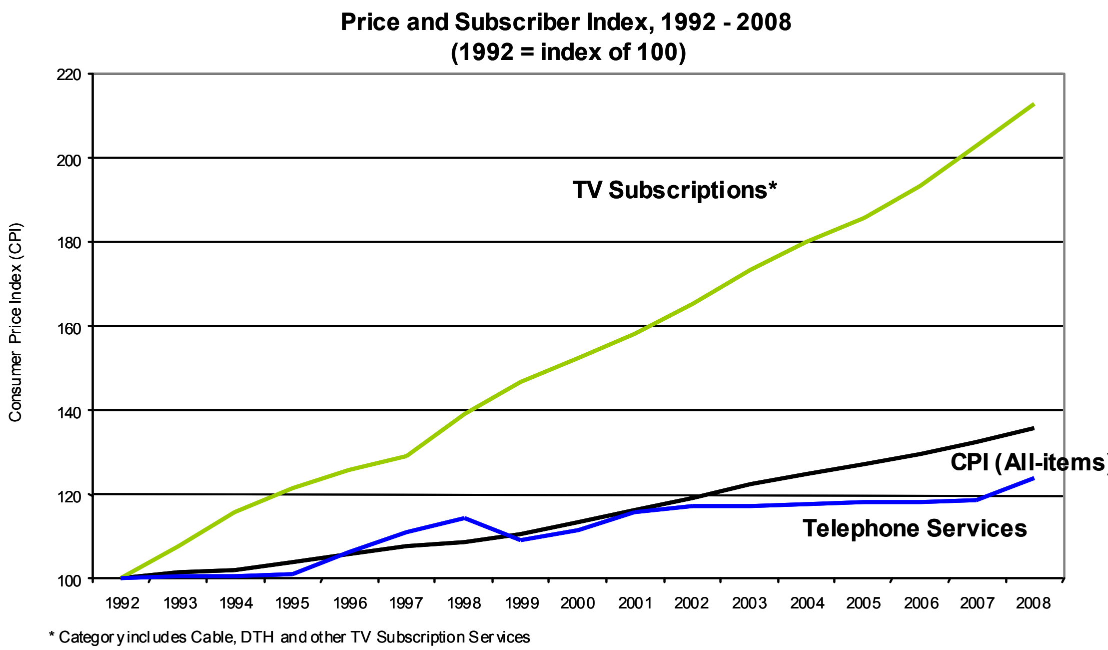
[1] Shaw Communications FY2009 Financial Results Release (October 23, 2009).
[2] Ibid.
[3] Rogers Communications 3QFY2009 Financial Results Release (October 27, 2009).

14 But this is not simply a one-time or recent phenomenon. Over the last 16 years, the price for cable television has more than doubled – increasing by approximately 112% – while the average price for all goods and services in Canada has increased by only a third. In other words, as shown below, cable prices have risen more than three times faster than the average of all prices in Canada. Consumers are being gouged.

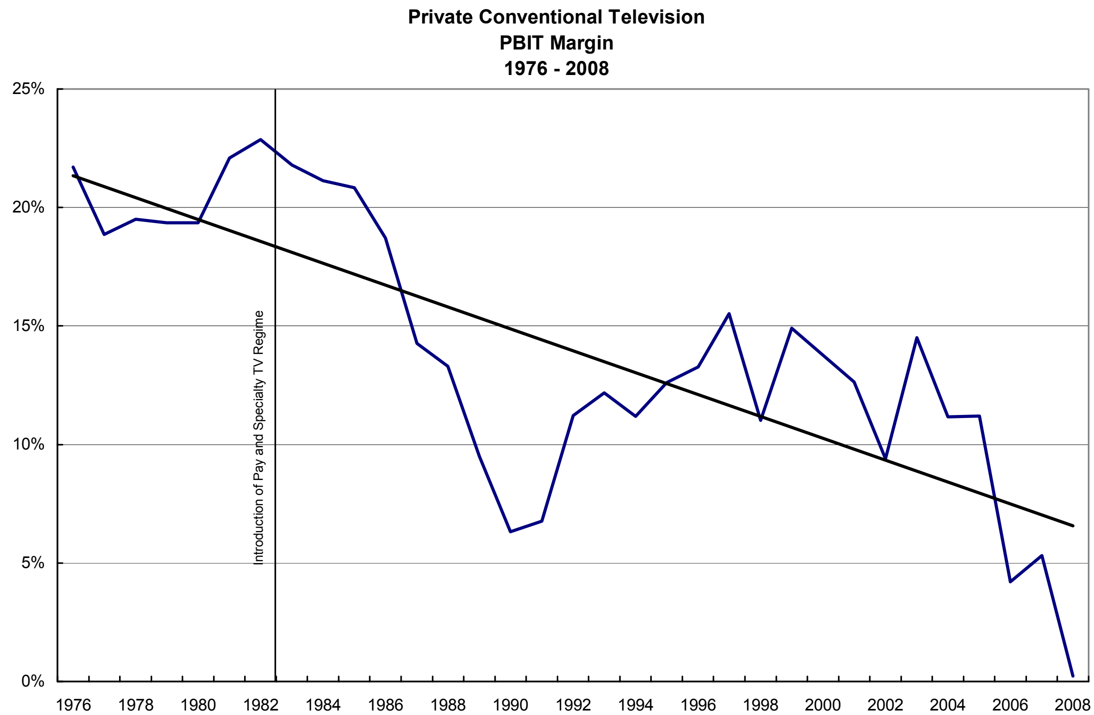


15 What has happened to local television broadcasters during this period?

16 The introduction of the Internet and dozens of new specialty television services has fragmented the advertising market dramatically over the past two decades. This has undercut the financial basis for local television – both public and private – which has been forced to rely heavily, if not exclusively, on advertising revenues to fund operations.

17 The following graph clearly demonstrates that the financial crisis in local broadcasting is not a recent event, and is not at all related to the recent

recession. The financial health of local broadcasting has been getting steadily worse for some time.

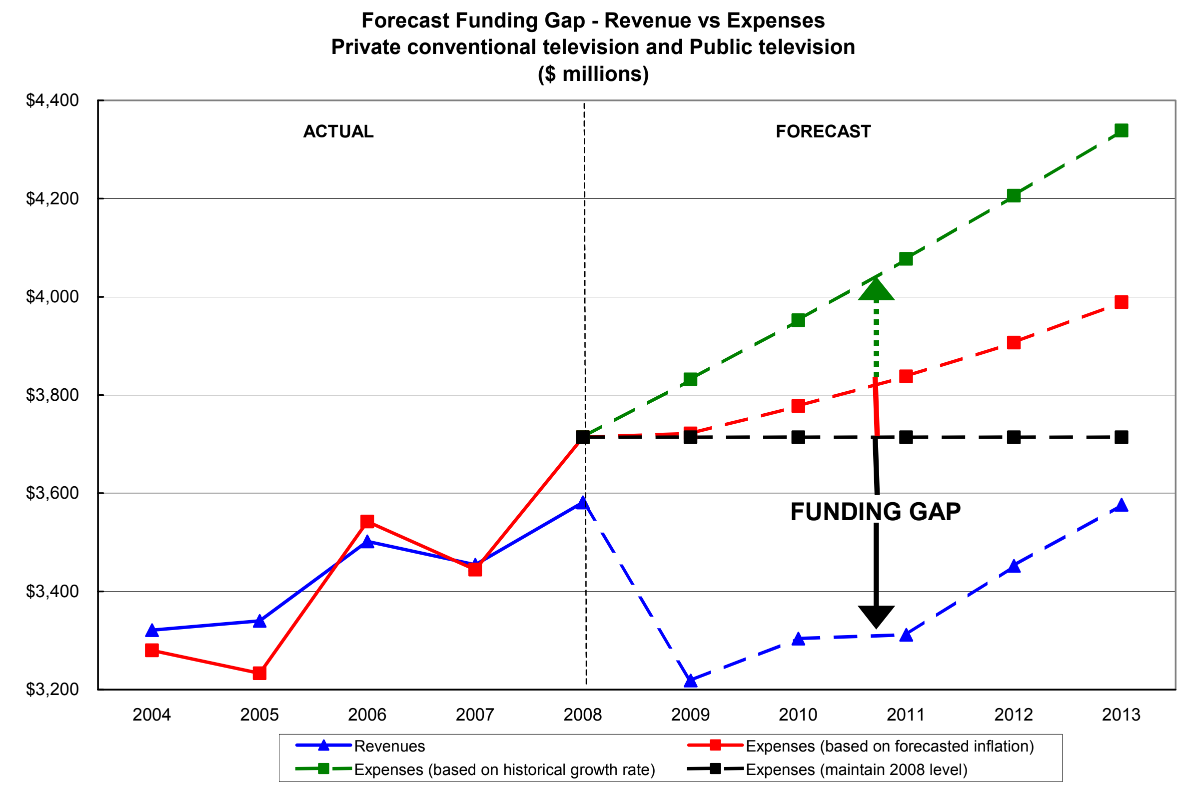


Source: Statistics Canada, Table 357-0001

18 As a result, for years, both public and private broadcasters have been telling the CRTC and Government that this situation is unsustainable.

19 Local broadcasters have said repeatedly that cable companies should be required to compensate them for the programs that are taken from them. For years they have said that the free-riding of cable and satellite has to stop. These companies should be required to pay for what they use, just like everyone else. Otherwise there will not be a future for local television in Canada.

20 Now industry analysts are forecasting that local broadcasting, and conventional broadcasting generally, may never recover. The combination of specialty services, the Internet, and the recent recession have all combined to push the industry to the brink.



Source: Statistics Canada, PricewaterhouseCoopers, TD Economics, CBC

21 Forecasts from industry analysts, illustrated in the graphs above, call for a 13% decline in public and private conventional TV advertising revenues for the 2009 broadcast year. These revenues are forecasted not to return to pre-recessionary levels for another 5 years. Clearly, without the ability to obtain fair compensation for their services, conventional broadcasters will be forced to reduce their costs by over 25% in the next few years, in order to keep their businesses afloat.

22 PricewaterhouseCoopers now forecasts that public and private conventional television's share of total television advertising revenues may not ever return to its previous levels, and will continue to shrink, dropping to below 67% by 2013, down from 80% in 2003.

23 Local television is in crisis, and without an end to free-riding by cable companies, its future will be grim and short-lived.

The Future is Now

24 All of the major television networks in Canada have made job and budget cuts in the last twelve months. CBC/Radio-Canada has cut approximately 800 jobs in 2009, and has had to cut costs by $171 million. CTVgm, Canwest, and Rogers have all been forced to incur major cuts and write-downs. These cuts reflect a profound problem with this segment of the broadcasting industry.

25 In 2009 CTVgm – the largest private television broadcaster in Canada – put up three television stations for sale at a price of $1 each. Shaw Communications – the Calgary-based cable giant – loudly proclaimed it would buy them but then quietly backed out of the deal once it had reviewed the financial books. After the Shaw deal fell through, CTVgm closed one television station and indicated that it intends to close the other two in 2010 if the free-riding problem is not solved. CTVgm has also indicated that the future of several other local television stations is in jeopardy.

26 In the past six months, Canwest has sold a number of its local television stations – not for millions of dollars, not even for thousands of dollars. Canwest was only able to obtain a few dollars for each one of these stations. These sale prices more than anything illustrate the financial unattractiveness of local television.

27 Local television networks are simply unable to make this business work if they are not provided fair compensation for their programming.

III. Affordability

28 The affordability of cable and satellite services is the central issue in this proceeding.

29 This issue has been raised by CBC/Radio-Canada before. In the process leading to Broadcasting Public Notice CRTC 2008-100 (BPN 2008-100) – which established a revised regulatory regime for cable and satellite undertakings – the Corporation argued that the Commission should consider a small basic package at an affordable rate, in order to give consumers a low-cost entry point to the Canadian broadcasting system, and provide them with enhanced choice.

30 The Commission disagreed with CBC/Radio-Canada's suggestion, stating instead that:

> …BDU competition will be sufficient to ensure that rates are affordable.[4]

31 Unfortunately, the CRTC was overly optimistic on this point.

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[4] BPN 2008-100, paragraph 39.

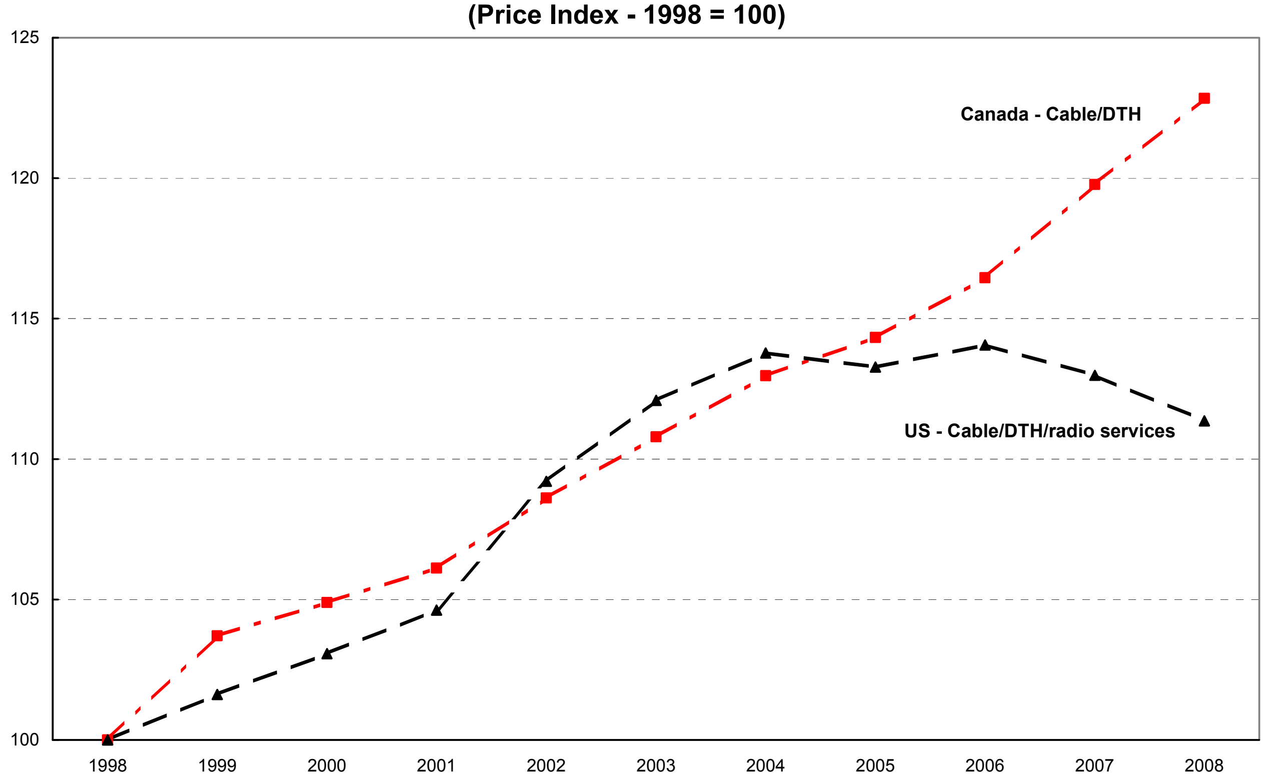
Cable Rates Keep Going Up

32 The simple fact is that cable and satellite rates have risen steadily over the last several years, and have done so at a rate that is more than 3 times faster than average prices in this country.

33 As noted above, the cable and satellite companies have been quite open in their statements to shareholders that much of their improvements in revenues and profits can be attributed directly to these rate increases.

34 These types of unchecked rate increases – and remarkably candid public statements – are extraordinary in a supposedly competitive environment. They are also in dramatic contrast to the development of cable rates in the United States in recent years.

Cable/DTH Real Price Trends - Canada and United States 1998 - 2008
(Price Index - 1998 = 100)



Source: Statistics Canada, US Bureau of Labor Statistics. Cable/dth prices in each country deflated using the respective CPI-All items

35 As illustrated above, Canadian cable rates have increased much more quickly than U.S. cable rates, particularly in the last several years since cable rates were de-regulated.

36 Why are Canadian cable and satellite rates going up so much? Shouldn't competition be keeping rates down?

37 As discussed in Appendix A, numerous indicators suggest that competition in the cable and satellite sector is extremely weak. In fact, the evidence strongly suggests that the television distribution business is operating not as a competitive market at all, but as an oligopoly with the cable and satellite companies dividing the market between them and exercising market power to raise rates at the expense of consumers.

38 The Commission's expectation that competition would protect consumers has not materialised. Indeed, there appears to be very little keeping Canadian cable rates in check except the fear of a consumer revolt if the gouging becomes too blatantly obvious. And even then the cable and satellite companies have devised an effective shield – blame it on the CRTC.

<u>Lack of Clarity in Billing</u>

39 It has become all too common in the Canadian communications environment for cable and satellite companies to disguise items on their consumers' bills as government imposed retail taxes when they are not (e.g., "system access fee", "government regulatory recovery fee", "LPIF tax", "CRTC LPIF Fee").

40 This lack of clarity in billing raises serious concerns about the integrity of BDU's actions in the communications marketplace. For present purposes what is

abundantly clear is that the Commission cannot rely on cable and satellite companies to voluntarily fix this billing transparency problem.

