



Broadcasting Public Notice CRTC 2007-20

Ottawa, 28 February 2007

Emergency alert services

In this public notice, the Commission sets out its approach to the establishment of emergency alert services in Canada. The approach was developed as a result of its consideration of applications to establish such services submitted by Pelmorex Communications Inc. (Pelmorex), the Canadian Broadcasting Corporation (CBC) and the Bell ExpressVu Limited Partnership (ExpressVu). The Commission's approach is based on removing regulatory barriers to the establishment of alert services, providing opportunity for all parties involved in the development of alert services to work cooperatively, and voluntary rather than mandatory carriage of such services by broadcasting distribution undertakings so that they can adopt an alert system that best suits their networks.

Decisions on the three applications, which were considered at the 1 May 2006 public hearing, are set out in Pelmorex emergency alert service, Broadcasting Decision CRTC 2007-72; CBC emergency alert service, Broadcasting Decision CRTC 2007-73; and ExpressVu emergency alert service, Broadcasting Decision CRTC 2007-74, also issued today. The Commission has also issued Call for comments on proposed amendments to the Broadcasting Distribution Regulations, Broadcasting Public Notice CRTC 2007-21 of today's date, in which it calls for comments on the wording of the regulatory amendments proposed in the present document.

Background

1. In *Proposal for an "All Channel Alert" system – Denied*, Decision CRTC 2001-123, 23 February 2001 (Decision 2001-123), the Commission denied an application by Pelmorex Communications Inc. (Pelmorex) to amend its licence for the English- and French-language specialty services known respectively as The Weather Network and Météomédia to provide an All Channel Alert (ACA)¹ service to broadcasting distribution undertakings (BDUs) across Canada. In that application, Pelmorex proposed to implement an ACA service that would broadcast timely local warnings of imminent threats to life or property caused by emergencies, on behalf of authorized government agencies. Pelmorex further proposed that these alerts be broadcast on all channels distributed by BDUs in the affected service areas in the form of alphanumeric crawls.

¹ "All Channel Alert" and "ACA" are trademarks owned by Pelmorex in Canada.

2. Pelmorex had also requested that the access rules apply to the ACA service so that all Class 1 BDUs would be required to carry the service. In addition, Pelmorex requested that the Commission make an order pursuant to section 9(1)(h) of the *Broadcasting Act* (the Act) that would require BDUs to broadcast the emergency alerts on every channel that they carry.
3. In denying that application, the Commission stated that, while it considered that an alert system similar to that proposed by Pelmorex could effectively complement the warnings already provided by broadcasters by making available the official warnings issued by authorized government agencies, it was concerned about a number of aspects of the proposal. The Commission was of the view that a more suitable proposal might be developed if there were closer cooperation among broadcasters, representatives of the broadcasting distribution industry and other interested parties. The Commission also stated that a future application for an alert service should provide evidence to support any proposed wholesale rate, include consultations with local broadcasters and distributors and address the needs of persons with visual impairments.
4. The Commission subsequently received an application from Pelmorex, reintroducing its request for the authority to provide an emergency alert service to BDUs across Canada.
5. On the basis of Pelmorex's second application for an emergency alert service, and in view of the nature, scope and national implications of the proposal, the Commission issued *Call for applications to provide an all channel alert (ACA) service*, Broadcasting Public Notice CRTC 2005-38, 22 April 2005 (Public Notice 2005-38). In Public Notice 2005-38, the Commission noted that applicants would be required to provide evidence as to the availability of financial resources, indicate how they would coordinate with the activities of the Department of Industry's (the Department's) Broadcasters' Public Alerting Working Group and address inter-operational and distribution issues.

Summary of the applications

6. In addition to the application by Pelmorex, the Commission received an application by the Canadian Broadcasting Corporation (CBC) requesting amendments to the *Broadcasting Distribution Regulations* (the Regulations) that would allow it to operate an emergency alert service. Bell ExpressVu Limited Partnership² (ExpressVu) submitted an application for an amendment to its conditions of licence for its direct-to home (DTH) BDU that would remove the regulatory obstacles that currently prevent it from providing an emergency alert service.

