



## Broadcasting Public Notice CRTC 2007-101

Ottawa, 12 September 2007

### **Distribution of video description by Class 1 cable broadcasting distribution undertakings (BDU), direct-to-home BDUs and satellite relay distribution undertakings**

*All Class 1 broadcasting distribution undertakings (BDUs), direct-to-home BDUs, and satellite relay distribution undertakings must pass through video description of all programming services distributed on a digital basis, by not later than 1 September 2009.*

*All Class 1 BDUs must pass through video description of all local, over-the-air signals distributed on a digital basis as well as all video description signals provided to those BDUs by Shaw Broadcast Services and distributed on a digital basis, by not later than 1 January 2008.*

*The Commission will consider applications by Class 1 cable BDUs to be relieved, by condition of licence, of the requirement to pass through video description programming on an analog basis subject to providing complimentary set-top boxes to subscribers who are blind or who have a visual impairment, in order to enable those subscribers to access video description programming on a digital basis.*

#### **Background**

1. “Video description” or “described video” refers to a narrative description of a television program’s key visual elements for the purpose of allowing persons who are blind or who have a visual impairment to understand what is occurring on the screen. In providing video description, a narrator offers information on visual cues such as settings, costumes, body language or other purely visual information.

#### **Current regulatory framework**

2. Section 3(1)(p) of the *Broadcasting Act* (the Act) states that “programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose.”
3. With respect to the obligations of the broadcasting distribution undertakings (BDUs), section 7 of the *Broadcasting Distribution Regulations* (the Regulations) states:

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

(a) as required or authorized under a condition of its licence or these Regulations; ...

(f) for the purpose of deleting a subsidiary signal, unless the signal is, itself, a programming service or is related to the service being distributed.

4. The Commission has determined that video description is related to the service being distributed and that BDUs are, therefore, prohibited from altering or deleting video description under section 7 of the Regulations (see Public Notice 1997-150 and Broadcasting Public Notices 2005-18 and 2006-6).
5. In Broadcasting Public Notice 2006-6, the Commission relieved exempt cable BDUs as well as Class 2 and Class 3 cable BDUs, which are not fully interconnected with Class 1 BDUs, of the requirement to pass through video description on an analog basis. These BDUs continued to be required to pass through video description of all programming services distributed on a digital basis, as it is made available. The Commission also relieved all multipoint distribution system BDUs of the requirement to pass through video description.

#### **Pass-through of video description by Star Choice and Shaw Broadcast Services**

6. In Broadcasting Public Notice 2006-6, the Commission noted allegations made by interveners that Star Choice Television Network Inc. (Star Choice) and Canadian Satellite Communications Inc., now known as Shaw Broadcast Services (SBS), were not passing through described programming in the signals that they provide to BDUs making it impossible for those BDUs to pass through video description to their subscribers.
7. On 2 February 2006, the Commission initiated a series of correspondence with Star Choice and SBS regarding their provision of video description programming. The National Broadcast Reading Service also filed comments in this process. All related correspondence is on the public record.
8. In a meeting with Commissioner Ron Williams on 20 February 2007, Star Choice reported that it and SBS could pass through video description programming for 24 signals by 1 September 2007, rather than by 1 September 2008, as had been previously indicated. Subsequently, in a letter dated 1 June 2007, Star Choice and SBS made commitments to pass through video description programming for 26 signals by 1 September 2007. A list of the 26 signals, which was provided by SBS, is set out in Appendix 1 to this public notice.

## **Pass-through of video description by Class 1 BDUs and Bell ExpressVu Limited Partnership**

9. On 18 January 2007, the Commission sent letters to the licensees of all Class 1 BDUs and to Bell ExpressVu Limited Partnership (Bell ExpressVu), the licensee of a national, direct-to-home (DTH) satellite BDU, requesting that each file the following:
- a list of the signals for which video description was being passed through to subscribers;
  - a list of the signals for which video description was not being passed through to subscribers; and
  - a detailed explanation of its plans, including a specific timeframe, for passing through video description for any of its signals for which it currently does not pass through video description.

10. The Commission received 23 submissions from the parties listed in Appendix 2 to this public notice.

*Rogers Cable Communications Inc.*

11. Of all the BDUs involved in this survey, Rogers Cable Communications Inc. (Rogers) is providing the most video description programming. Rogers passes through video description programming to its subscribers in Ontario and New Brunswick for every local conventional television signal distributed by its BDUs, where that signal is a priority to a given system, as well for the specialty services it distributes, except for Canal D and ZTélé. In those provinces, Rogers provides video description programming on both analog and digital platforms. However, Rogers indicated that it is currently unable to pass through video description programming in Newfoundland and Labrador where it is completely reliant on SBS.