41 For example, in BPN 2008-100, the Commission stated that cable and satellite companies should not pass through to consumers – by way of increased rates – their contributions to the Local Programming Improvement Fund:

> In light of the performance levels of the BDU sector and the benefits accruing to BDUs as a result of other changes being made to the regulatory framework, the Commission is of the view that there is no justification for BDUs to pass along any increased costs relating to the LPIF – estimated to be on average approximately $0.50 per month – to their subscribers.[5]

42 Contrary to the Commission's clearly stated view, the cable and satellite companies have done exactly what the Commission did not want them to do – and worse – they have raised their rates to cover the LPIF contributions *and* they have blamed the rate increase on the CRTC by characterizing it as a government-imposed tax.

43 This situation is all the more appalling when one considers that several of these distributors, such as Rogers and Videotron, own major broadcasting interests that benefit directly from the LPIF contributions.

44 The plain fact is that neither competition nor moral suasion by the Commission is protecting consumers. This has serious implications for the fundamental policy goal of the Commission and the Government – affordable television services for Canadians. Something more direct and legally enforceable must be done.

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[5] BPN 2008-100, paragraph 357

Getting Back to Basics to Ensure Affordability

45 There can be little doubt that affordability of BDU services has become an issue for consumers.

46 In 2006 the Corporation filed evidence with the Commission indicating that, as of 2004, cost was the number one reason given by people who did not subscribe to a cable or satellite service and who had some interest in such a service. Since that time cable and satellite rates have increased significantly – undoubtedly compounding the affordability problem.

47 Indeed, throughout the current recession – when broadcasters were laying off employees, closing local television stations or selling them at nominal prices – cable and satellite rates continued to rise, squeezing consumers even more than they were in 2004. This despite the fact that cable and satellite companies continue to insist that any rate increases associated with negotiated compensation for OTA services will cause their consumers to drop off and leave the system.[6]

48 The affordability problem is made even worse for a small percentage of consumers who face the prospect that after August 2011 they will not be able to rely on over-the-air reception to get their television. In some smaller centres the only alternative for those wishing to have access to television will be cable or satellite services.

49 In these circumstances, it is clear that the CRTC needs to take positive action to protect consumer interests and ensure that affordability is addressed.

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[6] In Appendix B to this filing, CBC/Radio-Canada provides an analysis of recent price increases in the cable industry and demonstrates that, contrary to the cable companies' contentions, their price increases continue to raise revenues and profits, and are not at all associated with subscriber drop-off.

A Small, Affordable Basic Package

50 In CBC/Radio-Canada's view the best solution to the current affordability problem would be to introduce a small, all Canadian basic package which would include all local television stations and a very limited number of other licensed programming services.

51 A BDU would not be permitted to include any additional services in this basic package. In order to ensure affordability, the Commission would require BDUs to file for approval, the proposed rates for this small basic package.

52 The rate for the revamped basic service would depend upon the number of services included in the basic package.

53 As indicated in the table below, the major cable BDUs currently offer a basic package with an average per service rate of between $0.78 and $1.28.

Basic Service Rates[7]

	No. of Services	Price	Avg. Price/Service
Cogeco-ON**	31	$28.99	$0.93
Cogeco-QC**	20	$25.50	$1.28
EastLink**	27	$22.42	$0.83
Rogers	33	$37.47	$1.14
Shaw	46	$35.95	$0.78
Videotron	23	$17.98	$0.78

[7] Pricing based on digital basic as per the Cable BDU website. ** Based on analogue basic price since no digital basic pricing was available on the website (week of Oct 26th, 2009). Videotron price includes mandatory network access charge.

54 Although negotiated compensation for value for the OTA services could add marginally to this amount, the Commission could use this average per service rate as a proxy to assess the reasonableness of the proposed rates for the new basic service.

55 The Commission would simply be required to identify the services to be included in the basic service package for any location. Cable and satellite BDUs would not be permitted to include any additional services in the basic package beyond those required by the Commission. Instead, consumers would have the freedom to choose any additional services they might want, such as, on a pick and pay basis or in theme packs developed by their service provider. The constraint on this second level of selection would be a requirement that the overall majority of services provided to a consumer must be Canadian.

The New Framework would be Straightforward to Implement

56 The revised approach to basic described above would require just three things to happen.

57 First, the Commission would need to determine the services to be included in the streamlined basic package.

58 Second, the cable and satellite BDUs would have to negotiate wholesale rates with the programming services included in the new basic package – including the local television stations. Commission arbitration would be available if the parties could not reach an agreement.

59 Third, the Commission would approve the proposed rate to be charged for this basic package.

60 These three steps are straightforward and could easily be accomplished before the digital transition in August 2011.

61 In the meantime, with the Commission's announcement of a new revenue model for local broadcasters and the maintenance of the LPIF until the new regime is established, local broadcasters could begin to look forward to a healthier financial model – along the lines of that already being experienced by specialty services – and begin to plan their important programming investments for the future of Canadian broadcasting.

A Win-Win-Win Solution

62 The current regulatory system is skewed to benefit cable and satellite companies at the expense of both consumers and local television broadcasters. The establishment of a small, low-priced, all Canadian basic package would restore balance to the television sector.

63 The cable and satellite companies were given significantly enhanced regulatory flexibility in the framework established by BPN 2008-100. The revised approach proposed above would not be onerous for cable and satellite companies to implement, and they would easily be able to adjust to a small basic package offering that would include compensation to local television stations.

64 The introduction of compensation for use in the context of a revamped basic package would finally remove the financial handicap that has hampered local television broadcasters for many years. Once placed on a balanced financial footing, these broadcasters would be able to continue to improve upon their fundamental contribution to the broadcasting system – vibrant and informative local programming, as well as bold, original programs of national interest.

65 Finally – and most importantly – consumers would win in several ways. They would be guaranteed an affordable access point to the television system in the form of a streamlined basic package. That basic package would include vibrant, sustainable local television stations providing consumers with the mix of local news, information and diverse programming that they want and enjoy. And, those consumers who want additional services could purchase what they want – and only what they want – such as on a pick and pay or theme pack basis.

66 The final important benefit to consumers is in regard to the digital transition. Canadians facing the prospect after August 2011 of not being able to rely on over-the-air reception to get their television service, will now have a low-cost entry point to the broadcasting system. For those Canadians in smaller centres this will be a particular benefit.

67 Affordability, sustainability, choice, and the opportunity to move forward with the digital world: a small, all Canadian basic package makes sense from every perspective.

IV. Impact on the Industry

68 The Commission has identified two main areas for comment with respect to the impact on the industry of a compensation regime in the new digital environment:

i) the possible effects on various components of the industry, especially if the Commission introduces a mechanism to address affordability concerns; and

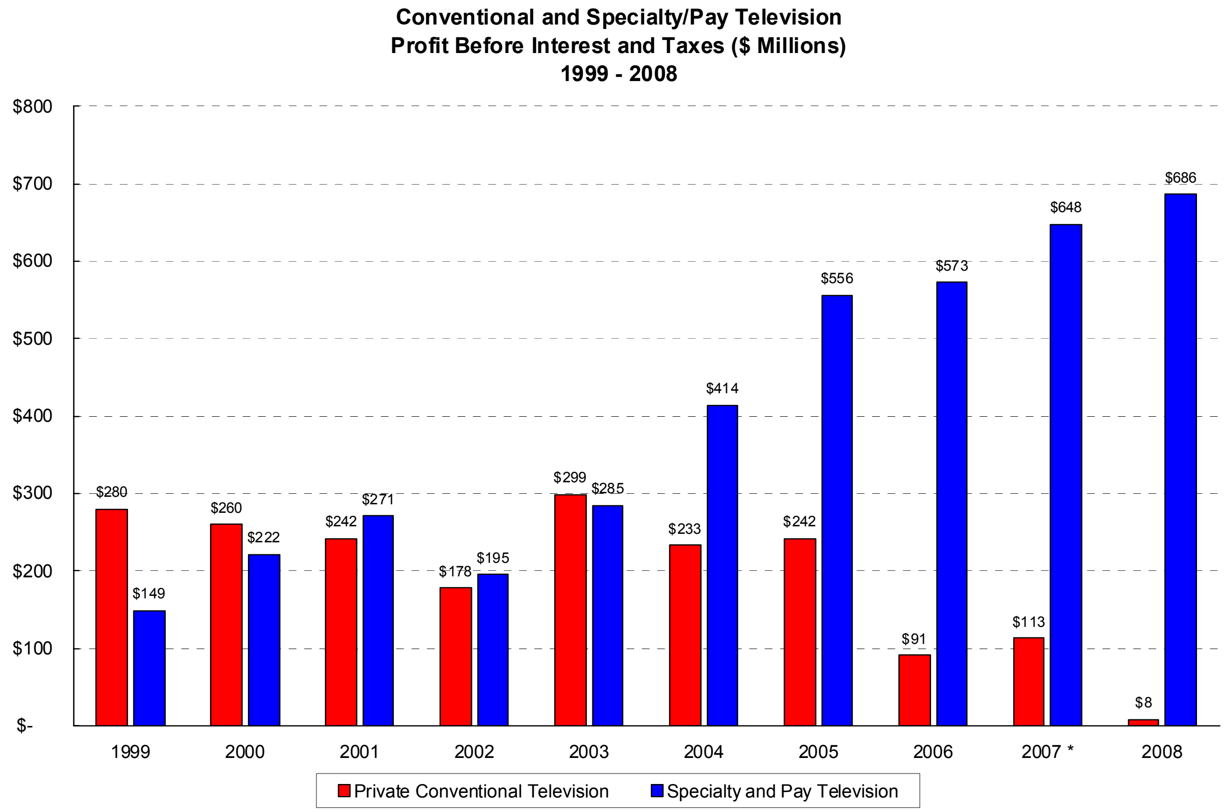
ii) the implications for the digital transition and the proposed hybrid model for the delivery of local television signals.

69 These two distinct areas of concern, discussed separately in the following sections:

The Effects on Various Components of the Industry

70 The starting point in the new digital environment should be that all players will be able to operate on a level playing field, with no one being financially handicapped by outmoded regulatory rules. In other words, the introduction of a compensation for use regime should not be viewed as an innovation requiring overwhelming justification, but rather as a long needed correction to an outdated and skewed system.

71 As discussed above, cable and satellite companies have enjoyed and continue to enjoy remarkable financial success and regulatory flexibility. Similarly, the specialty services sector has done very well financially and was recently granted increased regulatory flexibility in BPN 2008-100.



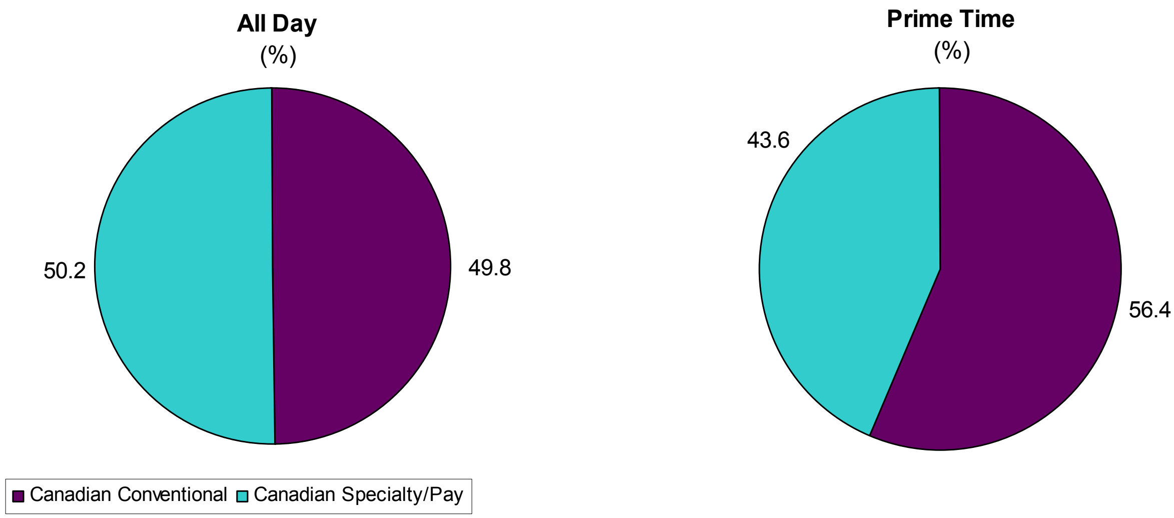
Source: CRTC Financial and Statistical Summaries

72 It is true that some specialty services are more popular and have had greater financial success than others. This is to be expected in a market economy. What makes no sense, however, is for local television broadcasters to attract a large percentage of viewing to Canadian services, but receive no compensation and be placed in a financially unsustainable position.

73 Moreover, as the Corporation demonstrated in an earlier submission, the vast majority of viewing to Canadian drama/comedy broadcast by conventional broadcasters is viewing to original drama/comedy that had not previously been shown on another service – either conventional or specialty. By contract, almost 90% of the Canadian drama/comedy viewed on specialty services consisted of repeat programming.

Viewing to Canadian Services

2008-2009 Broadcast Year (Sept. – Aug.)



Source: BBM Canada

74 As discussed above, compensating local broadcasters should not mean increased rates for consumers if the Commission establishes a small, low-cost, all Canadian basic package. The basic package would be significantly less expensive than it is now and consumers would be able to choose what additional services they wish to purchase – giving them almost total control of how much they spend and on what.

75 That said, the Corporation recognizes that the interplay of consumer choice and the pricing and packaging decisions of the cable and satellite companies could have a negative effect on the revenues of some specialty services. In particular, the less popular services could experience a drop in subscription revenues.

76 The full implications of introducing a small basic package would only be worked out over time as the market adjusts to the new environment and alternative pricing and packaging schemes are tried.

77 Overall, CBC/Radio-Canada believes the key point is to establish a level playing field in respect of access to revenue sources. Then, the Commission can make specific regulatory adjustments – such as a small, low-priced basic package – in order to promote the policy objectives of the *Broadcasting Act* and protect the interests of consumers. Beyond that, market forces should be permitted to act unless overriding policy concerns can be clearly demonstrated.

The Digital Transition and OTA Services

78 Based on the current plans of local television broadcasters, the hybrid approach to the digital transition will leave a small percentage of Canadians without OTA signals available to them – approximately 1-2% of the population. These Canadians are located in smaller centres and rural areas where the Commission has recognized that replacing an existing analog transmitter with a digital one would raise significant resource challenges.

79 Among this group, the majority are likely to already subscribe to a cable or satellite service. Of those who do not, some may have less interest in television. For some of the remainder, the affordability of cable or satellite services may be an impediment to them continuing to receive television.

80 In CBC/Radio-Canada's view, requiring cable and satellite companies to implement a small, affordable all Canadian basic package would eliminate concerns regarding the cost of accessing television services. While not everyone would choose to subscribe to such a service, those who did not would not be deciding on the basis of affordability.

81 A small low-priced basic service would be both simple to implement and advantageous to consumers in many ways (i.e., affordable, enhances choice, enables further service uptake). It would also be competitively neutral since it

would favour neither cable nor satellite distributors.

82 In the Corporation's view, the small basic approach is a very effective and practical regulatory approach to smooth the transition to digital. There is neither a need for nor would it be appropriate to provide additional regulatory incentives to cable or satellite distributors in connection with the implementation of the hybrid approach.

V. Other matters

83 The Commission has invited comments on other matters within the Commission's jurisdiction and relating to the GIC directive.

84 The Corporation notes that the GIC's Order in Council expressly mentions "current and emerging business models" in the digital environment as an area of potential concern. The cable and satellite companies (or their owners) are involved in the Internet access market – with cable and telephone companies holding more than 90% of the broadband residential market. In 2008, the operating profit margin of the cable companies' non-programming services (largely the Internet) was 66%. With this kind of market power, CBC/Radio-Canada believes it is extremely important to consider the additional benefits of a compensation regime.

85 If the cable and satellite distributors continue to be able to free-ride on local television, and raise Canadians' cable rates at will, this will give them an undue and enormous economic advantage (i.e., greater resources) when it comes to investing in new content ventures on the Internet. It may also encourage them to seek an advantage with respect to the distribution of content over the Internet (i.e., encourage gate-keeping or rent-seeking by way of demands for payment for distribution).

86 The future potential for these occurrences will increase significantly if the Commission does not implement a low-priced small basic cable service, and does not rectify local broadcasters' inability to obtain negotiated compensation from cable companies. CBC/Radio-Canada believes it is important that the Commission be both clear and consistent on these matters. There must be a level playing field in all areas, including the digital environment. And network operators must not be permitted to use their strategic position as a way of granting themselves undue economic or other business advantages.

VI. Conclusion

87 CBC/Radio-Canada is pleased that the Commission is reviewing affordability of cable and satellite services and the impact of a possible compensation regime for the value of local television signals on various components of the industry.

88 The current regulatory framework is skewed to benefit cable and satellite distributors at the expense of both consumers and local television broadcasters.

89 The Canadian cable and satellite market is not effectively competitive. It has a very small number of competitors who have stable market shares, low churn rates, increasing retail prices and high profitability levels. There can be little doubt that affordability of BDU services has become an important issue for consumers and it should be an issue for the Commission and for Government.

90 Cable and satellite companies are making hundreds of millions of dollars selling local television signals to Canadian consumers but passing none of that money to the television broadcasters. As documented in previous proceedings, local television is not sustainable without access to negotiated compensation.

91 In addition, the hybrid approach to the digital transition will leave a small percentage of Canadians without OTA signals available to them – approximately 1-2% of the population. Among this group, the majority are likely to already subscribe to a cable or satellite service. For some of the remainder, the affordability of cable or satellite services may be an impediment to them continuing to receive television stations.