² 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. The services proposed by the applicants were each predicated on the CANALERT initiative. This initiative, which was sponsored by the Department, is one that, in partnership with other federal departments, provincial, territorial and municipal governments, and the broadcasting and telecommunications industries, will see to the creation of standards and protocols for emergency alert messages. All three applicants proposed to adopt the CANALERT standards and protocols when finalized. The CANALERT project has not, however, received on-going funding from the Government. The applications, which were considered at the 1 May 2006 public hearing in the National Capital Region are summarized below.

Pelmorex

8. Pelmorex requested amendments to the licence it holds for 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 part of the two specialty services operated by Pelmorex.
9. Under the Pelmorex proposal, it would install its own proprietary ACA equipment at the headends of BDUs. Licensees of BDUs across Canada that serve licensed areas whose residents are the target of a given message, would display these 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 section 9(1)(h) of the Act.
10. Under the distribution order proposed by the applicant, all Class 1 BDUs (including multipoint distribution service (MDS) BDUs and 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 have been exempted from licensing requirements.
11. 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 the 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.

12. 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.
13. 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.
14. 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. 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.
15. In this, its second application proposing an ACA service, Pelmorex took steps to respond to the concerns expressed by the Commission in Decision 2001-123 by providing evidence to support the proposed wholesale rate increase and details of its consultations with distributors and broadcasters. Pelmorex also presented plans to address accessibility to the system by persons with visual impairments and addressed a variety of implementation issues.

The CBC

16. The CBC requested authorization to provide an all-hazard, all-channel emergency broadcasting public alert service. The service would consist of emergency alert messages encoded in accordance with a standard format by authorized local, provincial or federal alerting services, such as Environment Canada, the Royal Canadian Mounted Police and provincial Emergency Management Organizations (EMOs). The applicant indicated that it would adopt the standards and protocols currently under development as part of the CANALERT initiative, and that funding for the service would be provided through CANALERT or another government body.
17. The CBC indicated that it would not exercise any control over the issuance, content or frequency of the alert messages. Rather, it would act as the aggregator and the central relay point for the delivery of alert messages of relevance to any particular geographic area. Specifically, the alert messages would be delivered to the CBC's National Alarm Centre in Ottawa, then uplinked for satellite distribution to the CBC's entire radio transmission system. Emergency Alert System (EAS) decoders at the transmitter sites would decode the standardized alert messages, and the messages would be broadcast if they are relevant to the geographic area served by the radio transmitter.

18. The CBC also proposed that cable BDU and DTH BDU operators be permitted to participate voluntarily in the EAS system by installing decoders at their head ends. Upon receipt of an alert message of relevance to subscribers residing in their licensed areas, the BDU operators would switch (force tune) all channels distributed on their undertakings to a channel carrying the alert message. Accordingly, the CBC requested that the Commission amend section 7(d) of the Regulations to permit BDUs to distribute the emergency alerts immediately by relieving them of the obligation to obtain the agreement of the operator of a programming service or the network responsible for the service prior to inserting an emergency alert message into the programming service.

19. Section 7(d) of the Regulations currently states:

7. A licensee shall not alter or delete a programming service in a licensed area 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;

20. Under the applicant's proposal, section 7(d) would be revised as follows:

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

(d) for the purpose of transmitting an authorized emergency public alert message;

21. The CBC indicated that it would provide alerts in both official languages when alerts are provided in both official languages by authorized users of the service. In terms of issuing alert messages to Aboriginal communities, the CBC stated that, conditional upon proper funding, it would undertake to offer text messages translated into Inuktitut, if required.

22. The CBC estimated that the rollout of its proposed radio system across Canada would be completed within five years of the introduction of the regulatory amendment described above.

ExpressVu

23. ExpressVu applied for authorization to provide an all channel emergency alert service. Specifically, ExpressVu requested the addition of a condition to the licence of its DTH BDU relieving it of the obligation set out in section 7(d) of the Regulations to obtain the agreement of the operator of a programming service or the network responsible for the service prior to inserting an emergency alert message into the programming service.

