



Broadcasting Decision CRTC 2006-564

Ottawa, 28 September 2006

Bell ExpressVu Inc. (the general partner), and BCE Inc. and 4119649 Canada Inc. (partners in BCE Holdings G.P., a general partnership that is the limited partner), carrying on business as Bell ExpressVu Limited Partnership
Across Canada

*Application 2004-1108-3
Broadcasting Public Notice CRTC 2005-59
10 June 2005*

Bell ExpressVu Satellite Relay Distribution Undertaking – Licence renewal

*The Commission **renews** the broadcasting licence for the satellite relay distribution undertaking operated by Bell ExpressVu Limited Partnership from 1 October 2006 to 31 August 2010 and amends certain of the conditions of licence that apply to the undertaking.*

The application

1. The Commission received an application by Bell ExpressVu Inc. (the general partner), and BCE Inc. and 4119649 Canada Inc. (partners in BCE Holdings G.P., a general partnership that is the limited partner), carrying on business as Bell ExpressVu Limited Partnership (Bell ExpressVu), to renew the broadcasting licence of its national satellite relay distribution undertaking (SRDU) expiring 31 September 2006.¹
2. The current conditions of licence for this undertaking, which are set in Appendix III to *Acquisition of assets*, Decision CRTC 99-552, 22 December 1999 (Decision 99-552), are as follows:
 1. Consistent with the Commission's SRDU policy framework, the licensee is authorized to distribute, via satellite to its affiliates, the signals of any of the services listed at the end of this appendix,² subject to the following requirements:
 - a) the licensee shall ensure that a majority of the television signals it distributes are Canadian services, and

¹ The licence for the undertaking was renewed administratively to 31 December 2005 in *Administrative renewal*, Broadcasting Decision CRTC 2005-439, 29 August 2005, to 31 March 2006 in *Administrative renewal*, Broadcasting Decision CRTC 2005-574, 5 December 2005, and until 30 September 2006 in *Administrative renewal*, Broadcasting Decision CRTC 2006-86, 22 March 2006.

² The appendix sets out a list of specific Canadian and U.S. over-the-air television services and Canadian radio services that the SRDU is authorized to distribute.

b) the licensee shall distribute the signals of all conventional, Canadian, French-language television services that purchase national program rights. These services exclude the French-language television network service of the Canadian Broadcasting Corporation (CBC), which is already generally available to BDUs via satellite.

For the purpose of this condition, non-Canadian services of the same affiliation will be counted as a single service.

2. The licensee must provide its service to all of the following undertakings whose operators are willing to enter into affiliation agreements with it:

a) terrestrial BDUs that are licensed by the Commission or that are operating in accordance with an exemption order issued by the Commission; and,

b) licensed DTH distribution undertakings (for retransmission to DTH subscribers only).

3. The licensee shall not delete, curtail or alter the programming services which it distributes to BDUs in any manner from the form in which they are transmitted for public reception by the originating broadcasters, except such alterations as are incidental to the transmission of the services using digital video compression technology and except as may be authorized or required by the Commission in writing.

4. The licensee shall contribute a minimum of 5% of its annual gross revenues derived from regulated SRDU activities to the creation and presentation of Canadian programming.

For the purpose of this condition, contributions directed to a production fund are required to be made on a monthly basis, within 45 days of each month's end. Funds allocated to subsidize the provision of decoder equipment to broadcasting distribution undertakings are not eligible contributions.

5. The licensee shall not give an undue preference to any person, including itself, or subject any person to an undue disadvantage.

6. If there is a dispute between the licensee and a distribution undertaking, whether operating by licence or by exemption order, concerning the terms under which programming services are or may be provided, then the licensee shall submit to a dispute resolution process, if the Commission so requires.

7. The licensee shall adhere to the provisions of section 4 of the *Broadcasting Distribution Regulations*, in respect of any transfers of ownership or control.

3. It was proposed that the conditions of licence be replaced with the following:

1. The licensee shall adhere to the provisions of section 4 of the *Broadcasting Distribution Regulations* in respect to any transfers of ownership or control.

2. Subject to the requirement that it ensure that a majority of the television signals it distributes are Canadian programming services, the licensee is authorized to distribute via satellite to its affiliates the following television services:

a) any licensed conventional television programming undertaking;

b) any licensed satellite-to-cable undertaking;

c) the proceedings of any provincial legislature, including l'Assemblée Nationale du Québec; and

d) Any signal included in the Lists of Part 2, Part 3, and direct-to-home (DTH) eligible satellite services, as modified by the Commission from time to time.

3. The licensee is authorized to distribute to its affiliates via satellite the signal of any licensed conventional radio programming undertaking and any licensed audio undertaking.

4. The licensee must provide its service to all of the following undertakings whose operators are willing to enter into affiliation agreements with it:

a) terrestrial broadcasting distribution undertakings (BDUs) that are licensed by the Commission or operating in accordance with an exemption from licensing granted by the Commission; and

b) licensed DTH BDUs (for transmission to DTH subscribers only).

5. Regarding alteration or deletion of programming, the licensee shall not alter or delete a programming service in the course of its distribution except as the Bell ExpressVu DTH BDU is permitted under section 7 of the *Broadcasting Distribution Regulations*, as amended from time to time.

6. The licensee is required to contribute a minimum of 5% of its annual gross revenues derived from broadcasting activities to the creation and presentation of Canadian programming.

7. The licensee shall not give an undue preference to any person, including itself, or subject any person to an undue disadvantage.

8. If there is a dispute between the licensee and a distribution undertaking, whether operating by licence or by exemption order, concerning the terms under which programming services are or may be provided, then the licensee shall submit to a dispute resolution process, if the Commission so requires.

Positions of parties

Interventions

4. The Commission received interventions commenting on this application from La Coalition des Fournisseurs Internet du Québec (the Coalition), Rogers Cable Communications Inc. (Rogers) and The Canadian Cable Systems Alliance Inc. (CCSA). It also received a petition addressing matters not directly related to the renewal of the licence of the Bell ExpressVu SRDU.
5. The Coalition noted that competition was increasing in the integrated provision of television services, Internet access and telephone service. The Coalition submitted that the Commission should impose specific conditions to ensure that the SRDU operated by Bell ExpressVu provides its services to members of the Coalition without unjust discrimination and at just and reasonable rates.
6. Rogers and the CCSA both raised concerns with respect to the rates charged by Bell ExpressVu for the delivery of high definition (HD) television signals. In addition, the CCSA objected to the rates charged by Bell ExpressVu for the delivery of certain small-market, independent television stations distributed under arrangements described in *Direct-to-home (DTH) broadcasting distribution undertakings – simultaneous and non-simultaneous program deletion and the carriage of local television signals in smaller markets*, Broadcasting Public Notice CRTC 2003-37, 16 July 2003 (the CAB³ signals), and Rogers criticized the uplink fees charged by Bell ExpressVu to pay and specialty services. The concerns expressed by Rogers and the CCSA are summarized below.