92 It is clear that the CRTC must take positive action to ensure affordability of basic service, sustainability of local television service, consumer choice and

smooth the transition to digital.

93 The most simple and straightforward solution is to introduce a requirement for BDUs to offer a small, affordable all Canadian basic package that includes compensation to local television stations. The streamlined package would include all local television stations and a very limited number of other licensed programming services. A BDU would not be permitted to include any additional services in this basic package. In order to ensure affordability, the Commission would require BDUs to file for approval, the proposed rates for this small basic package.

94 This approach would be competitively neutral since it would favour neither cable nor satellite distributors. It could easily be accomplished before the digital transition in August 2011.

95 Under CBC/Radio-Canada's framework, the basic package would be significantly less expensive than it is now and consumers would be able to choose the additional services they wish to purchase – giving them greater control over choice and spending. Such an approach would be a very effective and practical regulatory approach to ensure the affordable access to television services.

Appendix A

The Lack of Effective Competition in BDU Markets in Canada

Introduction

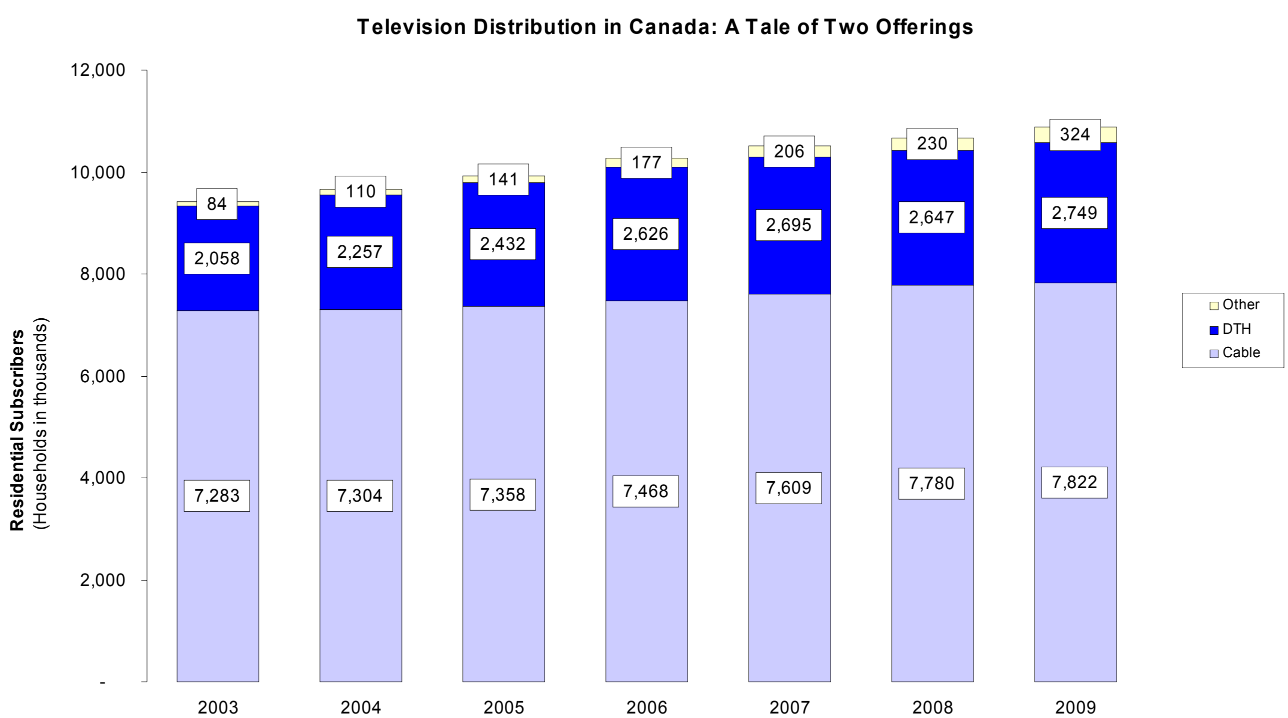
1 This Appendix examines several standard economic factors which provide some indication as to the level of competition in the Canadian BDU market, namely:

a) the number and character of competitors;
b) market share;
c) churn;
d) retail pricing; and
e) profitability.

2 By looking at the evidence with respect to each of these factors it is possible to assess whether there is factual support for the view that the Canadian BDU market is competitive.

a) The Number and Character of Firms in the Canadian BDU Market

3 Technically speaking, there may be as many as five platforms of television distribution available at some locations in Canada: the incumbent cable companies; the DTH operators; MMDS providers; telephone company DSL-based IPTV services; and Internet TV. Realistically however, of these five categories of distribution, only cable and DTH BDUs have a significant presence in any geographic market – with the sole exception of Winnipeg, Manitoba where MTS Allstream has achieved a market share of over 34%.[1] As shown in the chart below, looking at Canada as a whole, the non-cable, non-DTH competitors have less than 3% of the Canadian television distribution market.



Source: Mediastats Residential Subscribers (Households in thousands), June data

4 As discussed below, for technical, packaging, cost, and incumbency reasons, it seems likely that this will remain the case for the foreseeable future.

[1] MTS Allstream 2QFY2009 Financial Results, Management's Discussion and Analysis (August 7, 2009)

Effectively, therefore, TV distribution in Canada is based on two offerings: cable and DTH.

Cable

5 Cable BDUs are the dominant distributors throughout Canada, with the exception of some rural and remote areas.

6 Cable BDUs have high capacity broadband fibre/coax networks that are technologically superior to the networks of their competitors. As a result, unless new wireline technologies prove to be very robust and efficient over the long term, very few Canadians will ever have an effective wireline alternative to cable.[2]

DTH

7 There are two DTH BDUs in Canada: Bell TV and Shaw Direct. The DTH operators have the advantage of national coverage which reaches urban, rural and remote regions of the country. This has enabled them to gain subscribers in areas either poorly served or unserved by cable BDUs. On the other hand, they face a number of significant disadvantages.

8 The first comparative disadvantage of DTH is downstream bandwidth. In both the capacity for high-definition TV channels and downstream capacity for high-speed internet, the existing cable infrastructure is a clear leader over satellite. The second disadvantage relates to the quality of two-way operability. Satellite uses a telephone line to validate pay-per-view purchases while cable's two-way infrastructure permits customers to receive video-on-demand with full DVD-functionality via a personalized video stream to their home.

[2] A very limited number of new housing developments and multi-dwelling units have been fully "over-wired" and have more than one robust and efficient wireline service provider currently providing BDU services.

9 For a number of reasons, another major disadvantage faced by DTH is in gaining access to subscribers in the multiple-dwelling unit (MDU) market. Access to the MDU market represents a significant portion of incumbent cable operators business. Decima estimates that approximately one-third of Rogers cable customers live in MDUs and that in the all important market of Toronto, Rogers controls 90% of MDU subscribers.[3]

10 Another important limiting factor with respect to DTH is the ownership of these services. Shaw Direct is owned by Shaw Communications and, consequently, is unlikely to initiate vigorous competition with Shaw Cable, especially in terms of price, since this would serve to reduce the margins of both BDUs. Similarly, Bell TV is owned by Bell Canada and is unlikely to compete vigorously with any DSL-based BDU service that Bell Canada or Bell Aliant may offer. Overall, the common ownership between DTH and terrestrial BDUs directly and significantly limits the extent of the competition that can be expected from the DTH providers, at least in many territories.

MMDS

11 A handful of MMDS BDUs have launched over the last decade, but MMDS has not proven to be an attractive technology given its limited transmission capacity, as well as reception issues related to line-of-sight requirements. In fact, Look Communications, the largest MMDS operator will no longer be providing TV services as at November 15, 2009[4]. And Craig Wireless has announced the deployment of WIMAX thereby discontinuing its legacy MMDS technology [5]

12 MMDS does not constitute a serious threat to either cable or DTH BDUs. In fact, it is clear MMDS will not survive as a BDU technology over the long term. The total number of MMDS subscribers has been decreasing steadily from a high

[3] Decima. "The Digital Domain." Vol. 6, Report 4, August 2007.
[4] Notice of Look Communications website, accessed October 30, 2009
[5] "Craig brothers' wireless venture makes TSX debut," The Globe and Mail, September 18, 2007

of approximately 100,000 in 2001 to the current level of 13,000. Decima estimates that they will continue to decline to 700 by the end of 2011.[6]

Telco DSL Services

13 Several of the telephone companies have BDU licences for DSL-based IPTV services. To date, these services have suffered from technological limitations and, as a consequence, have received limited attention in the Canadian BDU market.

14 In the years to come, telcos around the world envision rolling out BDU services by upgrading their DSL infrastructure. However, by global standards, IPTV in North America is progressing much more slowly than Europe and Asia because cable penetration in North America is relatively high.[7]

15 The actual roll-out of telco services in the US is progressing far more slowly than expected. Kagan projects that by 2010, US telcos will collectively only reach about 37% of their existing footprints with video services. By 2019, ten years from now, Kagan forecasts that telco subscribers will represent only about 15% of the entire multichannel market in the US. [8]

16 In Canada, the incumbent telephone companies have been following an even more cautious and gradual approach to deploying IPTV service. Apart from some limited and targeted launches by SaskTel and MTS Allstream, the IPTV services launched by Bell Alliant, Bell Canada and TELUS are still in their infancy. A clear sign of the poor business case of IPTV is Telus' recent announcement to team up with Bell TV to resell its satellite TV service under Telus' brand. Telus is simply unable to employ its own technology to compete directly with Shaw Cables' bundle of cable television, home phone service and

[6] "Canadian Digital TV Market Monitor", BoonDog Vol. 2, Report 4, August 2009.
[7] RBC Equity Research. "Video 2.0" September 10, 2007
[8] Kagan "10 year Multichannel projections 2008-2019 and Kagan article "Telcos poised to take video market share from incumbents, June 17, 2009

Internet.[9]

17 Until TELUS and Bell Canada, in particular, make significant headway in the market, the total number of IPTV subscribers in Canada will remain limited.[10] In addition, before being in a position to market their IPTV services more aggressively, both must add the capacity to deliver HD programming.

18 At the present time, and probably for many years to come, telco IPTV over DSL is not a viable television distribution alternative for all but a minority of Canadian TV viewers, given the service's limited geographic coverage and the high costs of adding capacity.[11]

19 Indeed, Kagan has found that the costs of providing fibre to the node or to the home to increase capacity are simply prohibitive for telcos:

> Unlike cable companies, which find adding a voice business highly accretive… …telcos, will at best experience a video play as nominally accretive in the long term.[12]

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[9] "The satellite surprise: Telus ties up with BCE", The Globe and Mail, June 30, 2009.
[10] CRTC data from September 2008 indicates there are only 212,000 DSL subscribers in Canada – representing less than 2% of the BDU market. (Source: CRTC Communications Monitoring Report, Table 4.4.3).
[11] CRTC data from September 2008 indicates that there were only 212,000 DSL subscribers in Canada, representing less than 2% of the BDU market (CRTC 2009 Communications Monitoring Report, Table 4.4.3).
[12] SNL Kagan Media Money, October 17, 2007.

Internet TV

20 The BDU industry has yet to feel any real competitive impact from Internet TV because Internet TV has yet to develop into a real competitive alternative to what BDU's offer. In the CRTC's recent *Review of Broadcasting in New Media*, CRTC 2009-329, the Commission states:

> The Commission considers that broadcasting in new media creates opportunities for the broadcasting system to better serve Canadians and commends parties for their willingness to embrace the new media environment. Based on the record of the Proceeding, the Commission does not consider that broadcasting in new media currently poses a threat to traditional broadcasting licensees' ability to meet their obligations. In fact, new media is currently being used in a complementary manner by many broadcasters for activities such as providing audiences with the ability to catch up on missed programs, promoting broadcast offerings and building brand loyalty. As such, the Commission is satisfied that broadcasters have the tools to adapt to the challenges posed by technological change and the motivation to incorporate new platforms and formats into their business models.

21 Therefore, it is reasonable to assume that the competitive impact of Internet TV lies well into the future and while regulatory frameworks should be adaptable to changing market conditions, it is incorrect to assume that this future is now here.

Summary on Competitors

22 While there may be as many as five types of BDUs serving a few geographic markets in Canada, for nearly all Canadians there are only two types of BDUs – cable and DTH.[13] The remaining BDUs have less than a 3% share of TV distribution services in Canada.

23 In such a marketplace, the extent of competitive rivalry between cable and DTH will be completely determinative of the level of competition in the Canadian

[13] In some remote or rural locations, service may only be available from DTH.

BDU marketplace. Given the absence of significant competition from other BDU types, if DTH is not effectively competitive with cable, BDU competition in Canada will be very weak.

24 As noted above, the DTH operators suffer from a number of disadvantages vis-à-vis cable BDUs. In addition, the common ownership of DTH and terrestrial BDUs places significant constraints on the extent of competition provided by the DTH operators in a number of key Canadian markets. This is especially the case with Shaw Direct since Shaw Cable is the second largest cable operator in Canada. It would simply not make any commercial sense for Shaw Direct to initiate competitive price or service offerings with its affiliated television distributor, Shaw Cable.

25 In sum, both the limited number and the character of competitors in the BDU market raise questions as to the actual extent of competition in this market. As discussed below, this concern is reinforced when other factors such as market share growth, churn, pricing and profitability are considered.

b) The Make-up of DTH Market Share : New Growth vs Cable Attrition

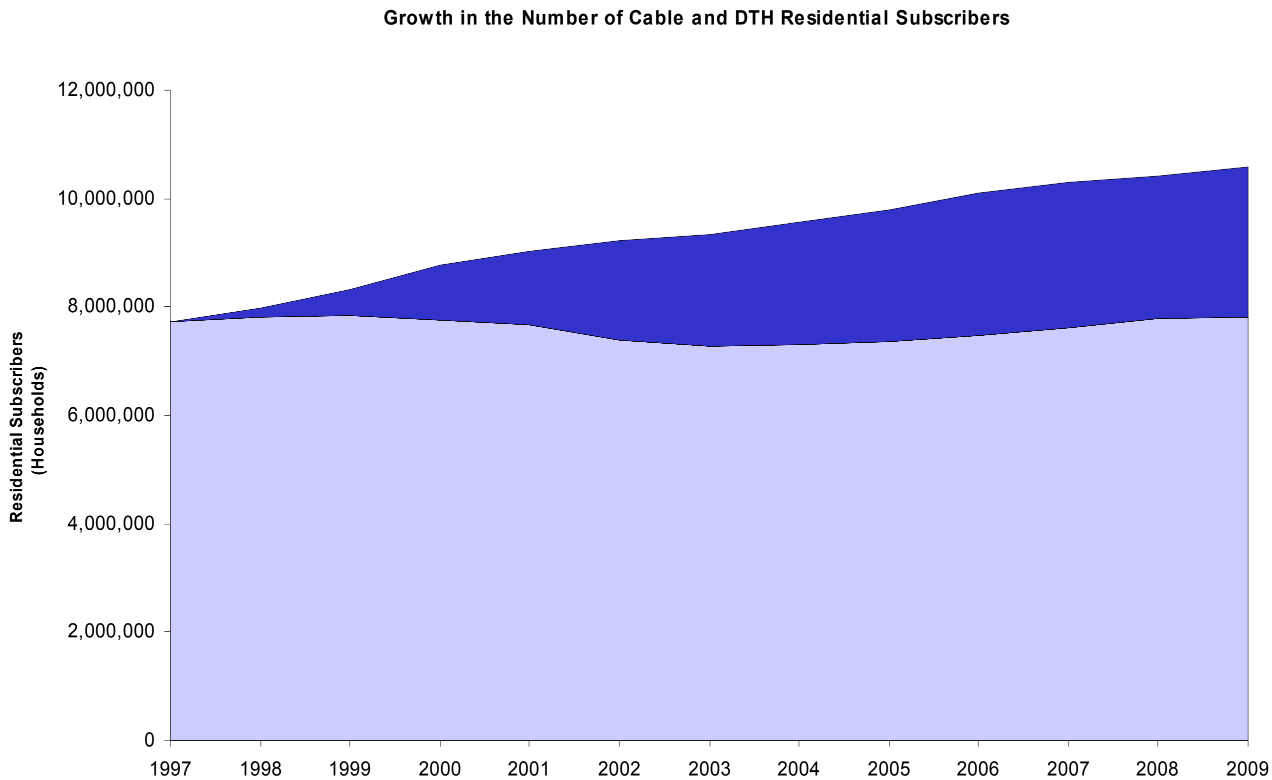
26 Until the mid 1990s cable BDUs had a regulated monopoly in the BDU market.[14] With the licensing of DTH, MMDS and DSL-based BDUs it could be expected that the market share of cable BDUs would fall as the new entrants made inroads into the market.

27 The data indicates that the removal of the regulated monopoly did have this effect – cable BDU market share did fall somewhat. However, as discussed above, this was not due to the emergence of numerous successful entrants. Indeed, in the last 12 years DTH has been the only broadly-based technology to establish itself as an alternative to cable.

28 The total number of residential BDU subscribers has grown from 7.7 million in 1997 to 10.9 million in 2009. Over this period, cable subscribership has remained relatively constant (7.7M in 1997 and 7.8M in 2009). DTH subscribership has grown steadily from 179,000 in 1998 to 2.7 million in 2009.