24. In the alternative, if the Commission determined that some other form of authorization or licensing was necessary, ExpressVu stated that it was applying to provide an emergency alert service in order to transmit to its subscribers emergency warnings of local, regional, and national relevance.
25. According to the applicant, notification of imminent threats to public safety would be received by ExpressVu directly from CANALERT when it becomes fully operational within the next five years, from CANALERT via an authorized third-party emergency alert service, or directly from a third-party service provider. When an alert applicable to their area occurred, the television sets of ExpressVu subscribers would be switched automatically (force tuned) to a particular emergency channel where subscribers would see an alphanumeric crawl with an audio message. ExpressVu further stated that no additional monthly fees would be imposed on ExpressVu's subscribers to fund its emergency alert service.
26. ExpressVu did not provide a timeframe for the implementation of its alert system but noted that, initially, it would be focused on distributing public alerts to its own subscriber base.³ ExpressVu stated, however, that it would give serious consideration to integrating its emergency alert distribution with other members of the Bell Canada Enterprises corporate family, such as Bell Mobility, Bell Sympatico and Bell Canada, in order to accommodate the emergency notification needs of those users of cellular telephones, the Internet and terrestrial cable television, respectively. ExpressVu also indicated that it would be prepared to provide an emergency alert service to other BDUs, if there was any interest.
27. ExpressVu stated that it would display alert messages in both official languages when the alerts are made available by the authorized users of the system in both official languages. According to ExpressVu, its platform possesses substantial capabilities to provide messages in English and in French, and it can target specific messages in either English or French according to customer set-top box preference.

Interventions

28. The Commission received interventions from stakeholders within the broadcasting system, as well as from emergency management organizations, consumer groups and government bodies at all levels. The key concerns of interveners are summarized below.

³ According to the 2006 Broadcasting Monitoring Report, ExpressVu reported a subscriber base of 1,739,000 Canadians, as of 31 March 2006.

A voluntary versus a mandatory alert system

BDU operators

29. BDU operators almost unanimously opposed the establishment of a mandatory alert system. BDU operators argued that they should have the flexibility to choose a system that best suits their networks. Several BDU operators also indicated that, as good corporate citizens, they would implement an emergency alert system voluntarily so a mandatory system was unnecessary. Rogers Cable Communications Inc. (Rogers) stated:

... Rogers supports the establishment of a public emergency alerting system. ... It is time that Canada had a system for the reasons that the various interveners have said. ... We are fully prepared to implement such a system if we are asked to by the Federal Government and that commitment is not dependent on funding being received for CBC or funding being received for CANALERT or any of those other things. ... We think it is sort of odd to go from forbidden one day to mandatory the next day. It makes more sense to go from forbidden to voluntary. I think you will find that the cable operators in Canada will respond. If the Commission says, "This is something that has to be done," or if Industry Canada says it, or if PSEPC⁴ says it, the cable industry will step up. ... It's a valuable service. So we will step up and do it. ... If you find in a couple of years, 'Look, these cable companies are all talk and no action, they are not actually doing it,' then I think either you or some other branch of the federal government should make it mandatory ...

30. Telco TV, which represents BDUs operated by MTS Communications Inc., Telus Communications Inc. and Saskatchewan Telecommunications (SaskTel), also expressed a willingness to roll-out an emergency alert service on a voluntary basis. Its concern was that a specific technology not be imposed.
31. BDU operators argued that all that would be needed to implement a voluntary system would be an amendment to section 7(d) of the Regulations.
32. Shaw Communications Inc. (Shaw) submitted that, while the goal of a nationally integrated emergency alerting system is laudable and would unquestionably be beneficial to all Canadian citizens and institutions, it is a broad policy matter that may go well beyond the Commission's statutory mandate over broadcasting.
33. BDU operators raised a number of specific concerns about the Pelmorex proposal for a mandatory service. They submitted that Pelmorex's proposed ACA service did not fall within the definition of a program set out in section 2 of the Act, which states:

"program" means sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist primarily of alphanumeric text.