Delivery of HD signals

7. Both the CCSA and Rogers expressed concern about what they considered the excessive rates charged by Bell ExpressVu for delivery of HD signals.
8. Both interveners cited the Commission's determinations in *A Policy Framework for the Introduction of Competition to the Satellite Relay Distribution Industry*, Public Notice CRTC 1998-60, 23 June 1998 (Public Notice 1998-60). The CCSA noted that, in Public Notice 1998-60, the Commission found that the fundamental purpose and objective of an SRDU remained to extend services to remote and underserved communities. The CCSA stated that many of its members serve such communities, and that many are unable to source signals through fibre interconnects and are thus dependent on SRDUs for signals that they distribute.

³ Canadian Association of Broadcasters

9. The CCSA argued that Bell ExpressVu's DTH undertaking provides the fullest possible array of HD signals to its customers, and that CCSA member companies cannot compete with that offering while absorbing a substantial premium for the delivery of HD signals.
10. The CCSA submitted that Bell ExpressVu has stated that it does not intend to deliver HD programming to cable BDUs unless, in so doing, it can recover the significant costs it incurs for the satellite capacity required for HD signals. It stated that, in negotiations, Bell ExpressVu is offering a flat fee of no less than \$1,000 per HD signal per month, which is beyond the capacity of its members to pay, particularly during the initial roll out of HD television. The CCSA submitted that this constitutes an obstacle to the roll out of HD television, contrary to the Commission's objectives for SRDUs and for digital conversion.
11. In the CCSA's view, the costs of satellite capacity for the HD signals would already have been accounted for in Bell ExpressVu's plans to make such signals available via its DTH undertaking. Accordingly, the CCSA submitted that premium pricing of the HD signals may constitute an undue preference conferred on the DTH undertaking by the affiliated SRDU. The CCSA argued that charges to BDUs for the delivery of HD signals should be consistent with fees charged for the delivery of standard definition (SD) signals.
12. Accordingly, the CCSA requested that the Commission require, by condition of licence, that the SRDU licensee set equitable fees for the delivery of HD signals, based on the premise that, for the purpose of setting such fees, there should be no differentiation between SD and HD signals. The CCSA submitted that, alternatively, the Commission should exercise its powers under the *Broadcasting Act* (the Act) to set regulated rates for the transport of HD signals, based on the principles that (a) there should be no differentiation between SD and HD signals, and (b) such rates should compensate the SRDU only for the true cost of the provision of the services and no more.
13. The CCSA added that the Commission should ensure that the intent of such an approach is not thwarted by the SRDU simply raising delivery fees for all signals to absorb the cost of the HD signal capacity requirements that should already have been absorbed as part of the Bell ExpressVu DTH business model for its HD offering. The CCSA added that, at the very least, the conditions of licence for Bell ExpressVu's SRDU should include the SRDU signals that Bell ExpressVu is authorized to deliver to cable BDUs, and should specify that pricing for delivery of such signals should be reasonable, equitable and support delivery of such services to Canadian consumers by the cable BDUs at affordable prices.
14. Rogers made arguments similar to those of the CCSA. Rogers also argued that the incremental costs associated with the SRDU delivery of HD signals are minimal, if not zero. Rogers was therefore concerned that the rates that Bell ExpressVu seeks to charge Rogers for the HD signals may subject Rogers to an undue disadvantage. Rogers submitted that, in order to support the roll out and adoption of HD and, therefore, the future of the Canadian broadcasting system, it is essential that the Commission become

involved in the establishment of reasonable rates for the SRDU delivery of HD signals. Further, Rogers submitted that “a fully justified rate for these signals should be established.”

15. Rogers noted that many of its cable systems in New Brunswick are interconnected with its Ontario systems, and are provided with HD signals received at its primary head end in Ontario. However, in Newfoundland, Rogers relies on an SRDU for the delivery of programming. In May 2005, Rogers contacted Bell ExpressVu about sourcing “its full suite of dedicated HD channels in Newfoundland,” rather than the 10 HD signals then offered by the SRDU operated by Canadian Satellite Communications Inc. (Cancom). Rogers submitted that the rate offered by Bell ExpressVu was excessive and unreasonable, particularly when compared to the rate Rogers had previously been paying to Cancom for HD signals. Specifically, Rogers submitted that Cancom offered each of its 10 HD signals at a “street rate” of \$0.15/month/subscriber, while Bell ExpressVu proposed a rate of \$1,000/HD channel/month, which Rogers submitted equated roughly to \$0.67/month/subscriber.
16. Rogers noted that section 3(t)(ii) of the Act provides that BDUs “should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost.” Rogers argued that, while the Commission relies on competition to ensure the broadest possible choice of programming for BDUs at a reasonable cost, in many regions of Canada where the operation of a terrestrial relay distribution network (TRDU) is uneconomic, Bell ExpressVu has become the sole supplier of a full suite of HD signals to BDUs. Rogers submitted that this lack of competition puts BDUs in remote and underserved markets at a disadvantage, since market forces are unavailable to ensure truly enhanced choice and cost competitiveness. Rogers added that, in Public Notice 1998-60, the Commission indicated a willingness to reconsider the possibility of regulating the rates charged by SRDUs, depending on how competition in the industry developed. In the absence of competition for delivery of HD signals, Rogers submitted that the Commission should reconsider its decision not to regulate.

Delivery of the CAB signals

17. The CCSA objected to the rates charged by Bell ExpressVu for the CAB signals. The CCSA noted that the dedication of satellite capacity for the uplink of the CAB signals was part of an arrangement with broadcasters under which the Bell ExpressVu DTH undertaking was relieved of certain regulatory obligations concerning program deletion. The CCSA submitted that Bell ExpressVu has excluded the CAB signals from the SRDU pricing structure in its affiliation agreement with the CCSA and, instead, charges a substantial premium in the order of five times the rate normally charged for SRDU signals. The CCSA was of the view that this premium is entirely unwarranted in light of the commitments made by Bell ExpressVu for its DTH undertaking and that Bell ExpressVu is, in effect, attempting to recover through the “back door” the cost of its prior commitment to the Commission.