[14] Strictly speaking while cable companies controlled over 98% of the BDU market, they did not enjoy a complete monopoly, as there were a number of MATV operations across Canada. MATV undertakings serve one or more buildings at a single location.

29 As shown below, since other BDUs have never captured more than 3% of the Canadian market, this really is a tale of two offerings.



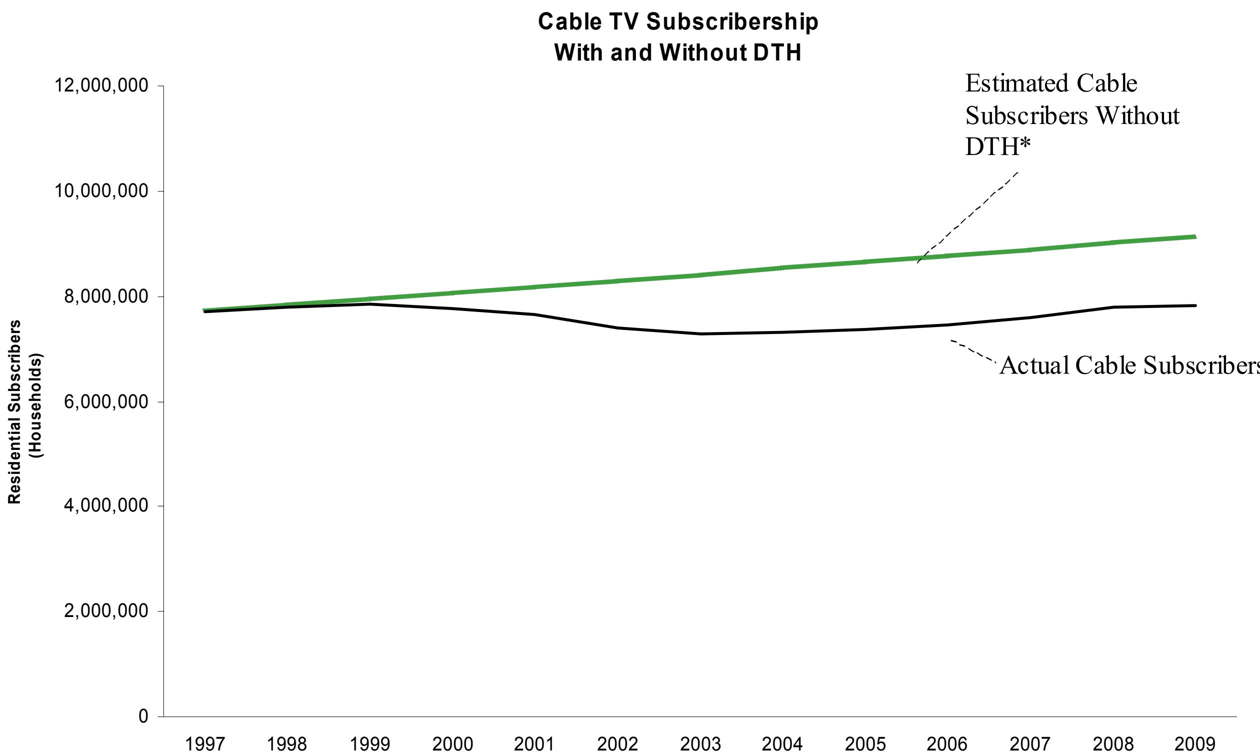
30 When looking at this two-offering environment, however, it is very important to note that a large part of the growth in DTH has been attributable to expanding television distribution to geographic areas where cable has not been available.

31 It would therefore be incorrect to associate all of DTH growth with subscribers that have been won-over from cable, and incorrect to associate total DTH market share levels as indicative of competitive forces. In assessing the competitive effects of DTH on cable, it is necessary to separate those DTH subscribers who are "new" to the system, in the sense of not having had access to cable and having likely depended on over-the-air transmission to receive television signals, from those that have truly been won-over from cable.

32 In order to isolate these two different types of DTH subscriber, CBC/Radio-Canada has first estimated the level of subscribership to cable had DTH not entered the market. Prior to DTH's entry in 1997, the Canadian cable industry can be described as an industry that was already mature. In its assessment of the state of the cable industry prior to DTH entry, Statistics Canada described the industry as follows:

> "The penetration for cable TV Service had levelled off at 75% of households that had access to it. Thus, the industry relied on new households to attract clients."[15]

33 Based on historical growth rates prior to the entry of DTH, cable would have grown at a modest annual rate of 1.4%. This information is provided in the following chart where, cable subscribership without the arrival of DTH is estimated and plotted against actual cable subscribership.



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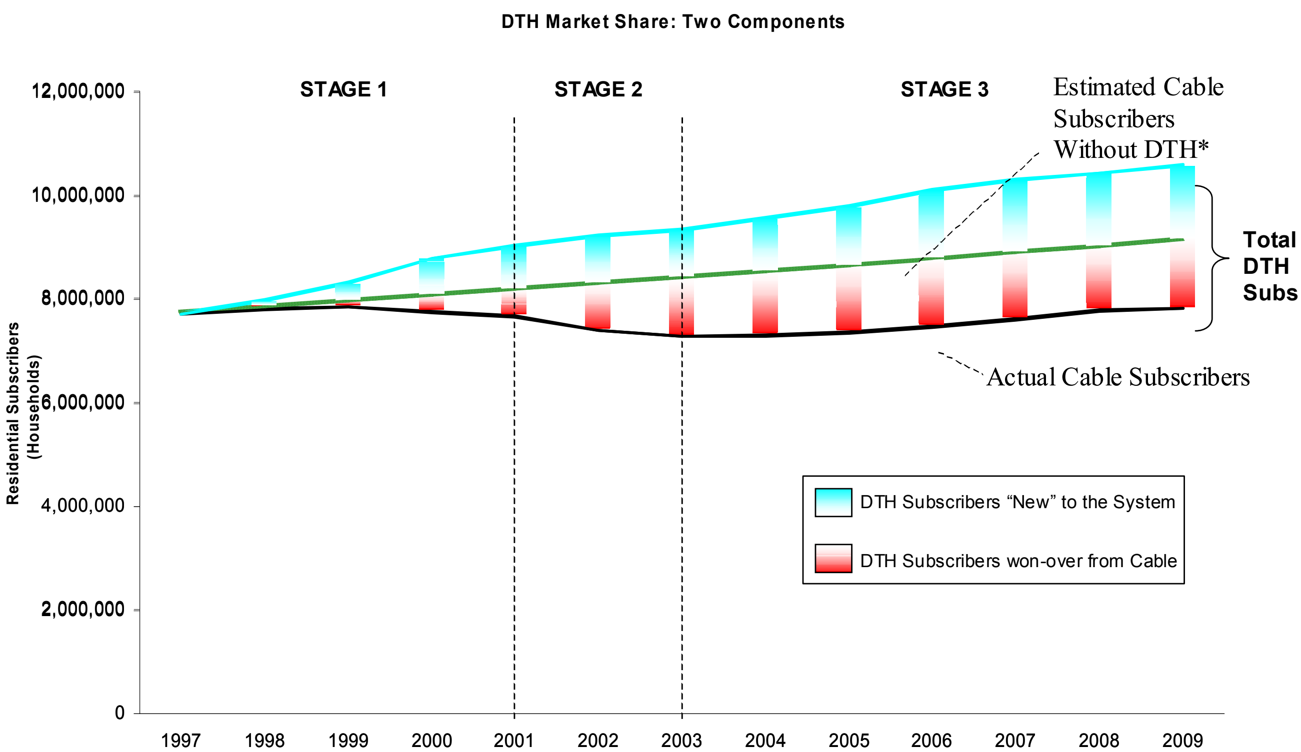
[15] Statistics Canada, "Cable, Satellite, and multi-point distribution systems", 2005. Catalogue no. 56-001-XIE, Vol. 36, no.4

34 Estimating what cable growth would have been during the last twelve years if DTH had not arrived, allows total DTH subscribership over the last twelve years, to be separated into two parts: new subscribers to the system and subscribers won-over from cable. This result is provided in the following chart where total DTH subscribership is super-imposed on estimated cable subscribers without DTH and actual cable subscribers.

35 The two separate types of DTH subscribers are identified as follows:

i) Those DTH subscribers that are "new" to the system – the blue area; and,

ii) Those DTH subscribers that have been won-over from cable, or that would have gone to cable had DTH not arrived – the red area.



*Based on historical growth rate, assumes 1.4% annual increase equivalent to household growth
Source: Mediastats, June data

36 As can be seen from this data, stage 1 – the period 1997 to 2001 – was a period of very rapid growth for DTH in terms of attracting “new” subscribership – the blue area – and a period of more limited growth in terms of winning-over cable company subscribers – the red area. This is understandable. In the early years DTH would have concentrated on the “low-hanging fruit” – those subscribers who could not access cable, and as a new entrant lacking a service history and a reputation, would have had greater difficulty winning over cable subscribers.

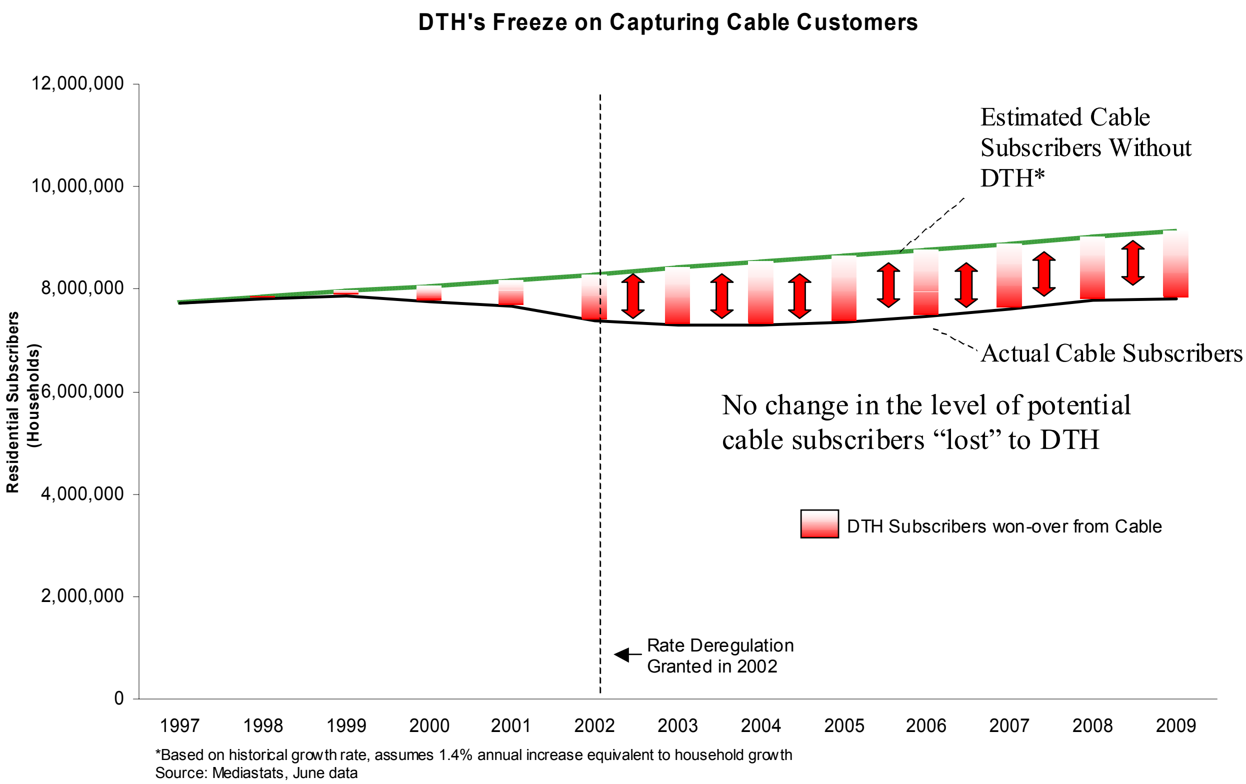
37 Subsequently, however, in stage 2 – the period 2001 to 2003 – while new subscribership seemed to wane somewhat – the blue area – DTH began a very serious attack on cable and managed to more than double its “won-over” subscribership – the red area.

38 This also is very understandable. Starting in the 2001-2003 period, growth in overall BDU penetration rates in Canada began to slow. The number of subscribers that were available to switch from over-the-air transmission to DTH began to be tapped out as a rapid growth market segment. Starting in 2001, the overall “new” subscriber base available to DTH, simply began to show normal market growth, growing only slightly faster than overall household growth.

39 Meanwhile, DTH was establishing its reputation as a legitimate service and, as discussed below, offering significant price discounts relative to cable. As a result, in the 2001-2003 period, the red area shows DTH making significant competitive inroads into cable’s subscriber base.

40 Stage 3 – the period 2003 to 2009 – is the most distressing from the point of view of competitive activity. As can be seen by the red area, beginning in 2003, DTH’s market share growth due to the winning-over of cable subscribers simply began to stall. There has been no material change, year-over-year, in the number of cable subscribers being won-over by DTH in the last 6 years. As shown in the following graph, the vertical distance in the red area has simply

ceased to grow. The "won-over" subscriber base – the red area – has been virtually unchanged at 1.3 million subscribers each year over the last 3 years, and has consistently averaged only 3% growth over the entire 6-year period.



41 This low level of competitive market share gain by DTH in the past six years raises serious questions as to the level of competitive threat now being exercised by DTH companies towards the incumbent cable companies. As compared to their competitive presence and activities in the years 2001 to 2003, <u>DTH providers have now become either unable or unwilling to grow their market shares further</u>.

42 This assessment is corroborated through a comparison of DTH net subscriber additions for the periods 2001 - 2003 versus 2004 - 2006 and 2006 - 2008. Although this data is provided in a way that prevents a separation of "new" subscriber additions from "won-over" subscriber additions, the information is

revealing nonetheless.

43 As the following table illustrates, net subscriber additions for DTH over these two periods have dropped significantly – by over 50%. In the 2004 - 2006 period, DTH added less than half as many subscribers as it did in the 2001 - 2003 period. In the most recent 2006-2008 period the net subscriber additions declined by over 90% from the 2001 - 2003 period.

DTH Net Subscriber Additions[16]
(‘000s)

2001 - 2003 3 Year Total	2004 - 2006 3 Year Total	% Change	2006 –2008 3 Year Total	% Change
1, 029	494	-52%	173	-83%

44 Unless refuted by other information, such as significant price reductions, demonstrating aggressive but frustrated attempts by DTH to grow their market share in this marketplace, the data strongly suggests that DTH is simply not an effective competitor to cable and is unwilling or unable to expand its presence in the marketplace.

c) Levels of Churn

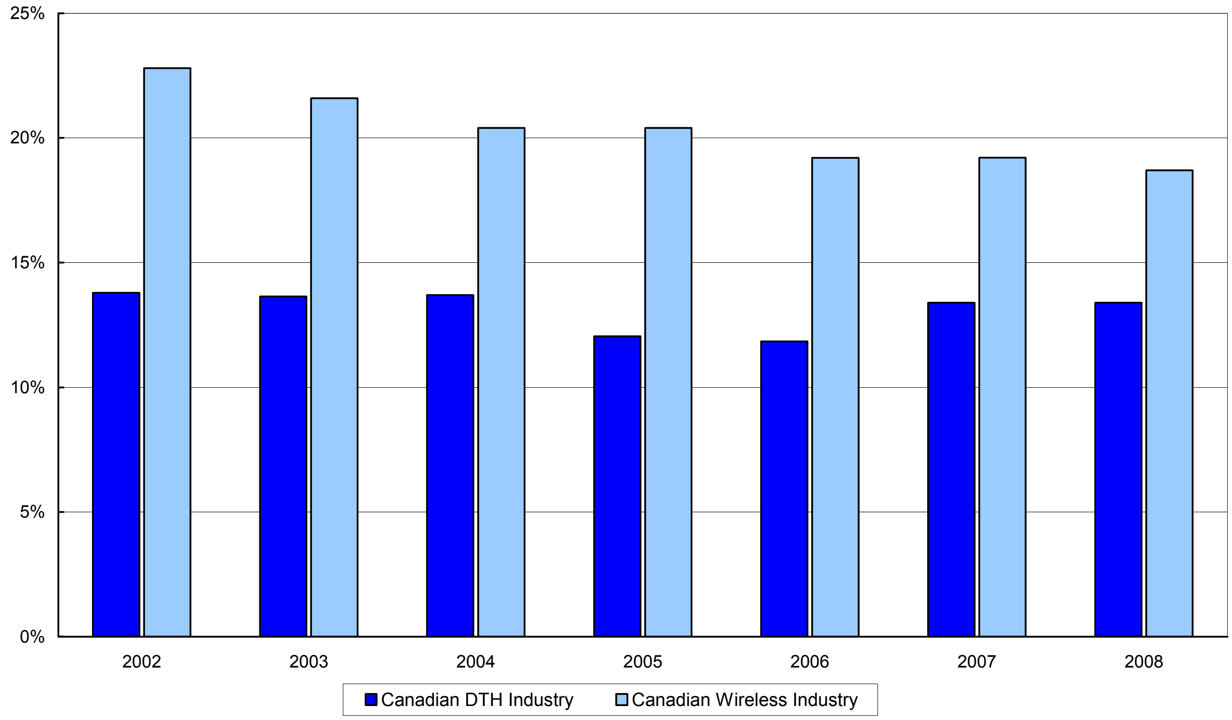
45 Another indicator of the state of competition in a market is the level of churn (i.e. the percentage of customers who discontinue service). Churn can occur for a number of reasons (e.g. moving to another service provider or terminating service altogether). If churn levels are low and market shares are stable this may suggest that competition in the market is weak.