⁴ Public Safety and Emergency Preparedness Canada

34. BDU operators argued that the ACA service would clearly be composed of visual images that would consist primarily of alphanumeric text, and therefore would fall outside the definition of a program set out above. Further, BDU operators argued the ACA service could not be considered to be a program-related enhancement of the service provided by The Weather Network and Météomédia, since it did not meet the criteria for assessing whether non-programming content constitutes a program-related enhancement set out in *Regulatory framework for interactive television services*, Broadcasting Public Notice CRTC 2004-82, 4 November 2004 (Public Notice 2004-82). Accordingly, BDU operators argued that the proposed ACA service was not a service that would be licensable by the Commission.
35. The Canadian Cable Systems Alliance (CCSA) argued that, in the context of the digital migration policy set out in *Digital Migration Framework*, Broadcasting Public Notice CRTC 2006-23, 27 February 2006 (Public Notice 2006-23), any new requirement for mandatory analogue distribution of the Pelmorex ACA service would clearly be inappropriate. For this reason, the CCSA strongly opposed any requirement for mandatory analogue distribution of an emergency alert service in the digital distribution environment.
36. ExpressVu argued that, if Pelmorex's ACA service were to be combined with Pelmorex's weather services and also granted mandatory carriage, its weather services would automatically receive similar priority status. In ExpressVu's opinion, Pelmorex's weather services should not be granted such priority.
37. Rogers also raised technical concerns with the Pelmorex application, stating that it found the applicant's proposal to put its proprietary equipment into Rogers' head ends to be "deeply troubling." In Rogers' view, Pelmorex has no expertise in this area, no knowledge of the Rogers system and would not be able to integrate its technology with the Rogers' network as it evolves. Rogers submitted that approval of Pelmorex's application would constrain the evolution of Rogers' network.

Broadcasters

38. A panel of broadcasters including CHUM Limited, CTV Inc. and Canwest Global Communications Corp. (the broadcasters) filed a joint submission opposing any mandatory, for-profit system that would allow third parties to alter the broadcasters' signals. The broadcasters argued that a more effective approach would be to build on their own local emergency reporting function and systems. The broadcasters also assured the Commission that, where warranted, emergency alerts would be carried by their specialty services and radio stations. The broadcasters stressed that allowing third parties to interrupt programming would fundamentally undermine the broadcasters' editorial independence and journalistic integrity.

39. Furthermore, the broadcasters argued that any compulsory system that would force broadcasters to cede control of their signals to a third party was unnecessary, given that they already participate voluntarily in public sector alerting initiatives. As well, the broadcasters argued that ceding control of their signals to a third party would breach their covenant to the public and erode their mandate. The broadcasters also submitted that a public alert system should be provided free of charge.
40. Ultimately, in the view of the broadcasters, the ideal system would be a voluntary system whereby, after a protocol has been developed, a set of guidelines issued, and all broadcasters have agreed to them, warnings could be delivered to broadcasters for transmission to viewers and listeners.
41. The broadcasters opposed the applications by Pelmorex, the CBC and ExpressVu since all of the applicants are seeking access to broadcast signals and programming without broadcaster consent. They noted that inadequate consultation with broadcasters is an ongoing issue that was identified by the Commission in the first Pelmorex decision and submitted that the applications are premature given the lack of adequate consultations.
42. The CKUA Radio Foundation (CKUA⁵) supported the approval of the applications only if conditions of licence were imposed to ensure that all existing public alert systems, including that currently provided by CKUA, through the Government of Alberta and Alberta broadcasters, are not compromised, over-ridden, subrogated, or otherwise negatively affected. If the intention of the Pelmorex ACA, or any other emergency alert system, is to subvert existing systems, such as that offered by CKUA, then it would seem appropriate, in the view of CKUA, for CKUA to be compensated for prior investments in research and development, installation, maintenance, repair and other costs of the public alert system in Alberta that it currently provides.

Alert providers

43. Intervenors directly involved in emergency alerting and responding to emergencies, such as the Canadian Meteorological and Oceanographic Society (CMOS), the Ontario Ministry of Community Safety and Correctional Services (Ontario MCSCS), and Environment Canada, all advocated the establishment of a mandatory alert system that would require broadcasters and distributors to deliver emergency alerts to Canadians. These intervenors stressed the importance of making relevant information available to the public in times of emergency. They were also of the view that alerts most often relate to situations that affect local communities rather than wider geographic areas, and that an alert system must therefore be capable of disseminating messages targeted to local areas. The CMOS stated that Canada needs a single, mandatory public alert system capable of an immediate response. It also noted that such warnings would have to be clearly marked as urgent and be targeted to the people affected by the hazard.