Uplink fees

18. Rogers stated that Bell ExpressVu charges each specialty service an annual uplink fee of approximately \$250,000. It noted that, during the process in 2003 for the renewal of Bell ExpressVu's DTH licence, the CAB argued that programming services should not be required to pay uplink fees.
19. Rogers stated that, since Bell ExpressVu has been able to use its uplink fee revenue to offset increases to affiliation payments, it is in a competitively advantageous position relative to terrestrial BDUs, which do not have the same opportunity. Rogers submitted that Bell ExpressVu's costs to operate its SRDU business are effectively zero, and that it is entirely inappropriate for Bell ExpressVu to charge all programming services an additional uplink fee for an SRDU service that may be used by few, if any, terrestrial BDUs for the receipt of a given signal. Rogers argued that, unless Bell ExpressVu can demonstrate to a given programming service that its SRDU operation is being used for the delivery of that service's signal to other BDUs, Bell ExpressVu should not be permitted to charge an uplink fee. Where Bell ExpressVu's SRDU operation is being used, Rogers submitted that the uplink fee should be calculated based on the number of SRDU customers that actually receive that signal from Bell ExpressVu instead of Cancom (e.g., if half of the SRDU customer base across Canadian uses Bell ExpressVu's SRDU, the fee should be \$125,000).

Applicant's reply

20. Bell ExpressVu indicated that it had no comments on the intervention by the Coalition or on the petition, because they were not directly relevant to its application. The applicant's response to the issues raised by Rogers and the CCSA is set out below.

Delivery of HD signals

21. Bell ExpressVu submitted that to impose price-related regulation for the delivery of HD signals on one competitor, particularly one that has little presence in the market, would be unfair and would constitute a significant reversal of the Commission's competitive regulatory policy with regard to SRDUs and TRDUs.
22. Bell ExpressVu estimated that Cancom receives more than 95% of the SRDU business overall, and fills more than 95% of demand for satellite signals by CCSA members. In this context, Bell ExpressVu expressed concern about what it characterized as cable operators' desire to "cherry-pick" certain signals for little compensation from its SRDU, while giving the lion's share of their business to Cancom or to a competing TRDU. Bell ExpressVu noted Rogers' "own admission" that it was only after it found that it could not get what it wanted from Cancom that it turned to the Bell ExpressVu SRDU. Bell ExpressVu stated that, from its perspective, Rogers appears to use the Bell ExpressVu SRDU simply to leverage lower prices from Cancom, which has received all of Rogers' business. Further, the applicant argued that it is clear from Rogers' intervention that it

seeks to selectively choose HD signals from Bell ExpressVu while offering Bell ExpressVu no other SRDU business. Bell ExpressVu's submitted that this does not constitute grounds for imposing price restrictions on Bell ExpressVu.

23. Bell ExpressVu submitted that its rates are fair, equitable and affordable given the cost of providing HD signals by satellite. Bell ExpressVu stated that it offered Rogers the same rate card that it offers to all BDUs seeking to receive these HD signals on a stand-alone basis. It noted that at least one other cable operator, unrelated to Bell ExpressVu, currently pays those rates. Further, the rate quoted was \$1,000 per HD channel for delivery to up to 20,000 subscribers.
24. Bell ExpressVu also disputed Rogers' characterization of its SRDU as a monopoly. It stated that Cancom can offer the same HD signals as Bell ExpressVu. The fact that Cancom has chosen not to offer certain signals does not make Bell ExpressVu a monopoly, but rather gives Bell ExpressVu "a transitional marketing advantage in a competitive environment." Bell ExpressVu added that, in any event, Rogers could extend its existing fibre TRDU network to Newfoundland if it so desired.
25. In response to the CCSA's submission that Bell ExpressVu's offer for delivery of HD signals was designed to recoup all or a sizeable portion of its satellite costs, Bell ExpressVu stated that, given the amount of SRDU business that Bell ExpressVu would likely achieve and the high cost of satellite bandwidth, only a small proportion of its satellite costs could ever be recovered from SRDU customers.
26. Bell ExpressVu stated that, in its discussions with both Rogers and the CCSA, it has clearly indicated that its prices are flexible and volume-driven. It added that the Commission has noted in the past that this is an acceptable and appropriate pricing strategy. In response to Rogers' and the CCSA's comparison of Bell ExpressVu and Cancom prices, Bell ExpressVu submitted that, given the amount of business that Cancom gets from Rogers and the CCSA, it is understandable that Cancom's incremental rate for HD signals might be lower than the rate charged by Bell ExpressVu for a single HD signal. ExpressVu also submitted that, if Rogers or CCSA members were willing to consider a comprehensive package of services and signals from Bell ExpressVu, and continued to grow their bases of HD subscribers, the unit price would drop to a level not unlike that experienced by other BDUs.
27. Bell ExpressVu also was of the view it is inappropriate to compare the rates for HD signals to those for SD signals. It noted that the distribution of HD signals requires significant additional satellite bandwidth. Further, the conversion to HD requires a substantial investment by Bell ExpressVu for additional satellite capacity. Bell ExpressVu considered it entirely appropriate to reflect its added financial commitment for HD signals in its competitive SRDU prices.

28. Bell ExpressVu submitted that adoption of Rogers' suggestion that it be required to fully justify its rate for HD signals, or the CCSA's suggestion that prices for HD signals be linked to prices for other signals, would constitute an unwarranted introduction of price regulation into its SRDU operation, which would be inappropriate given that none of its "larger competitors" are subject to such conditions. Further, the CCSA's proposed condition that pricing of HD signals "be reasonable, equitable and support delivery of such services to consumers, by the cable BDUs, at affordable prices," amounts to micro-management and is so broadly worded that it would lead to protracted disputes before the Commission over interpretation. Further, Bell ExpressVu argued that the competitive framework established by the Commission in 1998 accomplishes what the CCSA is seeking — reasonable, equitable and affordable prices.