*Bell ExpressVu*

12. Bell ExpressVu is providing an extensive, although interim solution, for the pass-through of video description programming to its subscribers. Bell ExpressVu offers video description programming to its DTH subscribers as a separate broadcast channel by grouping channels that offer video description on the electronic programming guide creating a duplicate of the main channel and conjoining the descriptive audio with the video on this channel. Using the guide, Bell ExpressVu promotes when the next program will be available in described format.

*Digital-subscriber-line-based (DSL-based) BDUs*

13. Of the digital-subscription-line-based (DSL-based) BDUs involved in this survey, only MTS Allstream Inc. has successfully implemented pass-through of video description programming on some services. The remaining DSL-based BDUs that participated in this survey provide limited or no pass-through of video description programming to their subscribers.

14. TELUS Communications Inc. (TELUS) maintained that the fundamental technological differences between analog and digital distribution do not permit a uniform solution for providing video description programming. According to TELUS, the secondary audio program (SAP) channel is impractical in the new digital environment because SAP may only be enabled by replicating the video component of the channel and providing SAP as the main audio component for that second channel. In TELUS' view, the virtual channel or duplicate channel model solution is neither practical nor sustainable.
15. For its part, Saskatchewan Telecommunications (SaskTel) argued that the virtual channel model would become significantly more complex if new high definition services, which do not have a standard definition counterpart, were also required to provide video description. SaskTel further contended that channel numbering could be confusing and expressed concern regarding bandwidth constraint. Moreover, SaskTel claimed that unnecessary duplication of programming would increase as more broadcasters provide video description programming. SaskTel suggested that the Commission adopt proposals that are flexible and allow individual operators to implement suitable video description delivery solutions.

*Other BDUs*

16. Of the other Class 1 BDUs that participated in this survey, some reported that they are passing through a limited amount of video description programming signals to their subscribers. In most cases, these signals are passed on analog platforms and received by subscribers on SAP channels. Many of these BDUs stated that, with digital service, video description is passed through to the cable system, but the digital set top boxes cannot process the signal until the interactive guides are upgraded.
17. Other BDUs reported that they are not passing through any video description to their subscribers primarily due to the technical and economic challenges associated with doing so on analog. Most of these BDUs suggested that the solution would be to distribute video description on a digital basis only.
18. Shaw Communications Inc. (Shaw) stated that, for digital services, the video description audio track is embedded in the digital video stream, meaning that all broadcast services received containing a video description signal can be passed through. Shaw indicated that new software will enable all of its existing set-top boxes to receive video description programming.
19. Cogeco Cable Inc. (Cogeco) stated that many video description signals are delivered to it by SBS. Cogeco pointed out that it cannot make video description available to its subscribers if SBS does not deliver the signal to Cogeco's headend with video description encoding intact.

20. Videotron Ltd. (Videotron) reported that it is not passing through any video description on its cable BDUs that operate in analog. Noting that analog technology is declining, Videotron maintained that it would be difficult to convince its investors of the necessity of expending the estimated \$700,000 needed to retrofit its analog system. Videotron did indicate a willingness to provide set-top boxes to subscribers who are blind or who have a visual impairment.

### **Commission's analysis**

21. The Commission considers the pass-through of video description to subscribers by BDUs is essential in contributing to the fulfillment of section 3(1)(p) of the Act and remains convinced that all Class 1 BDUs, DTH BDUs and satellite relay distribution undertakings (SRDUs) must pass through video description. At the same time, the Commission recognizes that enforcement of section 7 of the Regulations may require some flexibility to take into account technical and market realities.
22. The Commission commends those distributors that are currently providing a substantial amount of video description programming to their subscribers. Nevertheless, the Commission expects all distributors to take the steps needed to ensure that they are fully compliant with their regulatory obligations with respect to video description programming.
23. In the Commission's view, the problems that DSL-based BDUs are encountering in fulfilling their regulatory requirements for passing through video description programming appear to originate with the DSL-based BDUs themselves, not with the digital environment. The Commission notes that MTS Allstream Inc. has demonstrated that DSL-based BDUs can find a solution to passing through descriptive video. Furthermore, as indicated in Broadcasting Public Notice 2006-6, the Commission considers "the use of omnibus channels to deliver the video description programming received via SAP channels may represent an appropriate alternative, as a temporary measure, to address the technological constraints of DSL BDUs pending the full availability of digital programming services." As stated in Broadcasting Decision 2005-195, omnibus channels should be developed with the consent and cooperation of programming services and require the Commission's approval.
24. The Commission is persuaded by the arguments presented by BDUs for greater flexibility in the distribution of video description programming, particularly in terms of the parallel analog and digital distribution systems. Given that most Canadian BDUs are migrating to digital distribution, the Commission considers that it may not be appropriate to require distributors that are currently not providing video description on their analog systems to carry video description on analog platforms.

