



## Broadcasting Decision CRTC 2007-72

Ottawa, 28 February 2007

**Pelmorex Communications Inc.**  
Across Canada

*Application 2004-1260-2  
Public Hearing in the National Capital Region  
1 May 2006*

### **Pelmorex emergency alert service**

*In Emergency alert services, Broadcasting Public Notice CRTC 2007-20, 28 February 2007 (Public Notice 2007-20), the Commission set out its overall approach to applications for emergency alert services considered at the 1 May 2006 public hearing. In Public Notice 2007-20, the Commission announced that it would amend section 7(d) of the Broadcasting Distribution Regulations. It has called for comments on the proposed wording of these amendments in Call for comments on proposed amendments to the Broadcasting Distribution Regulations, Broadcasting Public Notice CRTC 2007-21 of today's date.*

*Consistent with the approach set out in Public Notice 2007-20, the Commission **approves in part** proposals by Pelmorex Communications Inc. (Pelmorex) for licence amendments, including one that modifies the nature of service condition of licence for its weather information specialty services, The Weather Network and Météomédia, to enable Pelmorex to provide emergency alert messages as part of its own service offering. It also authorizes the applicant to charge broadcasting distribution undertakings (BDUs) that agree to distribute the proposed emergency alert messages a negotiated per subscriber per month wholesale rate over and above the \$0.23 per month that Pelmorex is currently authorized to charge for distribution of The Weather Network or Météomédia, where the service is distributed as part of the basic service.*

*The Commission, however, **denies** the request by Pelmorex for an order pursuant to section 9(1)(h) of the Broadcasting Act that, among other things, would have required the distribution, by Class 1 and direct-to-home BDUs, of emergency alert messages that the applicant proposed to provide to BDUs for display on all channels of their service offerings.*

### **The application**

1. The Commission received an application by Pelmorex Communications Inc. (Pelmorex) requesting amendments to the licence it holds for the English- and French-language specialty services known, respectively, as The Weather Network and Météomédia. The amendments would enable Pelmorex to provide, as part of these specialty services,

emergency alert messages issued by authorized government agencies (authorized agencies), including Environment Canada and other federal, provincial and territorial bodies. The messages would take the form of alphanumeric crawls on television screens accompanied by audio warnings, and would be integrated into the two specialty services operated by Pelmorex.

2. Under the Pelmorex proposal, it would install its own proprietary All Channel Alert (ACA) equipment at the headends of broadcasting distribution undertakings (BDUs). Licensees of BDUs across Canada that serve licensed areas whose residents are the target of a given message, would display these alert messages on each channel of their service offering. To give effect to this ACA aspect of its proposal, Pelmorex requested that the Commission issue a distribution order pursuant to paragraph 9(1)(h) of the *Broadcasting Act* (the Act).
3. Under the distribution order proposed by the applicant, all Class 1 BDUs (including multipoint distribution service (MDS) BDUs and direct-to-home (DTH) BDUs) would be required to distribute the ACA service when it is made available to them by Pelmorex. The distribution of the ACA component of the services of The Weather Network and Météomédia would be optional in the case of Class 2, Class 3 and BDUs that are exempt from licensing requirements.
4. Pelmorex proposed that its ACA system would function primarily as the aggregator and central relay point for the delivery of alert messages of relevance to any particular geographic area. Pelmorex indicated that it would not exercise any control over the issuance, content or frequency of alert messages. Once an authorized agency provided Pelmorex with the text of an emergency message and identified the affected area, Pelmorex would validate the authenticity of the message and send a valid, location-encoded alert to be decoded by its ACA proprietary equipment located at all BDUs within the affected area. The ACA equipment would automatically select and insert the message, in its original form, on all television channels distributed to subscribers in the affected area.
5. An accompanying audio alert would direct viewers to a toll-free telephone service that would provide a spoken word version of the text message provided by the authorized agency. The alert would also be sent simultaneously to participating local radio and television newsrooms and posted on The Weather Network and Météomédia websites.
6. Pelmorex stated that it would be prepared to display alerts in both official languages when the alerts are made available by the authorized users in both official languages. Pelmorex also indicated that, in the future, the question of distributing alerts in additional languages would be the subject of consultation with authorized authorities, as well as broadcasters and distributors.

7. Pelmorex indicated that the ACA service would launch first on cable BDUs approximately twelve months following regulatory approval, with the DTH roll-out beginning some six months later. Pelmorex stated that the ACA service would reach over 9 million homes, or 91% of all households served by BDUs, within three years of its introduction on the first cable BDUs.
8. Pelmorex also requested an amendment to its licence that would increase the maximum authorized wholesale rate by \$0.08, from the current rate of \$0.23 per subscriber per month where the service is distributed as part of the basic service, to \$0.31 per subscriber per month for BDUs carrying the ACA service.
9. To implement its proposal, Pelmorex requested that the Commission amend The Weather Network's and Météomédia's current conditions of licence 1(a), 3(a) and 5 as set out below. PLEASE NOTE: The new or revised portions of the conditions of licence are in italics; condition of licence 1(b), as referred to below, lists the categories from which the programming must be drawn and would not be amended.