⁵ The CKUA Radio Foundation is a not-for-profit radio licensee serving various Alberta communities.

44. The CMOS also recommended that the technology and infrastructure that has been developed by Pelmorex to disseminate localized weather warnings to those watching The Weather Network or Météomédia should be extended immediately to all cable and satellite television channels, and that warnings should be extended to cover hazards of all types. The Ontario MCSCS submitted that a mandatory system would ensure that whatever system or process is put into use would reach as many people as possible. The Ontario MCSCS added that warnings should cover threats to safety and security. It argued that universality is key, that the system should be available to as many people across Canada as possible, and that implementation of the system should not be at the discretion of individual communities, television channels or cable operators.
45. The New Brunswick Emergency Management Organization (NBEMO) argued that those with the appropriate mandates (i.e., government and industry) and those with the means (i.e., the owners of broadcast media) have an obligation to act and to warn the public of imminent risk by all possible means. The NBEMO submitted that a purely voluntary system would probably not work. It further argued that it is in the public interest to require that national and regional broadcasters participate in all channel alerting initiatives, as a matter of public policy.
46. The Municipalities of Sarnia, Brampton and Mississauga all supported a mandatory emergency alert system, whether through a sole emergency alert service provider or a variety of them. Mississauga supported the Pelmorex proposal as a rapid, accurate and predictable method of emergency alert contact.
47. In the view of Sarnia, Canada needs a standard emergency public alert system that meets the needs of the federal, provincial and municipal governments. Sarnia submitted that Pelmorex had proposed a system that is currently workable and readily available. Sarnia also supported Pelmorex's application because, in its view, it would be:
- affordable for all communities across Canada;
 - available on all cable channels and satellite carriers;
 - tried, tested and workable for all of Canada;
 - encrypted and secured;
 - less intrusive to television viewers with a crawl that also provides information to the hearing-impaired viewer; and
 - a standard form of public alerting that could be recognized across Canada.
48. The Ontario Association of Emergency Managers (OAEM) argued that the voluntary nature of the present system of media-based public alerting has regularly proven to be unreliable given that it is left to the whim of media owners. The OAEM urged the Commission to approve the proposals quickly, thereby providing the OAEM with the tools it needs to protect lives.

Other matters

49. Environment Canada argued that no single broadcast warning system is capable of reaching every citizen and that multiple systems are necessary to increase the potential for the public to be properly informed.
50. The CMOS stated that alerts should be issued by an agency whose focus is monitoring events and issuing warnings.
51. The CCSA submitted that any Canadian emergency alert system should be a national system that operates to the benefit of all Canadians and that is funded by all Canadians. In the CCSA's view, Canada's federal taxation system is the appropriate vehicle for funding such an initiative. The CCSA argued that imposition of increased wholesale fees only on certain subscribers, many of whom are served by small town and rural systems, would inconsistent with that objective.
52. The broadcasters were concerned about their potential liability for incorrect, inaccurate or incomplete alerts, in cases where they did not control the content of the alerts.
53. The CMOS was of the view that the minor incremental cost of an alert system should be borne by cable and satellite television subscribers, much as telephone subscribers bear the incremental cost of the 9-1-1 emergency response service.
54. The Canadian Association of the Deaf (CAD) submitted that none of the applicants had sufficiently addressed the needs of Canadians who are deaf and the deaf community. It expressed particular concern about the possibility that emergency messages would be blocked out by closed captioning.
55. Several parties raised concerns about the financial aspects of Pelmorex's proposal. Rogers submitted that the cost estimates provided by Pelmorex were unwarranted and excessive, and that the proposed capital costs and expenses associated with ACA should not be recovered through the proposed monthly subscriber fee. Rogers was of the view that the financial assumptions provided by Pelmorex significantly overstated the ACA service's costs and understated its potential revenues. Rogers submitted that the equipment cost estimates filed by the CBC amounted to one-third of the equipment costs filed by Pelmorex, and, on that basis, argued that the Pelmorex proposal would be the least cost-effective solution. Shaw also argued that the Pelmorex proposal would be the least cost-effective solution for distributing an alert service.