46 Churn statistics are not available for all segments of the BDU market. In particular, no churn data is available for cable BDUs. However, the next chart

[16] Fiscal year data taken from DTH public financial reports

shows churn for DTH BDUs and compares that data with churn in the Canadian wireless industry which has generally been considered a competitive market by the Commission.

Annualized Churn Rates - DTH and Canadian Wireless
2002 - 2008



* Weighted DTH average for Shaw Direct and Bell Video
Source: Shaw Communications, BCE, Merrill Lynch Global Wireless Matrix, CRTC, CBC/Radio Canada estimates

47 As illustrated by the above chart, churn for DTH BDUs is significantly lower than churn in the wireless market. Indeed, in 2007 and 2008, churn in the wireless market was approximately 40% higher than for the DTH BDUs.

48 The lower level of churn for DTH BDUs may reflect the fact that a portion of the DTH customer base has few, if any competitive alternative (i.e. those customers living in rural and remote areas may not have a terrestrial BDU service available to them). It may also reflect a reluctance to switch providers by DTH customers who have invested in expensive equipment (e.g. dishes and digital boxes).

49 Whatever the reason, the lower level of churn for DTH BDUs suggests that the level of competition in the BDU market is not as strong as might be hoped and certainly weaker than in the wireless market. This comparison is especially revealing given the concerns that have been raised in recent years regarding the degree of competitiveness in the wireless market itself and the proactive steps taken by Industry Canada to promote more competition in that sector.[17]

50 The low level of churn and the limited changes in market shares in recent years suggest a market where competitors are not actively pursuing their rival's customers and where effective competition is not a significant force.

d) Retail Pricing

51 In a highly competitive market, it would normally be expected that companies would compete for subscribers on the basis of price, among other things. However, an examination of the pricing of BDU services over the past several years indicates that consumers have not benefited from significant competitive pricing. On the contrary, prices have risen steadily without any obvious justification for these price increases.

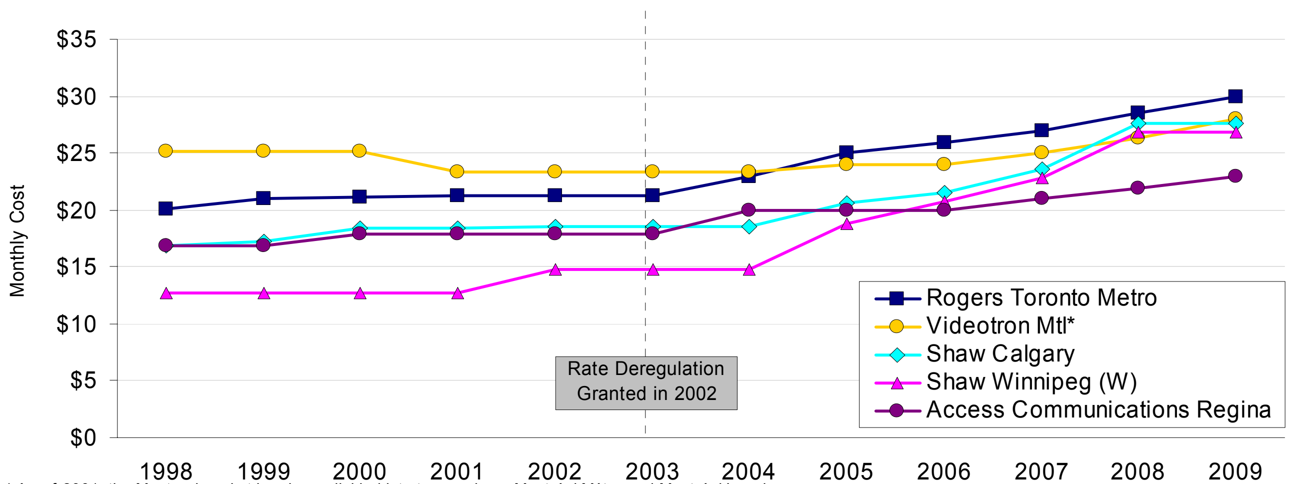
52 The following sections look at BDU pricing from two perspectives. The first section looks at the pricing of cable BDU services only. The second section compares cable prices with DTH prices.

[17] In announcing the details for the auction of AWS spectrum that occurred in 2008, the Minister of Industry stated: "We are looking for greater competition in the market and further innovation in the industry. At the end of the day, our goals are lower prices, better service and more choice for consumers and business". Industry Canada Press Release, November 28, 2007

Cable Pricing

53 Since cable companies are by far and away the largest players in the market, it is important to examine how they have priced their services since competition was first introduced in the mid 1990s.

The Cost of Basic Service by Cable BDU



* As of 2001, the Montreal market has been divided into tw o regions, Montréal Métro and Montréal Laval
Source: Mediastats

54 As is clear from the chart above, basic cable rates have risen steadily over time with the price increases accelerating in the years since cable rate deregulation took effect in the early 2000's.

55 It is important to recognise that these price increases have taken place despite the existence of DTH as an alleged competitor in the marketplace. Furthermore, the increase in basic rates cannot be attributed to a change in the composition of basic cable service.

56 As demonstrated in the table below, while the number of channels included in a cable BDU's basic package has increased slightly from 1998 to 2009, it would be difficult to base the significant increase in basic rates which have occurred on such minimal increases in channel numbers.

Analogue Basic Cable Price and Channels

	1998		2009	
	Price	Channels	Price	Channels
Rogers*	$20.11	Canadian Conventionals US Conventionals 8 Specialty Services	$ 29.99	Canadian Conventionals US Conventionals 12 Specialty Services
Shaw**	$16.79	Canadian Conventionals US Conventionals 8 Specialty Services	$ 27.55	Canadian Conventionals US Conventionals 9 Specialty Services

Source: Mediastats
*Toronto
**Calgary

57 It should be noted that this analysis reflects prices for analogue basic service. This is significant because, while it is not advertised, many cable companies are restricting analogue cable to existing customers only. Any new customers or existing customers who want to change their mix of services, must subscribe to digital basic cable, which has a significant price premium over analogue basic cable. Rogers' digital basic cable starts at $37.47 a month, or 25% higher than analogue basic.[18] Shaw's digital basic cable $35.95, or 30% higher than analogue basic.[19]

58 The steady increase in basic cable rates since rate de-regulation occurred and the lack of any concurrent increase in services offered reinforce the concern that competition is not working in the BDU market. This view is further reinforced by other pricing data.

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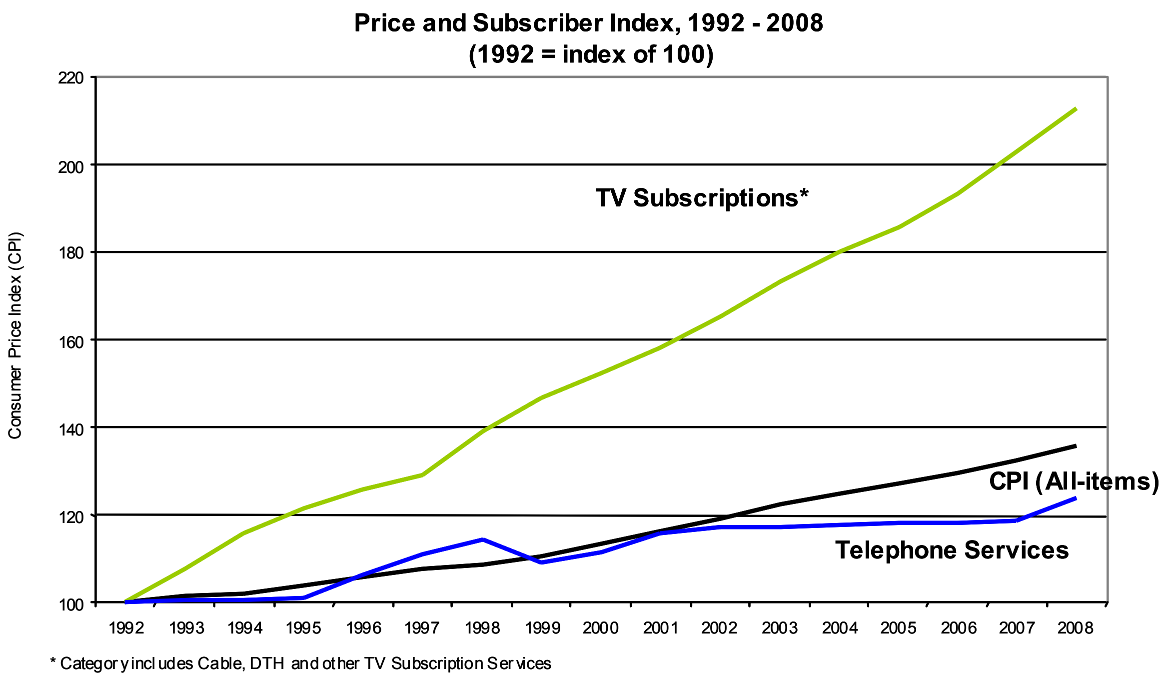
[18] Company website: www.rogers.com, accessed week of October 26, 2009.
[19] Company website: www.shaw.ca, accessed week of October 26, 2009

CPI and TV Distribution Services

59 Statistics Canada compiles the consumer price index (CPI) which measures the rate of price change for goods and services bought by Canadian consumers. One of the commodities included in the CPI basket of services is TV distribution services.

60 As illustrated in the following chart, the price consumers pay for TV distribution services – both basic and discretionary – has increased significantly faster than either the price for “all items” or for telephone services.



61 Over the period 1992 - 2008, the price for TV distribution services has more than doubled – increasing by approximately 112% – while the price for “all items” has increased by 35% and the price for telephone services has increased by less than 25%. In other words, the price for TV distribution service has risen more than three times as quickly as the average price of all items and four and a half times faster than the price of telephone services.

62 It is worth noting that over this time period telephone services were subject to both rate rebalancing – resulting in significant increases in local telephone rates – and to the introduction of competition in both local and long distance services. The combined effect of these factors was to provide significant pricing benefits to consumers at the same time as many new technological features were being introduced.

63 In contrast, the above chart clearly demonstrates that the rate of increase in the price for TV distribution services did not show any change in their rapid rise with the introduction of DTH competition in 1997. The alleged competitive offerings from the DTH service providers have had no visible impact on the prices that consumers pay for TV distribution services. This view is reinforced when DTH and cable pricing is compared.

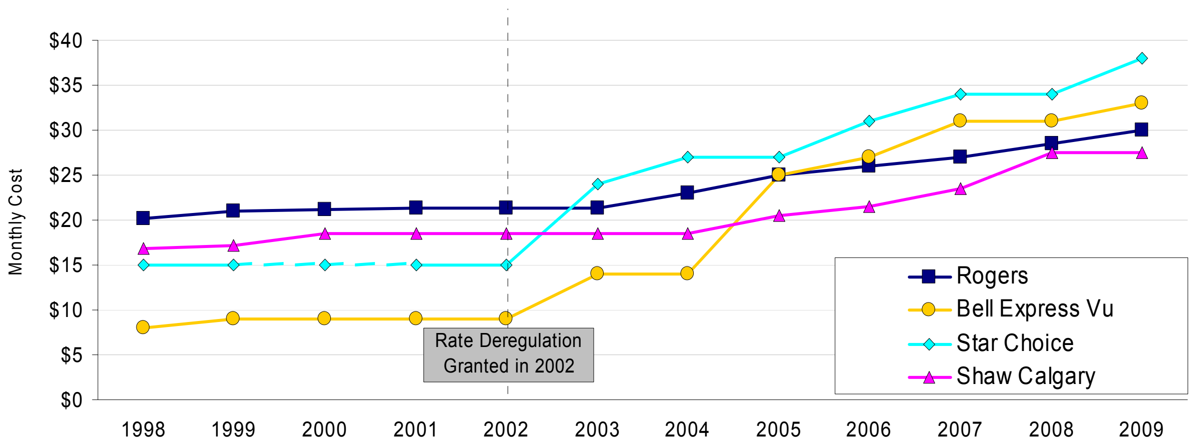
DTH / Cable Price Comparisons

64 It could reasonably be expected that new entrants to the BDU market would compete on the basis of price with the cable incumbents. An examination of pricing data indicates that while this may have been the case in the early years of DTH, it has not been the case in any meaningful sense over the last five years.

The Absence of Price Competition

65 As is evident from the next chart, any price competition that once existed between cable and DTH BDUs has now disappeared and has been replaced by very similar and increasing pricing.

The Cost of Basic Service by Cable and DTH BDUs



Source: Mediastats

66 This apparent lack of price competition is yet another strong indicator that rivalry between cable and DTH BDUs is simply absent.

Ongoing Price Increases

67 It could be suggested from this overall matrix of data that cable and DTH BDUs are following a course of systematic price increases. This suggestion is also in evidence when examining the publicly announced pricing of the major BDUs.

68 The attached Addendum 1 to this Appendix sets out statements from the annual reports of Cogeco, Shaw, Rogers, Videotron, Bell TV and Shaw Direct in which price increases are announced. For example, the following are excerpts from the Annual Reports of Shaw Communications over the period 2002-2008:[20]

2002 "Effective May 2002, we implemented a $3 per month price increase across all packages and bundles. This price increase affected approximately 90% of our Canadian customer base."

2003 "Effective January 2003, Shaw implemented basic rate price increases ranging from $0.16 to $2 per month per subscriber depending on the

[20] The price increases identified from January 2003 to October 2005 in Shaw's Annual Reports generate $135M in new revenue annually.

	level of tiered service the customer received. This affected approximately 1.2 million basic analogue non-bundled subscribers." "Effective May 1, 2003 Shaw increased its monthly charge on certain packages affecting approximately 550,000 customers generating $1M in monthly revenue." "Effective June 30, 2003, Shaw increased its monthly charge on its unbundled basic and FCS bundled packages. This affected approximately 1.1 million customers and generated $2M in monthly revenue."
2004	"Commencing in February 2004, Shaw applied rate increases of $1 to $2 per month to most of its packages."
2005	"Effective November 26, 2004, Shaw introduced rate increases of approximately $1 per month on most of its packages."
2006	"Commencing in October 2005, Shaw introduced rate increases on most stand-alone services, packages, and on specialty services. The increases generated additional revenue of $3.8 million per month."
2007	"The Company implemented rate increases on most stand-alone services, packages, and on specialty services in September 2006 and July 2007."
2008	"Cable service revenue [cable, digital phone and Internet] of $2.38 billion was up 14.1% [$293 million] over the prior year. Customer growth and rate increases accounted for the increase."

69 Shaw's recent release of its 2009 financial results also indicates that rate increases continued to be a major factor contributing to its revenue and profitability growth.

70 Addendum 1 provides similar statements from all of the major Canadian BDUs over this period. The similarity in the level and frequency of announced price increases across the cable and DTH companies is startling and reinforces the impression of a serious lack of price competition.

e) BDU Profitability

71 The final factor to be considered in assessing the competitiveness of the Canadian BDU market is the profitability of the BDU sector, both over time and in comparison with other sectors.

72 Profitability can be measured in several ways. Two measures commonly used and for which information is readily available for the cable BDU sector are EBIT (Earnings before interest and taxes) and EBITDA (Earnings before interest, taxes, depreciation and amortization). When these two measures are examined for cable BDUs the results are striking. In a vigorously competitive market it would be unusual to see profitability rising significantly over time since competitive forces could be expected to continuously squeeze profits. It would also be unusual to see very high levels of profitability for the same reason. Both of these unexpected results appear to be found in the cable BDU sector.