Delivery of the CAB signals

29. Bell ExpressVu submitted that regulation of Bell ExpressVu's rates for the delivery of the CAB signals, as requested by the CCSA, is unwarranted. It argued that its commitment to distribute the CAB signals was made in the context of an arrangement between its DTH operation and the CAB and had nothing to do with its SRDU licence. Bell ExpressVu also stated that it offers the CAB signals in competition with Cancom, that there is very little interest in the signals on the part of CCSA members, and that, even if such interest were substantial, the total potential revenue to the SRDU would contribute in only a minor way to Bell ExpressVu's costs.

Uplink fees

30. In reply to Rogers concerns, Bell ExpressVu replied that its SRDU licence relates only to the relay of the signals of over-the-air television stations and satellite-to-cable undertakings. It also submitted that uplink fees for the signals of pay and specialty services to cable BDUs are not governed by its SRDU licence. Bell ExpressVu therefore considered that concerns related to the uplink of the signals of specialty services for which Bell ExpressVu charges a fee is irrelevant to the application and should be dismissed.

Commission's request for additional information from Bell ExpressVu

31. Following receipt of the interventions and Bell ExpressVu's reply to those interventions summarized above, the Commission sent a letter to Bell Express Vu dated 24 March 2006 requesting additional information addressing three major concerns arising from the interventions.

Authority to deliver of the signals of specialty services and rates for the delivery of such signals

32. In light of Bell ExpressVu's position that its SRDU licence only authorizes it to relay the signals of over-the-air stations and satellite-to-cable undertakings, the Commission asked the licensee to provide a full description of any arrangements with pay or specialty services pursuant to which Bell ExpressVu delivers their signals. The Commission further requested information on the rates that Bell ExpressVu charges for signals.

Authority to deliver the CAB signals

33. In its letter, the Commission noted that Bell ExpressVu is currently authorized to distribute only one of the CAB signals – that of CFJC-TV Kamloops – under its SRDU licence. The Commission asked Bell ExpressVu to provide a list of all the CAB signals that it distributes, as well as charges for those services and the authority under which Bell ExpressVu delivers and charges BDUs for the CAB signals.

Services to be authorized

34. The Commission noted that the currently proposed amendment to Bell ExpressVu's conditions of licence would provide it with authority to distribute the signals of specialty services, as well as many non-Canadian services that are not over-the-air services. The Commission asked Bell ExpressVu to indicate if it continued to believe that such an authorization would be appropriate given its statement, in its reply to interventions, that its SRDU licence covered only the distribution of the signals of over-the-air stations and satellite-to-cable undertakings.

Further comment

35. The Commission indicated that interveners would be given an opportunity to file further comments in response to the additional information filed by Bell ExpressVu by 2 May 2006, and that Bell ExpressVu would be given the opportunity to reply to the further comments of interveners by 16 May 2006. Its responses to the questions raised are summarized below.

Additional information provided by Bell ExpressVu

36. Bell ExpressVu replied to the Commission's request for additional information on 18 April 2006.

Authority to deliver the signals of specialty services and rates for the delivery of signals

37. Bell ExpressVu reiterated its position that its SRDU licence covers only the relay of the signals of over-the-air stations and satellite-to-cable undertakings and that the delivery of the signals of specialty services to cable head ends by satellite is not governed by an SRDU licence. Bell ExpressVu added that, in *Canadian Satellite Communications Inc. – Contribution Regime*, Telecom Decision CRTC 2002-57, 13 September 2002 (Telecom Decision 2002-57), the Commission recognized that the "uplink of transport of specialty services" to the head ends of cable BDUs by Cancom constitutes broadcasting by a broadcasting undertaking and therefore correctly excluded Cancom's transport business from the requirement to participate in the telecommunications contribution regime. However, Bell ExpressVu argued that Telecom Decision 2002-57 did not determine that the transport of specialty services was part of Cancom's SRDU licence, but simply recognized that each specialty service is required to deliver its service to cable head ends. Bell ExpressVu submitted that the transport of such services is, thus, an element of the

broadcasting licence of each specialty service and stated that, in every case where Bell ExpressVu transports such a service to a cable head end, it does so with the agreement of the specialty service.

38. Bell ExpressVu also noted that, in its intervention, Rogers had asked the Commission to require Bell ExpressVu to lower its rates for the delivery of HD signals. Bell ExpressVu submitted that it had halved its rates for HD signals, yet Rogers had still not elected to contract with Bell ExpressVu for the delivery of a single revenue-producing signal. Bell ExpressVu also argued that Rogers has the option of transporting HD signals on its own TRDU or leasing uplink and space segment facilities from Telesat or Ciel for the provision of HD signals. Bell ExpressVu submitted that there is ample C-band capacity available at competitive rates for the transport of HD signals.

Authority to deliver the CAB signals

39. Bell ExpressVu stated that it currently supplies four of the CAB signals to a small number of CCSA members with a combined total of fewer than 1,500 residential subscribers. According to Bell ExpressVu, it has negotiated a master agreement with the CCSA for the benefit of its members, and the rates for the CAB signals compare favourably with those offered by Cancom for identical signals.
40. With respect to its authority to deliver the CAB signals, Bell ExpressVu stated that, when it prepared its application for licence renewal in the months leading up to October 2004, it requested a condition of licence that would permit it to distribute all of the CAB signals. Bell ExpressVu noted that Cancom had already received authority to distribute these signals in *Distribution of all licensed radio and conventional television programming undertakings*, Broadcasting Decision CRTC 2002-119, 26 April 2002 (Decision 2002-119). Bell ExpressVu was of the view that, given the Commission's policy of promoting competition between the SRDUs and the interest in the CAB signals expressed by members of the CCSA, the addition of the CAB signals to the lists of services that Bell ExpressVu offered would not be controversial. Bell ExpressVu added that it had every reason to believe that its licence renewal application would be considered expeditiously, and that separate applications to obtain authorization for the CAB signals would place an unnecessary administrative load on the Commission.

Services to be authorized

41. Bell ExpressVu submitted that there was no inconsistency with respect to the Commission granting it a condition of licence that refers to the Lists of eligible satellite services (the lists), which would include specialty services, and its argument that the scope of an SRDU licence does not extend to the distribution of specialty services. Rather, Bell ExpressVu stated that its aim was to find a method for signal authorization that would reduce future administrative processes both for itself and for the Commission.
42. Bell ExpressVu noted that, under its current conditions of licence, if a new non-Canadian signal or satellite-to-cable undertaking were added to the lists, it would be required to apply to the Commission to amend the conditions of licence for its SRDU. This would

mean that a cable BDU could not obtain the new signal until Bell ExpressVu applied for a condition of licence and the Commission completed the required public process. Bell ExpressVu submitted that the administrative process for authorizing SRDU delivery of a new signal would be streamlined if its conditions of licence made direct reference to the lists.