1. (a) The programming provided by the licensee shall be dedicated exclusively to video programming, text and graphics related to:

(i) meteorological, atmospheric and marine conditions for local, regional and national areas of Canada, and international areas as they may be of national interest to Canadians, as well as programming relating to the prevention and effects of these conditions; and

*(ii) alerts and messages related to imminent or unexpected threats to life or property caused by severe weather disturbances, natural disasters or other emergencies in local, regional and national areas of Canada for distribution on the licensee's services and on the other channels of broadcasting distribution undertakings which distribute the licensee's services.*

3. In accordance with the Commission's position on Canadian programming expenditures as set out in Public Notices CRTC 1993-93 and 1993-174,

a) the licensee shall, in each broadcast year of the licence term, expend not less than 37% of its gross revenue (Canadian subscription and advertising revenues) of the previous year, *derived from that portion of the service described in condition of licence 1(a)(i)*, on the investment in and/or acquisition of Canadian programs.

5. For the duration of the licence term, the licensee shall charge:

*(a) each exhibitor of the portion of the service described in condition of licence 1(a), a maximum wholesale rate of \$0.23 per subscriber per month, where the service is distributed as part of the basic service; and*

*(b) each distributor of the complete service described in conditions of licence 1(a) and 1(b), an additional wholesale rate of \$0.08 per subscriber per month, provided that the licensee has (i) sent the exhibitor written notice of its intention to provide the complete service as described in conditions of licence 1(a) and 1(b) at least 180 days before the charge is made, or (ii) launched that portion of the service described in condition of licence 1(b) on the exhibitor's undertaking.*

## **Interventions**

10. The Commission received interventions supporting, opposing and commenting on the application by Pelmorex, as well as other applications to provide alert services that were considered at the 1 May 2006 public hearing. These other applications were filed by the Canadian Broadcasting Corporation and by Bell ExpressVu Limited Partnership.<sup>1</sup> The positions of the interveners with respect to various issues raised by the applications are discussed and dealt with in *Emergency alert services*, Broadcasting Public Notice CRTC 2007-20, 28 February 2007, (Public Notice 2007-20).

## **Commission's analysis and determinations**

11. In Public Notice 2007-20, the Commission has expressed its support for a system that would encourage Pelmorex, and other parties who might be willing to do so, to act as aggregators of emergency alert messages prepared by authorized agencies, and that would encourage, as well, the voluntary participation of BDU operators in making their distribution systems available as conduits for the dissemination of such messages to their subscribers. Consistent with that support, the Commission has decided to take steps to remove certain regulatory obstacles that might impede the development of such a system or systems.
12. As noted above, one of the requests made by Pelmorex in its present application was that the Commission issue a distribution order pursuant to section 9(1)(h) of the Act. One consequence of the order requested by Pelmorex would be that the licensee of a BDU would no longer need to obtain the agreement of the operator of a programming service, or of the network responsible for the service, before inserting an emergency alert message into the signal provided by the programming service. This requirement is one currently imposed under section 7(d) of the *Broadcasting Distribution Regulations* (the Regulations). The Commission considers that the current requirement constitutes an impediment to the voluntary participation by distributors in an effective emergency alert system. However, the applicant's request for an order that would remove this requirement is one that, in the Commission's view, would be met equally by an amendment to section 7(d). As discussed in Public Notice 2007-20, section 7(d) currently states:

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<sup>1</sup> 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.

7. A licensee shall not alter or delete a programming service in the course of its distribution except

(d) for the purpose of altering a programming service to insert an emergency alert message in accordance with an agreement entered into with the operator of the service or the network responsible for the service;

13. In *Call for comments on proposed amendments to the Broadcasting Distribution Regulations*, Broadcasting Public Notice 2007-21 of today's date (Public Notice 2007-21), the Commission has invited interested parties to comment on the wording of an amendment to this section so that it would read as follows:

7. A licensee shall not alter or delete a programming service in the course of its distribution except

(d) for the purpose of altering a programming service to insert an emergency alert message;