Cable Profitability – Statistics Canada

73 Statistics Canada annually reports the profitability of the cable segment of the BDU market. Profitability measures of EBITDA and EBIT for 2002 – 2007 demonstrate that cable television profitability has increased in both absolute dollar terms and as a percentage of revenues (referred to as EBITDA and EBIT margin). It is important to note that the Statistics Canada data for cable company profitability is not available solely for cable services but is only available at the total services level including revenues and expenses associated with cable services, Internet and telephony.[21]

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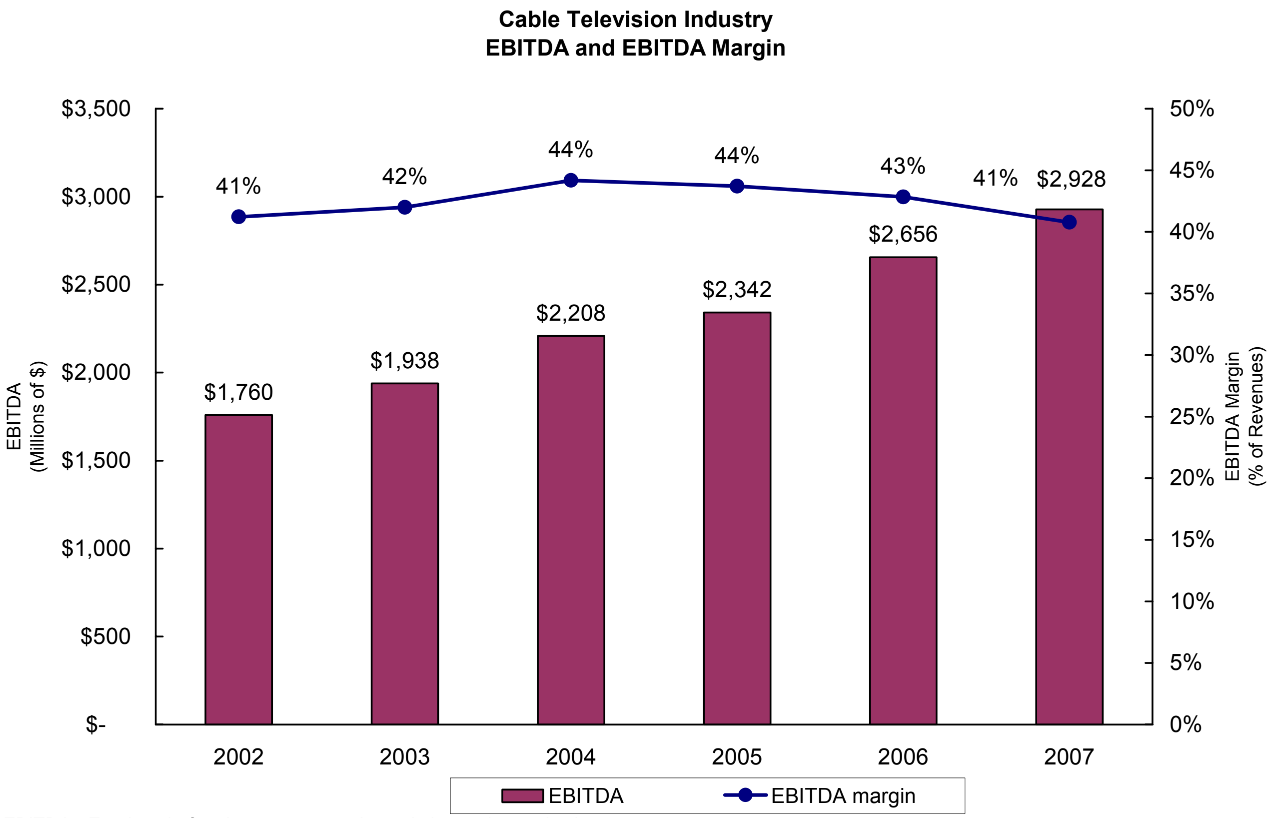
[21] In the CRTC Broadcast Distribution – Statistical and Financial Summaries, the CRTC reported EBITDA information for basic and non-basic services, separate from the EBITDA information for exempt and non-programming services. However, this data was not considered suitable for use in the analysis of profitability. The CRTC notes that due to a change in reporting commencing in 2006, financial and operation data is not comparable to previous years. Furthermore, a comparison of the EBITDA margins for the various segments indicates that there may be issues of cost allocation between the various segments of the cable companies' operations. For example, the EBITDA margin for basic/non-basic services for 2006 is reported as 28.1% while the

74 As can be seem below, the cable television EBITDA increased from $1,760 million in 2002 to $2,928 million in 2007, an increase of 66%. At the same time, EBITDA margins remained at 41% of revenues.



EBITDA - Earnings before interest, taxes, depreciation and amortization
Source: Statistics Canada - Catalogue no 56-001-XIE and 56-209-x

75 Similarly, EBIT levels and margins for the cable television industry have also been increasing over the 2002 – 2007 period. EBIT increased from $733 million in 2002 to $1,597 million in 2008, an increase of 118%. At the same time, EBIT margins grew from 17% of revenues to 22% in 2007. Rising EBIT margins indicate that revenues are rising faster than the growth in expenses, including

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EBITDA margin for non-programming services, which includes the cable companies high speed Internet and cable telephony services is reported at 66.7% (up from 52.1% in 2002). Non-programming services provided over a common cable plant and to customers on a bundled basis may lead to issues regarding the identification of service specific versus shared costs. It is noted that none of the four largest cable companies reported cable services (basic/non-basic) EBITDA separately in the companies respective public financial reporting.

depreciation expenses, for the entire cable television industry.

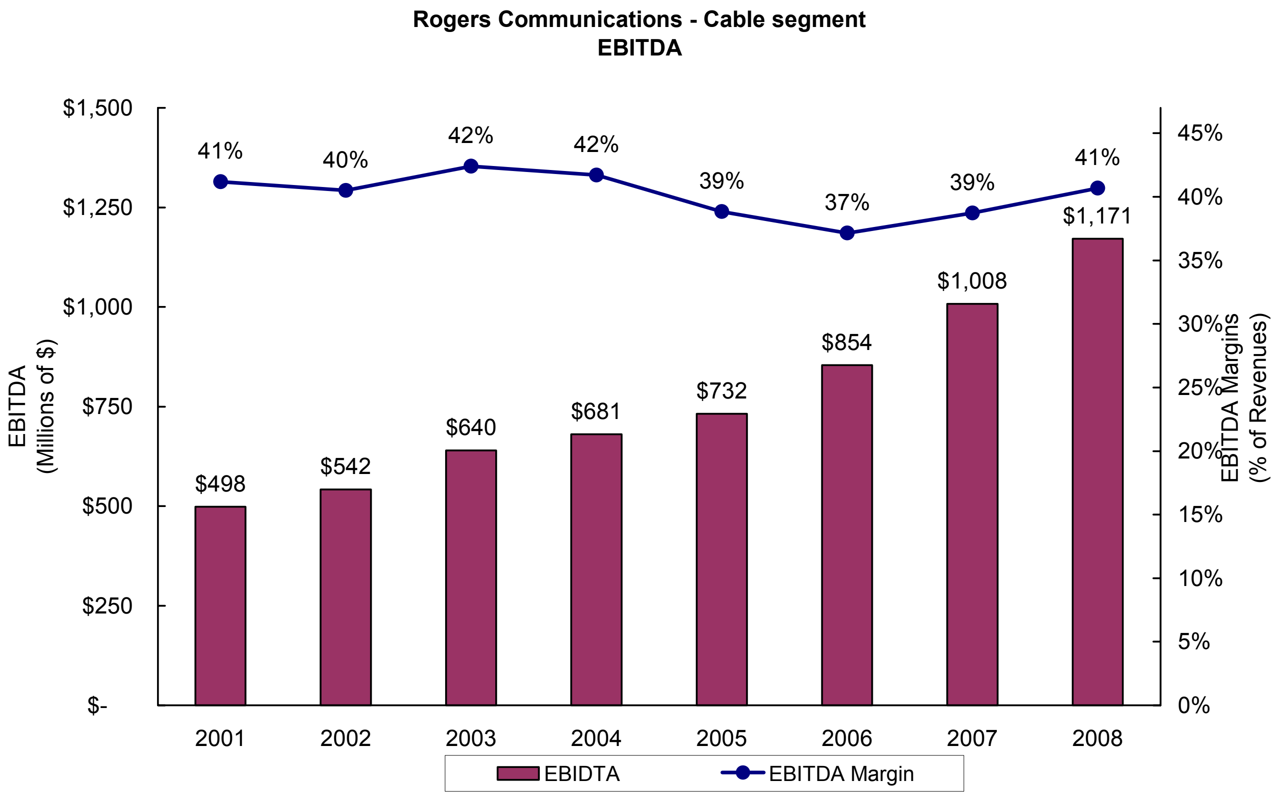
Cable Profitability – Annual Reports

76 Consistent with the Statistics Canada data, a review of the publicly available profitability data for the four largest cable companies (Rogers, Shaw, Videotron and Cogeco) also illustrates the on-going growth in profitability.[22]

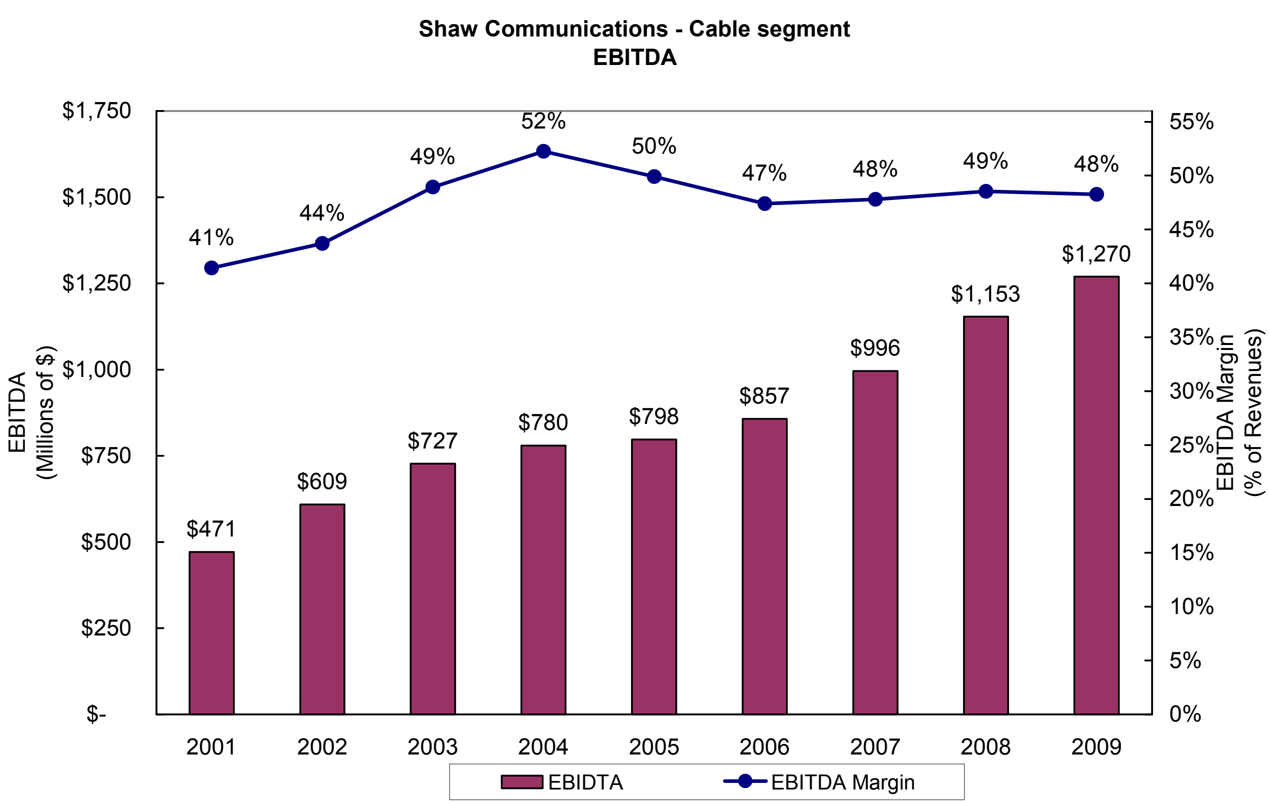
77 The following data is based on the information reported by each cable company for its respective fiscal year (either December 31st or August 31st). The services included in each company's cable segment reporting are identified following the charts.

78 The information provided for the years 2001 to 2008 (and 2009 where available) illustrates the continuing growth of profits (as measured by EBITDA) and the growth in EBITDA margins for each of the four largest cable companies. Revenues are continuing to increase at a greater rate than the increase in expenses for these companies. This information demonstrating growing profitability is consistent with the pricing information discussed above.

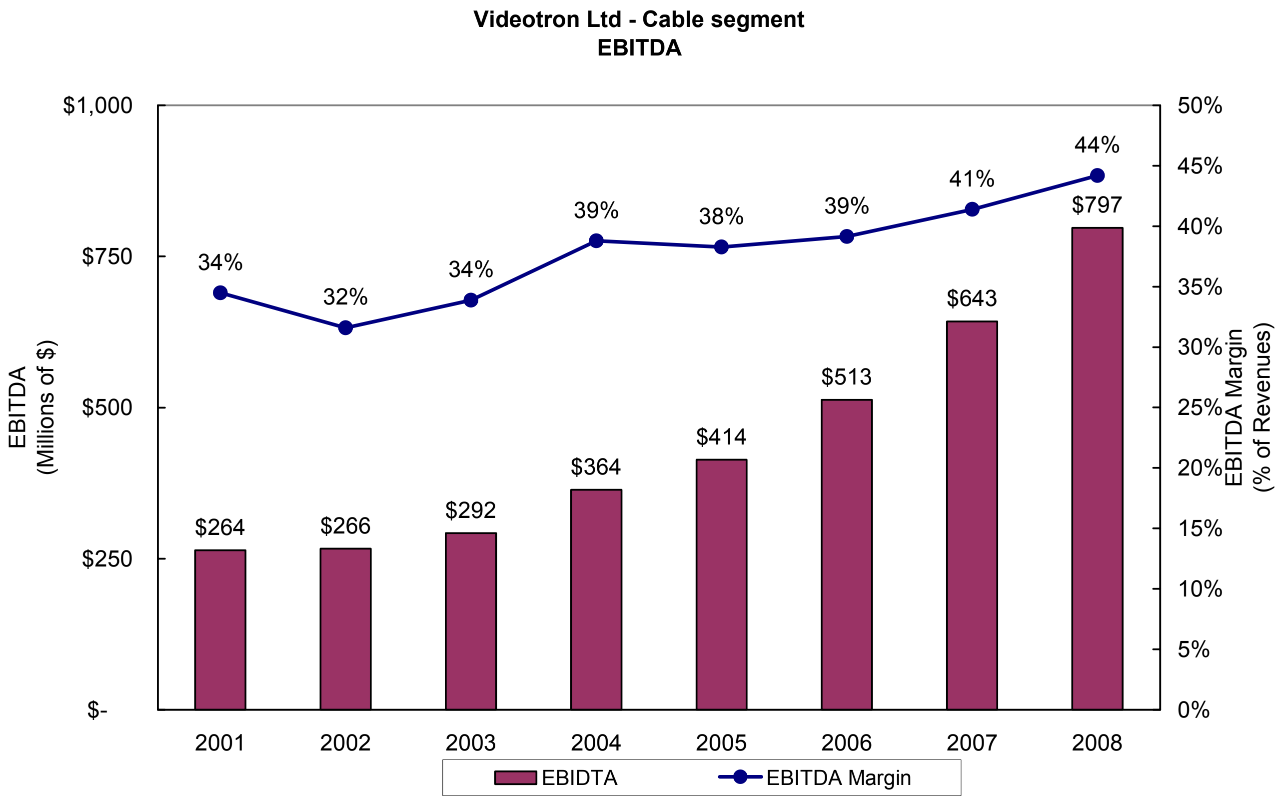
[22] Information on profitability is only available at the EBITDA level for the companies' cable segments.



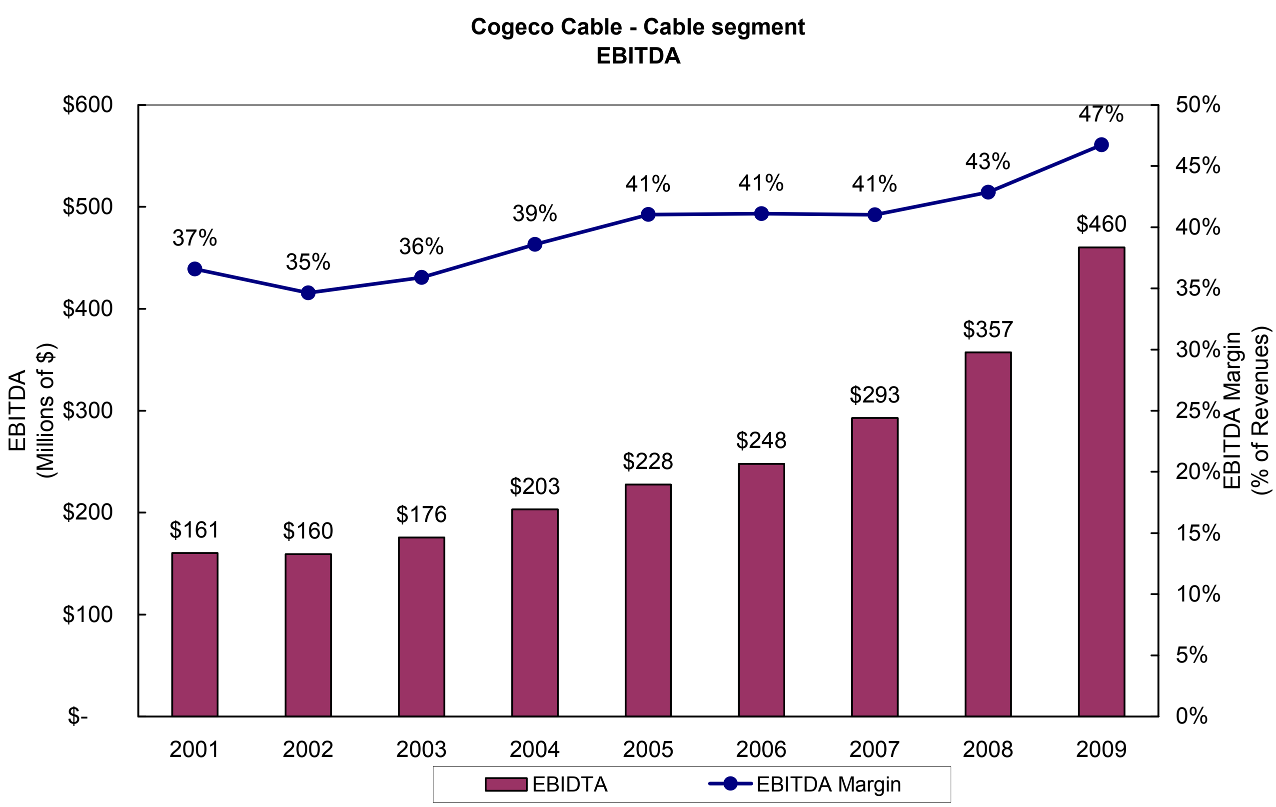
EBITDA - Earnings before interest, taxes, depreciation and amortization
Cable segment including cable, internet and residential telephony
Source: RCI Annual Reports (December 31st year end)