43. Bell ExpressVu added that it did not consider that a reference to the lists would imply that its SRDU licence encompassed the transport of the signals of specialty services. However, if the Commission preferred, Bell ExpressVu stated that it would find acceptable a condition of licence that would authorize its SRDU to distribute “any Canadian satellite-to-cable undertaking, the proceedings of any provincial legislature, any non-Canadian signal appearing on the Lists of eligible satellite services as modified from time to time, and of any licensed television undertaking.”

Rogers’ reply to the additional information submitted by Bell ExpressVu

44. Rogers was the only intervenor that commented on the additional information submitted by Bell ExpressVu. Rogers provided its comments in a letter dated 8 May 2006, and again addressed the issues of the rates charged by Bell ExpressVu for the delivery of HD signals and uplink fees for the delivery of specialty services.

Rates for the delivery of HD signals

45. In response to Bell ExpressVu’s further submission, Rogers noted that, in its original intervention, it had indicated that Bell ExpressVu’s position in the Newfoundland market, as the only supplier of a full suite of HD signals to BDUs operating in that province and other rural/remote markets in Canada, was providing the SRDU with the ability to charge “grossly inflated prices” for HD signals. This, in turn, was ultimately inhibiting the growth of HD television in these regions of Canada. Rogers further argued that the significant costs associated with sourcing the HD signals from Bell ExpressVu had effectively prevented its systems from offering a full complement of HD services to its customers in Newfoundland. This, in turn, enabled Bell ExpressVu’s SRDU to confer an undue preference on the DTH undertaking by ensuring that the DTH undertaking was the only BDU capable of offering these HD signals to customers in Newfoundland.
46. Rogers submitted that, while Bell ExpressVu reduced its rates for HD signals at the end of 2005, the Commission should recognize that this reduction occurred only after Rogers raised concerns in its intervention. Rogers further argued that, because Bell ExpressVu has already incurred the costs to uplink a full suite of HD signals for delivery to its DTH customers, the marginal costs incurred by Bell ExpressVu to deliver such signals to BDUs via its SRDU are nil. In Rogers’ submission, Bell ExpressVu should not be permitted to charge an arbitrary per-channel rate for the SRDU delivery of HD signals to terrestrial BDUs that has no rational connection to its costs. For that reason, Rogers

submitted that the Commission should ensure that Bell ExpressVu makes HD signals available at a price that is affordable for those smaller cable BDUs that operate in more remote areas of Canada that do not have access to an alternative source of HD signals.

Uplink fees

47. Rogers submitted that Bell ExpressVu charges each specialty service an uplink fee of \$250,000 even though those services have already paid uplink fees to Cancom. Given Bell ExpressVu's dominant position in the digital distribution market through its DTH undertaking, Rogers stated that specialty service undertakings have no choice but to pay the additional uplink fees in order to ensure that they receive carriage by the Bell ExpressVu DTH undertaking. Rogers submitted that the cost of the uplink fee directly affects all BDUs since pay and specialty services recover the cost by charging BDUs higher wholesale fees. Rogers therefore submitted that, as a result of Bell ExpressVu's uplink fee, cable BDUs are being forced to subsidize Bell ExpressVu's DTH operations, regardless of whether the applicant is actually transporting specialty services to other BDUs.

Bell ExpressVu's reply to Rogers

48. Bell ExpressVu replied to Rogers in a letter dated 23 May 2006, as summarized below.

Rates for the delivery of HD signals

49. Bell ExpressVu reiterated that, even though it had halved its rates for HD signals, Rogers has still not elected to contract with Bell ExpressVu for a single revenue-producing signal or even inquired about Bell ExpressVu's current rate card for HD signals. According to the applicant, its current rate card for HD signals, with rates at approximately one tenth of those initially proposed, came into force in part through a negotiation with other cable operators with fewer subscribers than Rogers' BDUs in Newfoundland. Bell ExpressVu added that it is also negotiating with other licensees of cable BDUs for the delivery of HD signals, some of which may also be negotiating to receive the same services from competing suppliers, such as the TRDU operated by Rogers.
50. Bell ExpressVu categorically denied Rogers allegation that it is pricing its SRDU signals in such a way as to grant its DTH business an undue preference in Newfoundland. The applicant submitted that Rogers enjoys a dominant market share among BDU subscribers in areas that Rogers serves in Newfoundland and therefore is more than capable of paying Bell ExpressVu's modest SRDU charges if the HD signals are of value to it.

Uplink fees

51. Bell ExpressVu stated that it did not charge an uplink fee of \$250,000 for each specialty and pay service, as suggested by Rogers. It reiterated its view that uplink fees are beyond the scope of the renewal of its SRDU licence, and noted that this issue had been discussed in the context of the 2004 licence renewal of the Bell ExpressVu DTH undertaking. It noted that, in *Introductory statement to Broadcasting Decisions CRTC*

2004-129 and 2004-130, which renew the licences for the ExpressVu and Star Choice direct-to-home satellite distribution undertakings, Broadcasting Public Notice CRTC 2004-19, 31 March 2004 (Public Notice 2004-19), the Commission stated that “it did not consider ExpressVu’s approach to the recovery of uplink costs to be unreasonable,” and that it did “not consider it necessary or appropriate to intervene in current contractual provisions related to the uplink fees for specialty services.”

Commission’s analysis and determinations

Activities outside the scope of an SRDU licence

Transport of pay and specialty services

52. In reply to concerns about the rates charged for the distribution of the signals of certain services, Bell ExpressVu argued that its SRDU licence governs the transport to BDUs of the signals of over-the-air stations and satellite-to-cable undertakings, but not the transport of specialty services. Accordingly, Bell ExpressVu submitted that comments by interveners related to its transport of the HD signals of specialty services are not relevant to the renewal of its SRDU licence.
53. In the original 1999 licensing decision for the Bell ExpressVu SRDU, then known as Bell Satellite Services Inc. (BSSI),⁴ the Commission noted that BSSI had stated that it would “seek affiliation agreements with Canadian pay and specialty television services and U.S. specialty services, in order to allow it to provide distribution undertakings with a full range of Canadian and authorized U.S. services.” However, no specific authorities and no conditions of licence were granted to permit the SRDU to deliver specialty services either at the time or afterwards.
54. As indicated by Bell ExpressVu, in Telecom Decision 2002-57, the Commission stated the following in the context of its discussion of Cancom’s DTH uplinking operations:

The Commission notes that it is the responsibility of the licensees of specialty services to deliver their signals to cable head-ends. As such, Cancom’s uplinking operations form part of the delivery of the specialty programming services by the licensees of specialty services to BDUs for reception by the public.

