



Broadcasting Public Notice CRTC 2005-82

Ottawa, 11 August 2005

Call for comments on a regulatory framework for mobile broadcasting services

Summary

In this notice, the Commission calls for comments on an appropriate regulatory framework for broadcasting services delivered to mobile telephones and other mobile receiving devices.

Background

1. On 29 April 2005, the Commission received a letter from the Canadian Association of Broadcasters (CAB) regarding announcements by Bell Mobility Inc. (Bell), Rogers Wireless Inc. (Rogers) and LOOK Communications Inc. (LOOK) of their plans to launch mobile broadcasting services in Canada. LOOK is the operator of a multipoint distribution system (MDS) broadcasting distribution undertaking (BDU) serving portions of Ontario and Quebec. Bell and Rogers are wireless common carriers. In its letter, the CAB requested that the Commission seek clarification as to the nature of these broadcasting services, “in order to determine the appropriate form of regulation pursuant to the *Broadcasting Act*.”
2. On 13 May 2005, the Commission sent letters to LOOK, Bell and Rogers requesting that these companies provide the Commission with detailed descriptions of their proposed services, including a description of their content, the originator of such content, and a description of how the service would be delivered to subscribers. The Commission also asked these companies to provide their views on whether their proposed services would be considered broadcasting, and, if so, what the appropriate form of regulation for these services would be. The Commission requested that the three companies address, in particular, the applicability of the exemption order set out in the appendix to *Exemption Order for New Media Broadcasting Undertakings*, Public Notice CRTC 1999-197, 17 December 1999 (the New Media Exemption Order). On 31 May 2005, the Commission sent a similar letter to a third wireless common carrier, TELUS Mobility (TELUS), which had also announced plans to launch a mobile broadcasting service. The Commission received responses to these letters from LOOK on 25 May 2005, from Bell and Rogers on 27 May 2005 and from TELUS on 10 June 2005.

Responses by the wireless common carriers

3. Based on the descriptions provided by Bell, Rogers and TELUS, their three proposed services would be similar in that each would provide wireless customers with real-time access to audio-visual content on their wireless handsets. In order to access a service, subscribers would have to be equipped with a compatible handset, subscribe to a data service plan provided by a wireless carrier, and pay a monthly subscription fee.
4. Bell and Rogers stated that they plan to partner with a U.S.-based service known as MobiTV for the provision of their respective services. According to Rogers, the content of its proposed service would originate with a MobiTV server in the United States, travel through the public Internet to a server in Canada, and from there to the customer's wireless mobile device. Bell explained that the role of MobiTV would be to convert the video content to a format compatible with the mobile browsers and handsets. MobiTV would also provide the servers, the connections through the Internet, and subscriber authentication processes. Without identifying a specific party, TELUS also indicated that it would have a partner supplier that would perform functions similar to those that MobiTV would perform on behalf of Rogers, such as hosting the content server and converting the content into a format that can be accessed through a wireless handset.
5. All three wireless carriers were of the view that their respective services would fall within the definition of broadcasting set out in section 2 of the *Broadcasting Act*. At the same time, each of the wireless carriers considered that its service would qualify for exemption from licensing pursuant to the New Media Exemption Order. For instance, Rogers argued that its service would be both "delivered and accessed over the Internet" in accordance with the New Media Exemption Order. For its part, Bell submitted:

From a technical standpoint, the service operates no differently than any Internet media player application. When the subscriber selects a video stream from the menu MobiTV client on his handset, it is the equivalent, on the PC, of clicking on a view video option. Bell Mobility's system translates this request to an URL (IP address), and the request for a connection is initiated, from the Bell Mobility central office, through the public Internet. The server responding to the URL address (IP address) responds by streaming the video content back to the receiver.
6. Bell did distinguish its proposed service from other new media services in that it would employ wireless transmission for the "last mile" of the transmission path and use wireless handsets as terminal devices. Bell noted, however, that many other Internet applications and users that fall within the New Media Exemption Order also rely on wireless connectivity as part of the transmission path, for example, users accessing the Internet via Wi-Fi hotspots.

7. TELUS submitted that it would not be necessary for subscribers to its proposed service to have access through their mobile phones to all of the content available on the Internet. TELUS stated, “Rather, the reverse is true: specific content has to be available to all users of the Internet, although, as in this case availability can be limited to paying customers (i.e. a subscription service) and to those who have purchased special receiving equipment.”
8. Both Bell and TELUS submitted that their proposed services would not compete with traditional broadcasting services as a consequence of such factors as the small size of the viewing screens on wireless telephones, their low image resolution and audio quality, the memory and battery life limitations of mobile handsets, and the narrow range of programming choices that would be available to subscribers. In this respect, both Bell and TELUS were of the view that their proposed services would not have a negative impact on the ability of licensed broadcasting undertakings to fulfil their regulatory requirements, but rather would complement conventional broadcasting services and might provide them with an opportunity to expand their brands and ultimately enhance their ability to fulfil their regulatory requirements.

Response by LOOK

9. For its part, LOOK submitted that it would use its MDS BDU to transmit content to its customers equipped with a mobile receiving apparatus. According to LOOK, the service would be transmitted using, where applicable, the 50% or more of LOOK’s licensed spectrum that is specifically set aside for use in the distribution of licensed programming services, while the remainder of the service would be transmitted using the remaining portion of the licensed spectrum. LOOK noted that the service would distribute programming services that LOOK is authorized to distribute pursuant to its broadcasting licence and would be delivered in a manner that conforms to the requirements of this licence, including the requirements of the *Broadcasting Distribution Regulations*.

Call for comments

10. The Commission seeks comments on the matters raised above. In order to assist interested parties in developing their submissions, but without limiting the scope of the comments, the Commission requests that parties address the following questions.
 - 1) Do the proposed services fall within the scope of the New Media Exemption Order?
 - 2) If the proposed services do not fall within the scope of the New Media Exemption Order, should a new exemption order be issued covering these services?
 - 3) If a new exemption order should be issued, what should be its scope?

11. Parties should provide full supporting rationale for their positions, including, where applicable, full technical and other details regarding the provision of the services, how they are accessed by users, the relationship and roles of the various service providers and their relationship with the ultimate customer (the end user).
12. The letters sent to the Commission by LOOK, Bell (in abridged form), Rogers, TELUS and the CAB and the Commission's letters to these parties will form part of the public record.
13. The Commission will accept comments that it receives on or before **12 September 2005**.
14. Parties may file replies on or before **27 September 2005**.
15. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedures for filing comments

16. Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
[Broadcasting Intervention/Comments Form](#)

OR

- **by mail to**
CRTC, Ottawa, Ontario K1A 0N2

OR

- **by fax at**
(819) 994-0218

17. Submissions longer than five pages should include a summary.
18. Please number each paragraph of your submission. In addition, please enter the line *****End of document***** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

19. All information submitted, including email address, name and any other personal information, will be placed on the public examination file and can be examined on the Commission's web site at www.crtc.gc.ca.

20. Comments filed in electronic form or on paper will be available in the *Public Proceedings* section of the Commission's web site in the official language and format in which they are submitted. Paper versions will be converted to electronic versions by the Commission for this purpose. All comments will be placed on the public examination file.
21. The Commission encourages interested parties to monitor the public examination file and the Commission's web site for additional information that they may find useful when preparing their comments.

Examination of public comments and related documents at the following Commission offices during normal business hours

Central Building
Les Terrasses de la Chaudière
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Secretary General

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