EBITDA - Earnings before interest, taxes, depreciation and amortization
Cable segment including cable, internet and telephone services
Source: Shaw Communications Annual Reports (August 31st year end)



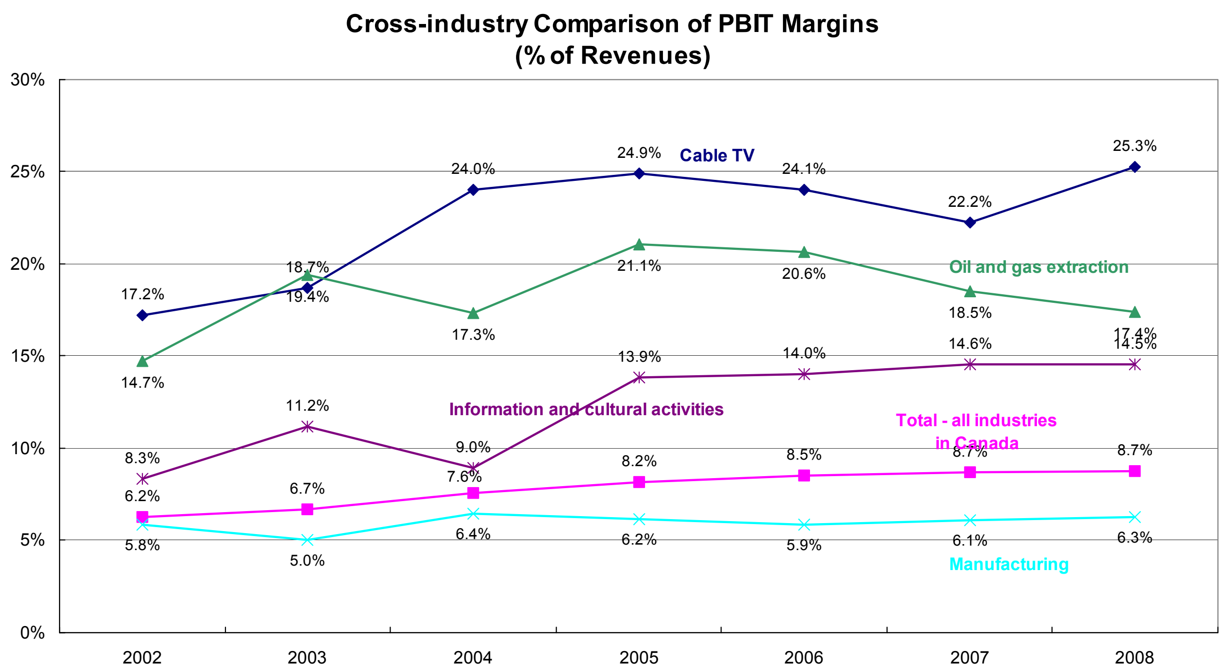
EBITDA - Earnings before interest, taxes, depreciation and amortization
Cable segment including cable, internet, telephoy, business solutions, video stores and other
Source: Videotron Ltd Form 20-F (filed with SEC) (December 31st year end)



EBITDA - Earnings before interest, taxes, depreciation and amortization
Canadian cable segment including cable, internet, telephoy, business solutions, video stores and other
Source: Cogeco Cable Annual Reports (August 31st year end)

79 Another method to assess the profitability of the cable sector is to compare its performance with other sectors of the economy. A comparison with the companies operating in different industry segments and across all segments provides a picture of the relative profitability of the cable sector in the Canadian economy.

80 The graph below provides a comparison of the cable television EBIT margins against a number of industry sectors. The comparison illustrates that the profitability of the cable television industry is substantially higher than the average for all industries (Total – all industries). In 2008, the cable television EBIT margin was 25.3% while the EBIT margin for all industries stood at 8.7%. Similarly, the cable television EBIT margin exceeded that of all of the Information and Cultural Activities Industry sector, which stood at 14.5% in 2008.



Source: Statistics Canada Table 187-0001, except cable TV (353-0003). CRTC data was used for 2008 because Statistics Canada data is not yet available (both organizations use the same survey).

81 The high levels of profitability exhibited by the cable TV industry in comparison to all industries as a whole, and to other sectors that are considered to be competitive, such as manufacturing, strongly supports the view that cable BDUs are not facing competitive pressures from the marketplace.

Summary on Profitability

82 If the BDU market were effectively competitive it would be expected that the incumbent cable BDUs would have no more than average levels of profitability, particularly in the last five to seven years. However, the data discussed above indicates clearly that cable BDUs are experiencing rising profit levels in terms of both absolute dollars and profit margins.

83 Furthermore, comparison with other industries in the economy indicates that the cable BDUs' profitability margins are higher than the average for all industries in total, as well as for many other individual sectors. This profitability data provides yet further support for the view that the Canadian BDU industry is not effectively competitive.

Conclusion

84 Each of the five economic factors discussed above suggests that the Canadian BDU market is not effectively competitive. While no one of these factors may be considered conclusive, the fact that all five point to the same conclusion must be taken very seriously.

85 A market with a very small number of competitors who have stable market shares, low churn rates, increasing retail prices and high profitably levels cannot reasonably be considered an effective or vigorously competitive market. And yet, that is an accurate description of the Canadian BDU market.

ADDENDUM 1
Cable/DTH Rate Increases
(2002 - 2008 Annual Reports)

Year	Shaw Communications
2002	"Effective October 2002, all our class 1 systems will be rate deregulated. As outlined above, effective May 2002, we implemented a $3 per month price increase across all packages and bundles. This price increase affected approximately 90% of our Canadian customer base. Approximately 300,000 basic only customers have not seen any significant price increases in the past 5 years. The average basic rate is approximately $18 per month compared to a DTH satellite equivalent basic rate of $21 per month. Accordingly, effective January 2003, we will increase prices by an average of $2 per month for these customers." Source: Shaw Communications 2002 Annual Report, page 22
2003	"Basic rate deregulation was completed in late October 2002. Effective January 2003, Shaw implemented basic rate price increases ranging from $0.16 to $2 per month per subscriber depending on the level of tiered service the customer received. This affected approximately 1.2 million basic analogue non-bundled subscribers and generated additional revenue of approximately $0.9 million per month. Effective May 1, 2003 Shaw increased its monthly charge on certain packages affecting approximately 550,000 customers which generated approximately $1 million of additional monthly revenue. Effective June 30, 2003, Shaw increased its monthly charge on its unbundled basic and FCS bundled packages. This affected approximately 1.1 million customers and generated additional monthly revenue of approximately $2 million when it was fully implemented by August 31, 2003." Source: Shaw Communications 2003 Annual Report, page 26
2004	"Commencing in February 2004, Shaw applied rate increases of $1 to $2 per month to most of its packages. The increases generated additional monthly revenue of approximately $1.5 million when they were fully implemented at the end of May 2004." Source: Shaw Communications 2004 Annual Report, page 30
2005	"Effective November 26, 2004, Shaw introduced rate increases of approximately $1 per month on most of its packages. The increases generated additional monthly revenue of approximately $2.0 million per month when they were fully implemented at the end of January 2005." Source: Shaw Communications 2005 Annual Report, page 32
2006	"Commencing in October 2005, Shaw introduced rate increases on most stand-alone services, packages, and on specialty services. The increases generated additional revenue of approximately $3.8 million per month once fully implemented in November 2005." Source: Shaw Communications 2006 Annual Report, page 33
2007	"The Company implemented rate increases on most stand-alone services, packages, and on specialty services in September 2006 and July 2007. The increases generated additional monthly revenue of approximately $5.0 million and $6.5 million, respectively, once fully implemented." Source: Shaw Communications 2007 Annual Report, page 32
2008	"Cable service revenue [cable, digital phone and Internet] of $2.38 billion was up 14.1% [$293 million] over the prior year. Customer growth and rate increases accounted for the increase." Source: Shaw Communications 2008 Annual Report, page 34

Year	Vidéotron Ltée
2003	"Cable television revenues for the year ended December 31, 2003 decreased $20.3 million, or 3.5%, as compared to 2002. This decrease was primarily a result of the decline in the number of our basic cable customers, partially offset by price increases we implemented in February 2003." Source: Videotron Ltée – 2003 Form 20F (filed with SEC), page 36
2004	"Cable television revenues for the year ended December 31, 2004 increased by $17.9 million, or 3.2%, as compared to 2003. The increase would have been $25.5 million or 4.6% if we exclude the impact of the change in accounting policy. This growth was primarily a result of the increase in the number of basic cable customers, the sale of more lucrative packages and the price increases we gradually implemented beginning March 1st, 2004." Source: Videotron Ltée – 2004 Form 20F (filed with SEC), page 41
2005	"These rates reflect price increases, effective March 1, 2006, of $0.60 on basic analog cable and extended basic analog cable, $1.00 on basic digital cable, between $1.00 and $3.00 on extended digital cable and $1.00 on cable internet access and VoIP telephone." Source: Videotron Ltée – 2005 Form 20F (filed with SEC), page 25
2006	"These rates reflect price increases, effective March 15, 2007, of $0.69 on basic analog cable and extended basic analog cable, $1.00 on basic digital cable and $1.00 on extended digital cable." Source: Videotron Ltée – 2006 Form 20F (filed with SEC), page 30
2007	"These rates reflect price increases, effective March 15, 2008, of $1.00 on basic analog cable, extended basic analog cable and extended basic digital cable." Source: Videotron Ltée – 2007 Form 20F (filed with SEC), page 31
2008	"Combined revenues from all cable television services increased by $74.1 million (10.1%) to $809.9 million. This growth was primarily due to an increase in the average number of basic cable customers, the migration of our customers from our analog to our digital services, higher buying rates for our video-on-demand and pay-TV products, an increase in the number of subscribers to our High Definition packages, as well as price increases, partially offset by higher bundling discounts due to the increase in Internet and cable telephony customers." Source: Videotron Ltée – 2008 Form 20F (filed with SEC), page 31

Year	Rogers Cable
2002	"Analog service increased year-over-year by $20.6 million due partially to: (1) an average rate increase of $2.88 per subscriber to approximately 600,000 subscribers effective August 1, 2002; (2) an average rate increase of $1.78 per subscriber to approximately 260,000 subscribers effective October 2002; and (3) increases in tier pricing, …" Source: Rogers Communications Inc 2002 Annual Report, page 19
2003	"Analog cable service increased year-over-year by $29.7 million due to price increases in August 2003, offset partially by lower installation revenues." Source: Rogers Communications Inc 2003 Annual Report, page 37
2004	"Analog cable service increased year-over-year by $33.3 million due to price increases in August 2003 and July 2004, with the remaining $33.4 million increase primarily attributable to increased penetration of its incremental digital only cable services such as VOD, premium pay, specialty channels and ethnic programming. The increase in core cable ARPU to $46.29 from $43.69 reflects the growing penetration of Cable's digital products, its continued up-selling of customers into incremental programming packages and pricing changes in July 2004 and August 2003." Source: Rogers Communications Inc 2004 Annual Report, page 36
2005	"The increase in Core Cable revenue of 4.1%, which includes cable telephony revenues noted below, and the increase in ARPU to $48.09 from $46.29 compared to the prior year, reflect the growing penetration of Cable's digital products, its continued up-selling of customers into enhanced programming packages, and pricing increases." Source: Rogers Communications Inc 2005 Annual Report, page 38
2006	"The price increases on service offerings effective March 2006 contributed to the year-over-year cable revenue growth by approximately $53 million." Source: Rogers Communications Inc 2006 Annual Report, page 37
2007	"The increase in Core Cable revenue in 2007 reflects the impact of price increases, growth in basic subscribers and the growing penetration of our digital cable products. The price increases on service offerings that became effective in March 2006 and 2007, contributed approximately $54 million to Core Cable revenue growth during 2007" Source: Rogers Communications Inc 2007 Annual Report, page 39
2008	"Within Cable Operations, the increase in Core Cable revenue for 2008, compared to 2007, reflects further penetration of our digital cable product offerings, including increased HDTV adoption, combined with the year-over-year increase in the number of analog cable customers. Equipment sales revenue increased by $11 million compared to 2007, which is primarily the result of the HD digital box sale (versus rental) campaign that ran during the fourth quarter of 2008. Additionally, the impact of certain price changes introduced in March 2008 and in March 2007 to both our digitaland basic cable services contributed to the growth in revenue. Source: Rogers Communications Inc 2008 Annual Report, page 22

Year	Cogeco Cable
2002	"The impact of various rate increases during fiscal years 2001 and 2002 created incremental revenue of $7.3 million. In March 2001, monthly rate increases were implemented, ranging from $2 to $3 per customer for discretionary tiers and most service bundle s offered in Ontario … A price increase of approximately $2.50 per month for its basic service was implemented for the Quebec customer base, taking advantage of authorized rate deregulation, and reducing its sole discretionary tier by the same amount. Consequently, customers taking only basic service were affected. The basic service rate increase had very little impact since introduced at the end of fiscal year 2002." Source: Cogeco Cable Inc. 2002 Annual Report, page 9
2003	"Various rate increases during fiscal 2002 and 2003 created incremental revenue of $16.3 million ... Subsequent to the basic rate deregulation authorized by the CRTC, average monthly rate increases of about $2.50 in Québec and $2.75 in Ontario were implemented in August 2002 and January 2003, respectively, for customers subscribing to basic service only. Cogeco Cable introduced further rate adjustments effective in June for the Ontario customer base and in July for the Québec digital customer base. These adjustments resulted in incremental average monthly rates of approximately $1.75 per basic service customer in Ontario and approximately $2.20 per digital customer in Québec. Source: Cogeco Cable Inc. 2003 Annual Report, page 12
2004	"Various rate increases during fiscal 2003 and 2004 created incremental revenue of $16.3 million as a result of:. – An average monthly rate increase of approximately $0.74 per basic-analog-service customer, effective June 15, 2004 in Ontario and August 1, 2004 in Québec, respectively. These selective rate hikes will result in greater basic rate harmonization across our cable systems. An increase of $4 in the monthly digital basic rate was also implemented in Québec on August 1, 2004. In addition, the monthly rate for the pay television package has been raised by $3, and other limited selective tier service rate increases have been implemented in Ontario effective June 15, 2004. Source: Cogeco Cable Inc. 2004 Annual Report, page 16
2005	"Various rate increases during fiscal 2004 and 2005 created incremental revenue of about $4.2 million as a result of: – Monthly rate increases of at most $3 per customer and averaging $0.50 per basic service customer took effect on June 15, 2005 in Ontario and on August 1, 2005 in Québec. As a result of these increases, the basic monthly rate is now $24.99 in the large majority of the Ontario networks, and the number of different basic rates has dropped from 22 to 7, ranging essentially between $20 and $27.50 per month, in Québec. The monthly rate for certain bundle services has increased by $1 in Ontario, and other limited rate increases for selective tier services have been implemented in Québec. Source: Cogeco Cable Inc. 2005 Annual Report, page 21
2006	"Various rate increases during fiscal years 2005 and 2006 created incremental revenue of about $5.6 million as a result of: - The monthly rate for certain bundled services increased by $1 in Ontario, and other limited rate increases for selective tier services being implemented in Québec. An August 2005 reduction in digital terminal rental rates was more than offset by a greater number of customers renting digital terminals. - Monthly rate increases of up to $3 per customer, averaging $2 per basic service customer, took effect on June 15, 2006 in Ontario and on August 1, 2006 in Québec."