55. As indicated by the above, the Commission considers that the transport of pay and specialty services is not an activity encompassed by an SRDU licence. Further, the Commission notes that neither does this transport activity fall within the scope of Bell ExpressVu’s DTH licence. Rather, such transport is more appropriately characterized as the delivery by the pay and specialty services of their programming services to cable head-ends. The Commission notes that Bell ExpressVu stated in its submission of 18 April 2006 that, in every case where it transports such a signal to a cable head end, it does so with the agreement of the service in question. In instances where Bell ExpressVu charges fees to BDUs for the delivery of a pay or specialty

⁴ *New national satellite relay distribution undertaking*, Decision CRTC 99-87, 19 April 1999

service, the Commission would expect Bell ExpressVu to have arrangements with the programming service that would authorize it to levy any charges for such transport. In the Commission's view, if BDUs consider such charges to be unreasonable, they should raise the issue with the service on whose behalf the charges are being levied.

56. If the BDU and the programming service are unable to resolve their differences as to such charges, the dispute resolution procedures set out in sections 12 to 15 of the *Broadcasting Distribution Regulations* (the Regulations) are available. In this regard, section 12(2) provides that:

12.(2) If there is a dispute between the licensee of a distribution undertaking and the licensee of a programming undertaking or the operator of an exempt programming undertaking concerning the carriage or terms of carriage of programming, including the wholesale rate, originated by the programming undertaking, one or both of the parties to the dispute may refer the matter to the Commission for dispute resolution.

Uplink Fees

57. With specific regard to Bell ExpressVu's charging of uplink fees, the Commission considers that this issue pertains primarily to the DTH licence and not the SRDU licence. The Commission notes that the issue of uplink fees for specialty services was addressed in Public Notice 2004-19 in the context of the renewal of the broadcasting licence for Bell ExpressVu's DTH undertaking. In the proceeding leading to that public notice, Bell ExpressVu had submitted that, since the Cancom SRDU and the Star Choice DTH undertaking use the same satellite facilities, Star Choice was able to obtain signals of pay and specialty services without incurring additional costs. Bell ExpressVu indicated that it had thus negotiated contracts with Category 1 specialty services to pay "the lesser of \$240,000 or the difference between \$240,000 and the fee which the service charges Star Choice DTH to use the direct-to-cable feed." In Public Notice 2004-19, the Commission considered that Star Choice's ability to distribute these signals without incurring uplink costs, due to its association with Cancom, while an operating efficiency, could place Bell ExpressVu at a disadvantage. Based on the evidence before it, the Commission did not consider Bell ExpressVu's approach to the recovery of uplink costs to be unreasonable. In light of these conclusions, the Commission did not consider it necessary or appropriate to intervene in the contractual provisions related to the uplink fees for specialty services.
58. In light of the above, the Commission does not consider it appropriate in this proceeding to intervene with respect to uplink fees.

Services within the scope of an SRDU licence – Rate issues

59. As discussed above, while the transport of the signals of specialty services does not fall within the ambit of the Bell ExpressVu SRDU licence, the delivery of the signals of over-the-air services does, whether those signals are HD or SD. In this regard, both Rogers and the CCSA submitted that Bell ExpressVu charges excessive rates for the delivery of HD programming signals to BDUs and that the Commission should consider regulating such rates. In addition, in its intervention, the CCSA objected to the rates

charged by Bell ExpressVu for the delivery of small-market, independently-owned television stations, i.e., the CAB signals. The Coalition submitted that the Bell ExpressVu SRDU should provide its services to Coalition members without unjust discrimination and at just and reasonable rates.

60. In Public Notice 1998-60, the Commission stated that its SRDU policy would generally rely on competition to ensure that the broadest possible choice of signals is available to BDUs at a reasonable cost. The Commission also emphasized that, while the role of the SRDU has grown, its primary purpose and objective is still to extend Canadian services to remote and underserved communities.
61. The Commission notes Bell ExpressVu's arguments that the imposition of pricing constraints on it would be unfair, given that no such constraints are in place with regard to its major SRDU competitor, Cancom. Further, such constraints would constitute an unwarranted departure from the competitive policy established for SRDUs in Public Notice 1998-60. The Commission is in general agreement with these submissions. Nonetheless, it also remains a major goal of the Commission's SRDU policy to ensure the delivery of signals to geographic regions of the country that cannot economically be served by other technologies. Further, the Commission notes that, since the Bell ExpressVu DTH undertaking in many instances competes directly with cable companies to which the Bell ExpressVu SRDU may offer its signals, there may indeed be an incentive for the SRDU to price its signals at excessive levels, especially those signals for which it is the only source.
62. In this regard, the Commission notes that the conditions of licence currently applicable to Bell ExpressVu's SRDU specify that, if the Commission so requires, the licensee must submit to a dispute resolution process if there is a dispute between the licensee and a distribution undertaking, whether licensed or operating under an exemption order, concerning the terms under which programming services are or may be provided. The Commission considers the dispute resolution process adequate to address any instances where Bell ExpressVu may be charging excessive rates. Accordingly, the Commission does not at this time consider it necessary to intervene to establish specified rates for Bell ExpressVu's delivery of either HD over-the-air signals or the CAB signals.
63. Should such a dispute come before it, the Commission would expect both Bell ExpressVu and the licensee of the BDU involved to justify their respective positions with respect to appropriate rates by reference to underlying costs. In this regard, the Commission notes that it would not generally consider that rates for the delivery of signals should be set to recover only those costs that are incremental to Bell ExpressVu's DTH operation. Rather, the Commission would generally consider it appropriate that the rates for both the DTH and the SRDU undertaking reflect to some degree the efficiencies that flow from the common use of the platform. Further, the Commission does not consider it unreasonable that the SRDU rates for HD signals reflect to some degree the additional satellite capacity required for the delivery of HD signals.