14. In Public Notice 2007-21, the Commission has also called for comments on the proposed wording of an amendment to the definition set out in the Regulations of "emergency alert message." That term is currently defined as "a warning to the public announcing an imminent or unfolding danger to life or property." In Public Notice 2007-20, the Commission announced its finding that the emergency alert messages that BDUs are permitted to insert in the programming services they distribute should be restricted to those dealing with the most urgent and serious of emergencies. Specifically, the Commission concluded that the current definition, which makes provision for the insertion of announcements warning of danger to property, is too broad for the purposes of ensuring an effective alert system. Accordingly, the Commission has proposed to amend the definition of emergency alert message to mean "a warning to the public announcing an imminent or unfolding danger to life."
15. In light of the above, and in particular, of the proposed amendment to section 7(d) of the Regulations and the Commission's rejection of an emergency alert messaging system that would be based on the mandatory participation of BDUs, the Commission concludes that the issuance of the distribution order, as requested by Pelmorex, would be inappropriate. The Commission, however, considers that it would be appropriate and consistent with the mandate of The Weather Network and Météomédia to amend the condition of licence that sets out the nature of service they provide, in order to permit their programming to include alert messages that, as proposed by Pelmorex, relate to "imminent or unexpected threats to life or property caused by severe weather disturbances, natural disasters or other emergencies in local, regional and national areas of Canada."
16. Accordingly, the Commission **approves in part** the licensee's request and amends condition of licence 1(a) through the addition of the text set out in italics in that condition's sections 1(a)(ii) and 1(a)(iii) below:

1.(a) The programming provided by the licensee shall be dedicated exclusively to video programming, text and graphics relating to

(i) meteorological, atmospheric and marine conditions for local, regional and national areas of Canada, and international areas as they may be of national interest to Canadians, as well as programming relating to the prevention and effects of these conditions;

(ii) *alerts and messages related to imminent or unexpected threats to life or property caused by severe weather disturbances, natural disasters or other emergencies in local, regional and national areas of Canada for distribution on the licensee's services; and*

(iii) *such other messages as conform to the definition of "emergency alert message," contained in the Broadcasting Distribution Regulations, as amended from time to time for distribution on the licensee's services, and in cases where the licensee of a broadcasting distribution undertaking has entered into an agreement with Pelmorex, for the distribution of emergency alert messages on other channels offered by that broadcasting distribution undertaking.*

17. Consistent with the Commission's decision to support the development of a Canadian emergency alert system that would be based on the voluntary participation of distributors, BDU licensees would be permitted to negotiate with Pelmorex on terms whereby the BDUs would receive, for delivery to their subscribers on an all-channel basis, emergency alert messages as contemplated under condition of licence 1(a)(iii) above. As noted, however, such messages would be restricted to those that conform to the Regulation's definition of an emergency alert message, as amended, unless a BDU obtained a condition of licence authorizing the distribution of additional messages.
18. Also consistent with the Commission's determination in favour of the voluntary participation by BDUs in an emergency alert system, the Commission **denies** Pelmorex's proposal, under which its all channel alert service would be distributed by Class 1 and DTH BDUs on a mandatory basis.
19. In anticipation of the licensee successfully negotiating with BDUs for the carriage of its proposed ACA service, the Commission has decided to authorize Pelmorex to negotiate with BDUs for a monthly per-subscriber wholesale rate that it would charge for the delivery of such a service to subscribers, as well as an exemption of the revenues derived from the delivery of the ACA service from the calculation of Canadian programming expenditure requirements. Accordingly, the Commission **approves in part** the applicant's proposal to amend conditions of licence 3 and 5. Those conditions of licence will be amended to read as follows:

3. In accordance with the Commission's position on Canadian programming expenditures as set out in Public Notices CRTC 1993-93 and 1993-174,

a) the licensee shall, in each broadcast year of the licence term, expend not less than 37% of its gross revenue (Canadian subscription and advertising revenues) of the previous year, derived from that portion of the service described in condition of licence 1(a)(i) and condition of licence 1(a)(ii), on the investment in and/or acquisition of Canadian programs, excluding revenues derived from the distribution of emergency alert messages on channels other than those carrying its own services, pursuant to condition of licence 1(a)(iii).

5. For the duration of the licence term, the licensee shall charge:

(a) each distributor of the portion of the service described in conditions of licence 1(a)(i) and 1(a)(ii), a maximum wholesale rate of \$0.23 per subscriber per month, where the service is distributed as part of the basic service; and

(b) each distributor that enters into an agreement with the licensee to distribute that portion of the service described in condition of licence 1(a)(iii), a wholesale rate per subscriber per month of an amount agreed upon by the licensee and the distributor, provided that that portion of the service described in condition of licence 1(a)(iii) has been launched on the distributor's undertaking.

20. The Commission encourages Pelmorex to implement an ACA system according to the framework set out in Public Notice 2007-20. The Commission also expects Pelmorex to continue to participate on the CANALERT committees. In addition, the Commission expects the licensee to work with alert providers, emergency measures organizations and distributors on an ongoing basis to ensure that its ACA system provides an effective warning system that responds to the needs of both the provider and the users.
21. Consistent with the approach set out in Public Notice 2007-20, the Commission expects Pelmorex to provide emergency alerts in both official languages where such alerts are provided in both official languages by authorized users of the system.

Secretary General

*This decision is 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>*