Year	Cogeco Cable
	Source: Cogeco Cable Inc. 2006 Annual Report, page 23
2007	“Various rate increases during fiscal 2006 and 2007 created incremental revenue of about $23.4 million as a result of: – Monthly rate increases of at most $3 per customer and averaging $2 per Basic Cable service customer took effect in June 2006 in Ontario and in August 2006 in Québec; – Monthly rate increase of $1.50 for certain bundled services in Ontario in April 2007; – Monthly rate increases of up to $3 per customer, averaging $1 per Basic Cable service customer, took effect in March 2007 in Ontario and in April 2007 in Québec.” Source: Cogeco Cable Inc. 2007 Annual Report, page 33
2008	“Various rate increases during fiscal 2007 and 2008 generated incremental revenue of about $10.3 million as a result of the following net rate increases implemented by the Corporation: o In the second half of fiscal 2007: • In March 2007, a monthly rate increase of $3 per Digital Television service customer in Ontario; • In April 2007, a monthly rate increase of $3 per Digital Television service customer in Québec and a rate increase of $1.50 per Analogue Value Pak service customer in Ontario. These rate increases represent an average increase of approximately $1.25 per Basic Cable service customer. o In the first quarter of fiscal 2008: • In October 2007 in Québec, a rate increase of between $1 and $2 per Analogue Basic Cable service customer without a bundle, a rate increase of $0.50 per Basic Cable and tier service customer without a bundle, and rate increases from $2 to $5 per HSI Lite service customer and $5 per HSI Standard stand-alone service customer; • In November 2007 in Ontario, a rate increase of between $1 and $2 per Analogue Basic Cable service customer without a bundle, and rate increases from $2 to $5 per HSI Lite service customer and $5 per HSI Standard standalone service customer; • Finally, a rebate of $5 per Telephony service customer with two bundled service offers was also introduced in fiscal 2008 in Ontario and in Québec. o In the fourth quarter of fiscal 2008: • In July 2008 in Ontario, a rate increase of $2 for all Digital TV packages, slightly offset by targeted reductions in HD access fees in certain markets and monthly equipment rental fees of selected digital receivers; a $2 rate increase to HSI Standard service in a bundle and a $5 rate increase to HSI Pro service in a bundle; • In July 2008 in Québec, a reduction of $4 for the monthly equipment rental fee of the standard definition-DVR receiver. These rate adjustments implemented in fiscal 2008 represent an average increase of approximately $1.60 per Basic Cable service customer.” Source: Cogeco Cable Inc. 2008 Annual Report, page 31

Year	Bell Video (Bell ExpressVu)
2002	"ARPS was down slightly from $45 per month to $44, reflecting the netting of programming credits against revenues. This was offset by the positive impact of pricing initiatives such as the monthly second receiver charge for new customers, increases in transfer and reconnect fees and gains from program package upgrading by customers." Source: BCE 2002 Annual Report, page 34
2003	"This increase reflected the $2.99 system access charge for all customers, which came into effect April 28, 2003, and the $2 to $3 rate increase on specific programming packages that was introduced on February 1, 2003. This was partly offset by lower pay-per-view revenues. Source: BCE 2003 Annual Report, page 37
2004	N/A
2005	"In March 2005, we applied a $3 rate increase to our existing subscriber base and on October 1, 2005, we brought into effect $2 and $3 increases, respectively, on our basic and theme packages for all new customers." Source: BCE 2005 Annual Report, page 25
2006	"In 2006, we continued to exercise pricing discipline by applying a $2 rate increase at the beginning of the year on our standard digital programming package for all existing customers without a contract and by increasing the system access fee in May by $3 per month for a portion of our subscribers." Source: BCE 2006 Annual Report, page 31
2007	"Video revenues grew by 14.5% in 2007 to $1,317 million from $1,150 million in 2006, due mainly to higher ARPU. Video ARPU improved significantly, increasing $6 to $60 per month in 2007 from $54 per month last year. The improvement resulted primarily from price increases implemented over the past year, customer upgrades to higher-priced programming packages, and higher rental fee revenue from increased STB rentals." Source: BCE 2007 Annual Report, page 26
2008	"Video revenues increased 10.1% in 2008 to $1,450 million from $1,317 million in 2007, due to higher ARPU and a larger customer base. Video ARPU grew considerably in 2008, increasing by $5.68 to reach $65.37 per month from $59.69 per month in the previous year. The year-over-year improvement in video ARPU was primarily the result of customer upgrades to higher-priced programming packages driven partly by increased customer take-up of premium STB s, price increases implemented over the past year, and higher rental revenue from increased STB rentals." Source: BCE 2008 Annual Report, page 40

Year	Shaw Direct (Star Choice)
2002	"With respect to price increases, in September 2001, Star Choice raised monthly rates on its Platinum, Gold and Silver packages by $2 and the Bronze package by $1. Also effective March 2002, Star Choice introduced a charge of $4.99 per month on second receivers on all packages except Platinum and Ultimate packages. With respect to increased services, in January 2002, Star Choice offered 30 new digital service offerings. Next year, revenue should increase as effective September 1, 2002 Star Choice raised its monthly rates by $3 on most its packages." Source: Shaw Communications 2002 Annual Report, page 26
2003	"Effective September 2002 Star Choice implemented a $3 per month rate increase on most of its packages and changed its programming credits such that they are spread over three to four months. Previously the customer received the entire programming credit in the first month. Effective January 1, 2003, the price of most French programming packages was increased by $3.00 per month affecting approximately 100,000 customers. Effective April 1, 2003, Star Choice implemented a $3.00 rate increase affecting most of the programming packages that were not included in the September 2002 rate increase affecting 150,000 customers. Effective June 1, 2003, Star Choice implemented a rate increase of $3.00 affecting the majority of customers, which generated revenues of approximately $1.8 million per month when it was fully implemented." Source: Shaw Communications 2003 Annual Report, page 31
2004	"Effective February 1, 2004, the monthly fee on most programming packages increased by $3. This resulted in an increase in revenue of approximately $2 million per month when fully implemented by the end of March 2004." Source: Shaw Communications 2004 Annual Report, page 37
2005	"On February 1, 2005 Star Choice implemented a rate increase on most of its programming packages ranging from $1.00 to $3.00 per month for a total average increase of approximately $1.50 per month." Source: Shaw Communications 2005 Annual Report, page 37
2006	"Rate increases were implemented on most of DTH's programming packages. The rate increases were effective September 1, 2005 for some package types and February 1, 2006 for others. Each of the September and February rate increases generated additional revenue of approximately $0.8 million per month effective in the month implemented." Source: Shaw Communications 2006 Annual Report, page 38
2007	"Rate increases were implemented on most of DTH's programming packages. The rate increases, which were effective September 2006 for some package types and February 2007 for others, generated additional monthly revenue of approximately $1.5 million and $0.7 million, respectively, once fully implemented." Source: Shaw Communications 2007 Annual Report, page 38
2008	"Service revenue was up 5.4% [$37.5 million] over 2007 to $729.3 million. The improvement was primarily due to rate increases and customer growth." Source: Shaw Communications 2008 Annual Report, page 39

Appendix B

Empirical Evidence Regarding the Impact of BDU Basic Cable Price Increases

Empirical Evidence Regarding the Impact of BDU Basic Cable Price Increases

1.0 Introduction

In BNC CRTC 2009-614, the Commission requested empirical evidence regarding the impact that a compensation regime for the value of local television signals might have on the various components of the communications industry and any mechanisms proposed to mitigate that impact.

CBC/Radio-Canada has endeavored to provide the Commission with evidence based on the most readily available and complete sources. Excellent data is available from the French-language market. CBC/Radio-Canada has therefore reviewed the historical information for Vidéotron, the Quebec BDU market, as well as the French-language specialty/pay television market to analyze how these market segments fared when basic cable prices increased.

CBC/Radio-Canada submits this analysis of recent BDU pricing actions provides empirical evidence that can be used to assess the potential impact on the BDU and specialty/pay television segments of the industry from a compensation regime for the value for local television signals.

Bell Canada, Rogers Communications and TELUS filed a report prepared by Suzanne Blackwell and Steven Globerman in BPNH CRTC 2007-10 intended to provide empirical evidence of the impact of a compensation regime for the value of local television signals within the Canadian television broadcasting industry.[1]

CBC/Radio-Canada previously filed a critique of the Blackwell/Globerman report in the BPNH 2007-10 proceeding.[2] This critique noted that the hypothetical economic model provided by the report is not supported by real data and the available empirical evidence. As CBC/Radio-Canada noted, the report does not provide any empirical evidence but merely provides calculations of potential economic impacts based on a hypothetical model. Indeed, as the report states: “It is beyond the scope of this report to conduct original econometric analysis of the demand for Canadian BDU services.”

[1] “Economic Impact of a Fee for Carriage in the Canadian Television Broadcasting Industry” (January 2008).

[2] CBC/Radio-Canada BPNH 2007-10, Reply Comments (February 22, 2008), Appendix B.

CBC/Radio-Canada also notes that CTVglobemedia and Canwest Media jointly filed a report prepared by CRA International commenting on the results included in the Blackwell/Globerman report. The CRA International report concluded that the subscription losses contained in the Blackwell/Globerman report were significantly overstated, resulting in their estimates of negative impacts on BDU revenues, payments to specialty and pay services, payments to the Canadian Television Fund, and payments to Canadian producers also being overstated.

CBC/Radio-Canada notes that Rogers Communications re-filed the original Blackwell/Globerman report, without update, in the BNC CRTC 2009-411 proceeding in support of its claim that a compensation regime for the value of local television signals will negatively impact subscriptions to cable and discretionary packages, as well as stand-alone offerings of pay and specialty services.[3]

CBC/Radio-Canada submits that it is very telling that rather than provide empirical information regarding the impact of their basic cable price increases on their own operations such as the impact on total revenues, subscriptions, downgrades, payments to specialty and pay service – information which the BDUs have available at their disposal – the BDUs continue to rely on the Blackwell/Globerman report.

In contrast to the Blackwell/Globerman report, the CBC/Radio-Canada has reviewed historical financial information to provide empirical evidence of the impact on the various communications segments from the historical rise in basic cable prices.

2.0 Impact on BDUs from Basic Cable Price Increases

As is well documented in the Corporations filings today, BDUs have routinely increased subscription prices for a number of years. As detailed in Appendix A, since 2002 all of the major BDUs have implemented price increases that have positively impacted their financial performance.

The most recent financial reports for the BDU's indicate that price increases are still a significant source of revenue growth:

[3] Rogers BNC 2009-411 filing (September 14, 2009), paragraph 108.

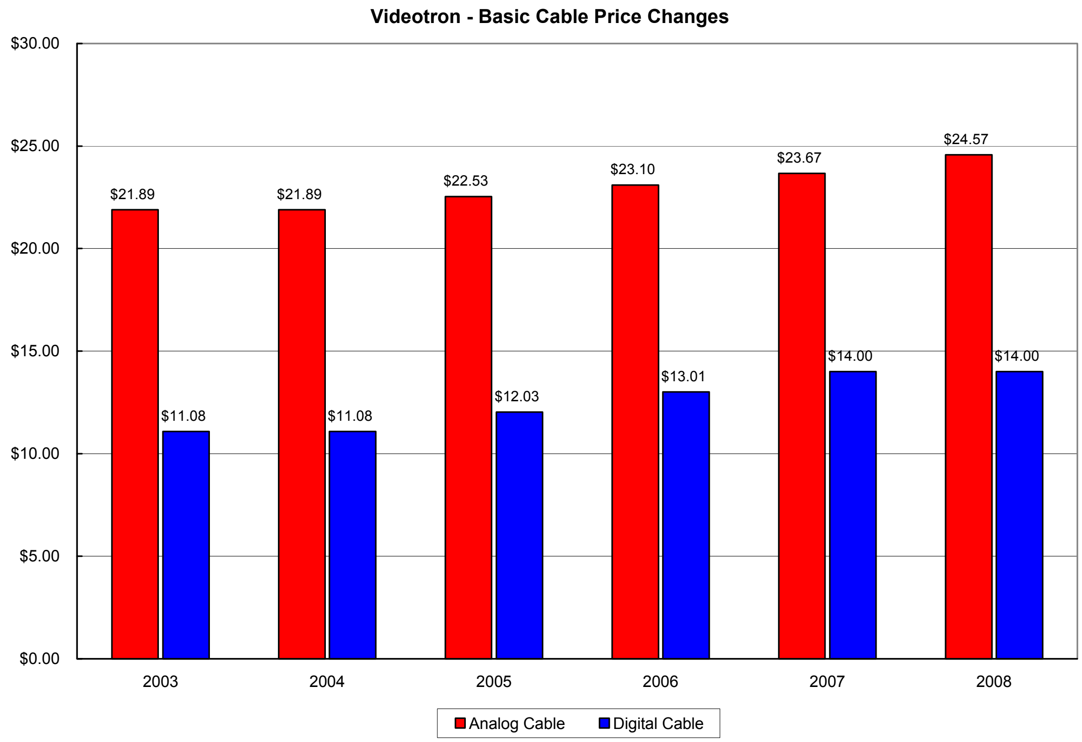
- Shaw's Cable division (cable, Internet and telephony) reported revenues of $2.63 billion for FY2009 – up 11% over FY2008, primarily due to customer growth and rate increases;[4]
- Shaw's Satellite division (DTH) reported revenues of $760 million for FY2009, an increase of 4% over FY2008 due primarily to rate increases and customer growth;[5]
- Rogers reported core cable revenues for the nine months ended Sept 30, 2009 that increased 6% over 2008, noting that the impact of certain price changes introduced over the previous twelve months to its analog and digital cable services contributed to the growth in revenues;[6]
- Rogers' revenue growth, driven in part by price changes, occurred even as its number of basic subscribers declined by 1% over the nine months;[7]

More specific details regarding the annual price increases for basic rates and the impact, if any, on subscription levels, total revenues, average revenue per subscriber and specialty/pay services can be obtained from an analysis of the financial data for Vidéotron for 2003 to 2008 based its annual financial reporting.[8]

Figure 1 below provides Vidéotron's average monthly fee for analog and digital basic cable service. The prices for analog and digital basic have both risen over time, with analog basic service up $2.68 or 12% from 2003 to 2008, representing an average annual increase of 2.3%. Basic digital prices increased $2.92 or 26% for digital basic service over this time period, an annual increase of 4.8%.

[4] Shaw Communications Inc. FY2009 financial release (October 23, 2009).
[5] Ibid.
[6] Rogers Communications 3QFY2009 financial release (October 27, 2009).
[7] Ibid.
[8] Videotron Annual Filings with SEC, Form 20-F.

Figure 1



Given these annual increases, what was the impact on the number of basic subscribers and the average annual revenue per cable subscriber? Under the hypothesis presented by the Globerman/Blackwell report, increasing basic subscriber rates will lead to the following impacts:

- Subscribers will cancel their cable service subscriptions
- Subscribers will downgrade their cable service

Figure 2 provides the Vidéotron data for 2003 to 2008 on the number of homes passed, the number of basic subscribers, cable television revenue and the corresponding average revenue per basic subscriber.[9]

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[9] Average revenue per basic subscriber calculated by CBC/Radio-Canada = cable revenues for year / (average no. of basic subscribers for year).

Figure 2

Videotron - Subscriber Statistics and Average Revenue per Subscriber

Year	Homes Passed	Basic Subs	Cable Revenue ($000)	Avg Revenue per Basic Sub
2003	2,351,344	1,424,144	$558,887	$32.52
2004	2,383,443	1,452,554	$576,825	$33.42
2005	2,419,335	1,506,113	$618,346	$34.83
2006	2,457,213	1,572,411	$677,273	$36.67
2007	2,497,403	1,638,097	$735,832	$38.20
2008	2,542,859	1,715,616	$809,891	$40.25
Total increase (2003 - 2008)	191,515	291,472	$251,004	$7.73
	8%	20%	45%	24%
Avg annual increase	1.6%	3.8%	7.7%	4.4%

The following observations can be made from the data in Figure 2:

- The number of basic subscribers increased by 20% or 3.8% per year on average over the 2003 to 2008 period;
- Even adjusting for the growth in the number of homes passed, basic subscribers still rose by approximately 2.4% on an annual average basis;
- The penetration rate of homes passed increased from 60.6% in 2003 to 67.5% in 2008;
- Cable revenues from all cable services (excludes Internet and telephony) rose 45% over this period, or 7.7% per year;
- The average revenue per basic subscriber grew by $7.73 per month or an average of 4.4% per year.

Taking the information from Figures 1 and 2 together reveals that:

1. the average monthly fee for basic cable service increased during the 2003-2008 period;
2. the number of basic subscribers increased during the same period; with the result that,
3. the average revenue per basic subscriber increased significantly during the period, averaging over 4% growth per year.

These empirical results are completely contrary to the Globerman/Blackwell study hypothesis that an increase in basic cable rates will lead to a) subscribers cancelling service and b) subscribers downgrading service.

Even as basic cable prices for Vidéotron increased, the number of subscribers to Videotron's basic service also increased and its penetration rate of homes passed also increased. Furthermore, rising basic service prices did not lead to subscribers downgrading service to control the overall size of their cable bill as the average annual revenue per basic subscriber (which includes discretionary programming services) increased more than the increase in basic service prices ($7.74 vs $2.68 to $2.92 per month from 2003 to 2008).

The Videotron results are consistent with the results provided in the CRTC Statistical and Financial Summary for BDUs for Basic/Non-Basic Services for the period 2006 to 2008 for Quebec which show that the number of basic subscribers in Quebec increased by an annual average of 4.4%, while average revenue per basic subscriber increased by 3.2% per year.[10]

3.0 Impact on Specialty/Pay Television Segment

Historical information from Videotron and the CRTC may also be used as empirical evidence to assess the impact of basic cable price increases on other segments of the communications industry, such as the specialty/pay television segment.

The Blackwell/Globerman report hypothesizes that specialty/pay television segments of the industry will be negatively impacted by an increase in basic rates as basic subscribers disconnect or downgrade their programming services.

Again, a review of the empirical results for Videotron and the Quebec market reveal that the specialty/pay television segment was not at all negatively impacted by basic cable prices increasing over time.

As indicated above, Videotron's financial data indicates that the average revenue per subscriber increased by more than the increase in basic cable rates, indicating that subscribers were spending more – not less – on discretionary programming services over the 2003 to 2008 period.

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[10] CBC/Radio-Canada notes that Videotron represents approximately 90% of the basic subscribers in Quebec based on Videotron and CRTC data.

In addition, CRTC financial data for the BDUs in Quebec indicates that the total affiliation payments to all services increased by 15.1% per year over 2006 to 2008, while on a per basic subscriber basis, the payments increased by 4.5% per year. These results indicate that there was no negative impact associated with rising basic cable rates.

Using CRTC financial data for the French language the specialty/pay television segment as a proxy for the Quebec market also reveals that subscriber revenues from the cable BDU sector in Quebec grew by an average 5.7% per year over the 2003 to 2008 period.

All of the above empirical results are contrary to the Blackwell/Globerman report hypothesis that the specialty/pay television segment would be negatively impacted by basic rate increases. The empirical results indicate that revenues to this segment of the communications industry continued to rise notwithstanding the Videotron basic rate increases.

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