64. With specific regard to the CAB signals, in Public Notice 2003-37, the Commission determined that DTH licensees would be relieved, by condition of licence, of obligations to perform program deletion subject to their performance of certain alternative measures, including the carriage of certain small-market, independently-owned television stations, that is, the CAB signals. In *Licence amendment for ExpressVu – relief from requirements for simultaneous and non-simultaneous program deletion*, Broadcasting Decision CRTC 2003-257, 16 July 2003, the Commission imposed a condition of licence on the Bell ExpressVu DTH undertaking requiring that it be responsible for all transmission costs including backhaul costs associated with the distribution of the CAB signals. Should a dispute arise with regard to the terms and conditions under which these signals are delivered to BDUs, the Commission could consider arguments concerning, among other things, the relevance of the provisions approved in Decision 2003-257 to the rates charged by the Bell ExpressVu SRDU.

Changes to conditions of licence

65. As indicated earlier, Bell ExpressVu proposed a list of conditions of licence that would replace the current conditions of licence for its SRDU. These are addressed below.

Signal carriage

66. Currently, the Bell ExpressVu SRDU is authorized to distribute certain specified Canadian and non-Canadian signals. In response to deficiencies prior to the issuance of the public notice regarding its application, the applicant stated that it would have no objection to replacing its current condition of licence related to signal carriage with the following:

Subject to the requirement that it ensure that a majority of the television signals it distributes are Canadian programming services, the licensee is authorized to distribute via satellite to its affiliates the following television services:

- a) any licensed conventional television programming undertaking;
- b) any licensed satellite-to-cable undertaking;
- c) the proceedings of any provincial legislature, including l'Assemblée Nationale du Québec; and
- d) Any signal included in the Lists of Part 2, Part 3, and DTH eligible satellite services, as modified by the Commission from time to time.

The licensee is authorized to distribute to its affiliates via satellite the signal of any licensed conventional radio programming undertaking and any licensed audio undertaking.

67. Approval of this condition of licence, since it refers to the lists and in particular to the Part 3 list, would authorize Bell ExpressVu to distribute the signals of specialty services (i.e., the programming service of any licensed television programming undertaking), as well as many non-Canadian services that are not over-the-air services. Given that, in response to interventions, Bell ExpressVu argued that its SRDU licence does not cover the distribution of specialty services, the Commission asked the applicant to indicate

whether the condition of licence set out above would be appropriate. Bell ExpressVu replied, in its submission of 18 April 2006, that it would, as an alternative, accept a condition of licence that would authorize it to distribute “any Canadian satellite-to-cable undertaking, the proceedings of any provincial legislature, any non-Canadian signal appearing on the Part 2 or Part 3 Lists of eligible satellite services as modified from time to time, and of any licensed television undertaking.”

68. The Commission is of the view that it would be appropriate to use more generic language in describing the signals that Bell ExpressVu is authorized to distribute. The Commission notes, however, that the revised condition of licence suggested by Bell ExpressVu includes authorization to distribute any “licensed satellite-to-cable undertaking,” a term that is not defined in the Regulations. The Commission is therefore imposing the following **conditions of licence**, which avoid the use of that term:

Subject to the requirement that it ensure that a majority of the television signals that it distributes are Canadian programming services, the licensee is authorized to distribute via satellite to its affiliates the following television services:

- the signal of any licensed conventional television programming undertaking;
- the signal of any educational television programming service, the operation of which is the responsibility of any educational authority designated by the province in which the licensed area of the undertaking is located;
- the signal of any U.S. over-the-air television programming undertaking included on the lists of Part 2, Part 3 or DTH eligible satellite services;
- CPAC, the Parliamentary programming service and the proceedings of any provincial or territorial legislative assembly;
- Radio-France outre-mer (RF01) Saint-Pierre and Miquelon; and
- Atlantic Satellite Network (ASN).

For the purpose of this condition, non-Canadian services of the same network affiliate will be counted as a single service.

The licensee is authorized to distribute to its affiliates via satellite the following radio services:

- the signal of any licensed conventional radio programming undertaking and any licensed pay audio undertaking.

69. The Commission notes that the conditions of licence set out above will give the licensee authority to distribute all of the CAB signals, most of which the licensee has been distributing without authorization. As noted by Bell ExpressVu, in *Distribution of all licensed radio and conventional television programming undertakings*, Broadcasting Decision CRTC 2002-119, 26 April 2002 (Decision 2002-119), the Commission approved an application by Cancom to amend its SRDU licence to permit it to distribute to affiliated BDUs the signal of any licensed radio or conventional television programming undertaking. While Bell ExpressVu intervened in support of Cancom's application in that process, it did not immediately apply for the same amendment to its own SRDU licence. The Commission notes that Bell ExpressVu had two and a half years from the release of Decision 2002-119 until it filed its licence renewal application in October 2004. The Commission does not consider that the unexpected delay in the processing of its licence renewal application relieved it of the obligation to apply for a licence amendment before distributing these signals. The Commission expects the licensee to comply with its conditions of licence with respect to signal distribution and, in accordance with its usual practice, will examine the licensee's compliance in this area in the context of its next licence renewal.

Undue preference, dispute resolution

70. Bell ExpressVu requested that its renewed SRDU licence incorporate the existing conditions of licence with respect to undue preference and dispute resolution. These are included in the list of conditions of licence set out in the appendix to this decision.

Contribution to Canadian programming

71. The Bell ExpressVu SRDU is currently subject to the following condition of licence with respect to contribution to Canadian programming:

The licensee is required to contribute a minimum of 5% of its annual gross revenues derived from broadcasting activities to the creation and presentation of Canadian programming.

For the purpose of this condition, contributions directed to a production fund are required to be made on a monthly basis, within 45 days of each month's end. Funds allocated to subsidize the provision of decoder equipment to broadcasting distribution undertakings are not eligible contributions.

72. The revised condition of licence proposed by Bell ExpressVu omitted the second paragraph in the condition set out above. Bell ExpressVu provided no explanation for the proposed deletion. The Commission further notes that the condition of licence for the Cancom SRDU respecting contribution to Canadian programming contains provisions that are substantially the same as the paragraph that Bell ExpressVu requested be omitted. In light of the above, the Commission is not persuaded that it should approve the revised condition suggested by Bell ExpressVu. Rather, the relevant condition of licence

approved by the Commission, set out in the appendix to this decision, is the same condition of licence respecting contribution to Canadian programming that is in effect under the current licence.