25. The Commission is aware that some BDUs are not passing through described video programming that is present on distant signals. The Commission notes with concern that these BDUs are effectively depriving subscribers who are blind or who have a visual impairment of time shifting, which is available to other subscribers. Time shifting permits subscribers to watch the same episode of a program at a different time than it is broadcast locally. The Commission reminds BDUs that section 7 of the Regulations applies to all signals. Accordingly, video description programming must be passed through for distant signals.
26. The Commission notes that none of the solutions adopted by BDUs provides feedback from, or filters within, the electronic programming guide to provide adequate accessibility to video description programming services. Without audio cues or other feedback mechanisms, persons who are blind or who have a visual impairment must have prior knowledge that a program offers video description or may be effectively unable to access video description programming. The Commission strongly encourages BDUs to consider the methods by which video description may be accessed when implementing video description solutions.

### **Commission's determinations**

27. The Commission requires all Class 1 BDUs, DTH operators and SRDU operators to pass through video description of all programming services distributed on a digital basis, by not later than 1 September 2009.
28. Given SBS' commitment to pass through video description programming to its customers by 1 September 2007, the Commission requires Class 1 BDUs to pass through all video description signals provided to them by SBS and distributed on a digital basis, including all specialty services, by not later than 1 January 2008. The Commission also requires all Class 1 BDUs to pass through video description programming of all local, over-the-air signals that are distributed on a digital basis, by not later than 1 January 2008.
29. The Commission finds that it is appropriate to relieve Class 1 cable BDUs of the requirement to pass through video description programming on an analog basis subject to the BDU providing complimentary set-top boxes to its subscribers who are blind or who have a visual impairment, in order to enable those subscribers to access video description programming on a digital basis.
30. The Commission encourages all distributors to achieve the goals set out above sooner than the specified deadlines.

### **Implementation**

31. The Commission will consider applications by Class 1 cable BDUs, either individually or through their industry associations, to be relieved, by condition of licence, of the requirement to pass through video description for services distributed on an analog basis.

32. The Commission invites the licensees of Class 1 DSL-based BDUs that wish to offer video description using an alternate method, such as via omnibus channels, to file an application for appropriate amendments to their licences.
33. The Commission encourages interested BDU licensees to file their applications within three months of the date of this public notice in order to allow the Commission to consider the applications in a single process. In the absence of approval of such applications, BDU licensees will continue to be subject to their existing requirements under section 7 of the Regulations to pass through video description programming.

Secretary General

#### **Related documents**

- *Distribution of video description by Class 2, Class 3 and exempt cable distribution undertakings (BDUs) and by multipoint distribution system BDUs*, Broadcasting Public Notice CRTC 2006-6, 19 January 2006
- *Distribution of omnibus high definition channels by Star Choice and Cancom*, Broadcasting Decision CRTC 2005-195, 12 May 2005
- *Commission requirements for the pass-through of video description - Call for comments on the obligations of smaller broadcasting distribution undertakings*, Broadcasting Public Notice CRTC 2005-18, 25 February 2005
- *Broadcasting Distribution Regulations*, Public Notice CRTC 1997-150, 22 December 1997

*This document 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 1 to Broadcasting Public Notice CRTC 2007-101**

### **Shaw Broadcast Services' list of 26 signals for which it will pass through video description programming by 1 September 2007**

#### **Television**

ATV

Global Saint John

CBC Toronto

CTV Toronto

Global Toronto

A Channel Toronto

CH Hamilton

CTV Winnipeg

Global Winnipeg

CTV Calgary

Global Calgary

CTV BC

CityTV Vancouver

#### **Specialty services**

Treehouse

Teletoon (East)

Teletoon (West)

Télétoon

Comedy (West)

Comedy (East)

Vision

One: Body, Mind, Spirit

Home and Garden Television

TVtropolis (West)

TVtropolis (East)

The History Channel

The History Channel (West)

## **Appendix 2 to Broadcasting Public Notice CRTC 2007-101**

### **Parties that filed submissions with the Commission**

#### **Class 1 cable broadcasting distribution undertakings**

Access Communications Co-Operative Limited  
Aurora Cable TV Limited  
Bell Canada  
Bragg Communications Inc., carrying on business as EastLink  
Câblevision du Nord de Québec inc.  
Campbell River T.V. Association  
Cogeco Cable Canada Inc.  
Delta Cable Communications Ltd.  
Mountain Cablevision Limited  
Novus Entertainment Inc.  
Persona Communications Corp.  
Prairie Co-Ax T.V. Limited  
Rogers Cable Communications Inc.  
Shaw Cablesystems Limited  
Source Cable Limited  
VDN  
Videotron Ltd.  
Westman Communications Group

#### **Class 1 digital-subscriber-line-based broadcasting distribution undertakings**

Bell Aliant Regional Communications Inc., general partner, as well as limited partner with Bell Canada and 6583458 Canada Inc. (the limited partners), carrying on business as Bell Aliant Regional Communications, Limited Partnership  
MTS Allstream Inc.  
Saskatchewan Telecommunications  
TELUS Communications Inc.

#### **Direct-to-home satellite broadcasting distribution undertaking**

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.