Alteration and deletion of signals

73. The current condition of licence respecting the alteration and deletion of signals for the Bell ExpressVu SRDU reads as follows:

The licensee shall not delete, curtail or alter the programming services which it distributes to BDUs in any manner from the form in which they are transmitted for public reception by the originating broadcasters, except such alterations as are incidental to the transmission of the services using digital video compression technology and except as may be authorized or required by the Commission in writing.

74. Bell ExpressVu requested that the condition set out above be replaced by the following:

Regarding alteration or deletion of programming, the licensee shall not alter or delete a programming service in the course of its distribution except as the Bell ExpressVu DTH broadcasting distribution undertaking is permitted under section 7 of the *Broadcasting Distribution Regulations*, as amended from time to time.

75. In support of its request, Bell ExpressVu stated that the proposed condition of licence is worded to conform to the requirements applicable to Bell ExpressVu's DTH undertaking, which uses the same platform as the SRDU. Thus, the same signals that are carried by the DTH undertaking are also relayed via satellite to cable operators under the SRDU licence.
76. The Commission considers the proposed condition of licence to be appropriate, given that the two undertakings use the same platform. The Commission therefore replaces the current condition of licence respecting alteration and deletion of signals with the **condition of licence** proposed by Bell ExpressVu. This condition is set out in the appendix to this decision.

Ownership

77. Bell ExpressVu requested that its renewed SRDU licence incorporate the existing condition of licence with respect to ownership and control. That condition reads as follows:

The licensee shall adhere to the provisions of section 4 of the *Broadcasting Distribution Regulations* in respect to any transfers of ownership and control.

78. In order that Bell ExpressVu's requirements reflect any changes to the Regulations, the Commission will impose a **condition of licence** that reads as follows:

The licensee shall adhere to the provisions of section 4 of the *Broadcasting Distribution Regulations*, as amended from time to time, in respect to any transfers of ownership and control.

Obligation to provide service

79. The current condition of licence with respect to Bell ExpressVu's obligation to provide service reads as follows:

2. The licensee must provide its service to all of the following undertakings whose operators are willing to enter into affiliation agreements with it:

- a) terrestrial BDUs that are licensed by the Commission or that are operating in accordance with an exemption order issued by the Commission; and
- b) licensed DTH distribution undertakings (for retransmission to DTH subscribers only).

80. Bell ExpressVu proposed that the condition of licence set out above be amended to read as follows:

The licensee must provide its service to all of the following undertakings whose operators are willing to enter into affiliation agreements with it:

- a) terrestrial broadcasting distribution undertakings (BDUs) that are licensed by the Commission or operating in accordance with an exemption from licensing granted by the Commission; and
- b) licensed direct-to-home (DTH) BDUs (for transmission to DTH subscribers only).

81. The Commission considers that current wording for paragraph a) above is preferable since no undertaking can be exempted other than by way of an exemption order. The Commission therefore retains the current condition of licence with respect to the obligation to provide service. This condition is included in the appendix to this decision.

Conclusion

82. In light of all of the above, the Commission **renews** the broadcasting licence of the national satellite relay distribution undertaking operated by Bell ExpressVu Inc. (the general partner), and BCE Inc. and 4119649 Canada Inc. (partners in BCE Holdings G.P., a general partner that is the limited partner), carrying on business as Bell ExpressVu Limited Partnership. The licence will expire 31 August 2010 and will be subject to the **conditions** set out in the appendix to this decision.

83. The Commission notes that the expiry date coincides with the expiry date for the licence of the SRDU operated by Cancom. The Commission considers that a common expiry date for the licences of the two SRDUs will allow it to ensure that competitive equity exists between the two undertakings with respect to their regulatory obligations.
84. The Commission further notes that it will shortly be initiating a proceeding to finalize the regulatory framework for the distribution of HD services by DTH undertakings. The regulatory framework that results from that proceeding may have some impact on SRDUs and on their regulatory obligations. Any changes that may be required as a result of that framework can be implemented for both the Bell ExpressVu and the Cancom SRDU at the time of their common licence renewal in 2010.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2006-564

Conditions of licence for the SRDU operated by Bell ExpressVu

1. The licensee shall adhere to the provisions of section 4 of the *Broadcasting Distribution Regulations*, as amended from time to time, in respect to any transfers of ownership or control.
2. Subject to the requirement that it ensure that a majority of the television signals that it distributes are Canadian programming services, the licensee is authorized to distribute via satellite to its affiliates the following television services:
 - a) the signal of any licensed conventional television programming undertaking;
 - b) the signal of any educational television programming service, the operation of which is the responsibility of any educational authority designated by the province in which the licensed area of the undertaking is located;
 - c) the signal of any U.S. over-the-air television programming undertaking included on the Lists of Part 2, Part 3 or DTH Lists of eligible satellite services;
 - d) CPAC, the Parliamentary programming service and the proceedings of any provincial or territorial Legislative assembly;
 - e) Radio-France outre mer (RF01) Saint-Pierre and Miquelon; and
 - f) Atlantic Satellite Network (ASN).

For the purpose of this condition, non-Canadian services affiliated to the same network will be counted as a single service.
3. The licensee is authorized to distribute to its affiliates via satellite the following radio services:
 - a) the signal of any licensed conventional radio programming undertaking and any licensed pay audio undertaking.
4. The licensee must provide its service to all of the following undertakings whose operators are willing to enter into affiliation agreements with it:
 - a) terrestrial BDUs that are licensed by the Commission or that are operating in accordance with an exemption order issued by the Commission; and
 - b) licensed DTH distribution undertakings (for retransmission to DTH subscribers only).

5. Regarding alteration or deletion of programming, the licensee shall not alter or delete a programming service in the course of its distribution except as the Bell ExpressVu DTH broadcasting distribution undertaking is permitted under section 7 of the *Broadcasting Distribution Regulations*, as amended from time to time.
6. The licensee is required to contribute a minimum of 5% of its annual gross revenues derived from broadcasting activities to the creation and presentation of Canadian programming.

For the purpose of this condition, contributions directed to a production fund are required to be made on a monthly basis, within 45 days of each month's end. Funds allocated to subsidize the provision of decoder equipment are not eligible contributions.

7. The licensee shall not give an undue preference to any person, including itself, or subject any person to an undue disadvantage.
8. If there is a dispute between the licensee and a distribution undertaking, whether operating by licence or by exemption order, concerning the terms under which programming services are or may be provided, then the licensee shall submit to a dispute resolution process, if the Commission so requires.