56. Quebecor Media Inc. (Quebecor) argued that the cost of implementing the Pelmorex proposal was unjustified, particularly with respect to upgrades for the analogue portion of its network. In Quebecor's view, it could be as late as 2009 by the time the Pelmorex application is approved and the equipment deployed and tested. Quebecor indicated that it expects to be freeing up analogue capacity and removing analogue technology from Videotron Ltd.'s network by that time. Accordingly, Quebecor submitted that investing in upgrades to Videotron Ltd.'s analogue network would be an impossible expense to recoup over the network's remaining period of usefulness.

Replies to interventions

Pelmorex

57. Pelmorex rejected the argument that its ACA service would not constitute programming and would therefore not be licensable by the Commission. Pelmorex submitted that it was simply requesting authorization to issue a broader range of alert messages than it currently carries on The Weather Network and Météomédia, and to distribute those alert messages on the other channels provided by BDUs. It emphasized that the ACA service would serve to enhance the programming services provided by The Weather Network and Météomédia and would constitute an integral part of those programming services.
58. Pelmorex noted that the Commission had acknowledged in Decision 2001-123 that the ACA service proposed by Pelmorex in the context of its previous application would constitute an enhancement of its existing services. In Pelmorex's view, the program-related test outlined in Public Notice 2004-82 has no bearing on the question of whether the ACA-enhanced version of The Weather Network and Météomédia would alter the nature of those services and transform them into non-programming services, since Public Notice 2004-82 dealt with interactive content or activities. Pelmorex also argued that the policy objectives of the Act would be furthered by approval of its application.
59. Pelmorex submitted that its ACA proposal would provide BDUs with a degree of flexibility by allowing them to choose the manner in which the alert messages would be displayed on each channel that they distribute. It argued that Pelmorex's ACA system would be adaptable to the needs of the BDUs in that it would permit those BDUs to insert the alerts in a less intrusive manner, such as a crawl that would run across the top or the bottom of the screen.
60. In response to concerns expressed by broadcasters about the potential for overuse of the system, Pelmorex indicated that it would have no objection to limiting alerts to situations where there is an imminent or unfolding danger to life, rather than to an imminent or unfolding danger to life or property.
61. Pelmorex further stated that it would have no objection to the Commission establishing a requirement that it have an agreement outlining safeguards and guidelines for use of the ACA system. Pelmorex indicated that it would accept an obligation to coordinate with whatever framework might be developed in the context of the Department's CANALERT initiative.

62. In light of concerns about the costs of implementing the ACA system on an analogue basis, Pelmorex concluded that, given the lower costs associated with a digital-only ACA service, there would be some merit to an approach under which carriage of the ACA service would be mandatory on a digital basis and voluntary on an analogue basis. Accordingly, Pelmorex submitted revised financial projections for such a scenario based on a monthly per-subscriber rate of \$0.06. This business plan was based on the assumption that all Class 2 and smaller cable systems and 22 of the 137 Class 1 systems would carry the ACA service only on a digital basis, while the remaining Class 1 systems would carry the service on both an analogue and digital basis.
63. Pelmorex also noted that the penetration rates for digital cable start at 40% in year 1 growing to 97% by year 7. Under its revised proposal, only digital subscribers would incur the subscriber fee; cable systems would not be charged for their analogue subscribers. Thus, in addition to the lower subscriber rate, there would be fewer subscribers, especially in the early years, resulting in \$13 million less in revenues for Pelmorex's proposed service over the first 7 years under a digital mandatory/analogue optional model.
64. Since most of Pelmorex's original capital costs were associated with analogue equipment, the decrease in the required amount of such equipment would result in a decrease of \$10 million in capital expenditures over the 7 years covered by Pelmorex's projections. In addition, Pelmorex noted that a number of its expected expenses were linked to revenues and these would also decrease, along with projected revenues, over the course of the 7 year projections.
65. As well, Pelmorex submitted a sensitivity study that reduced from \$0.08 to \$0.06 the rate for year 5 under the analogue mandatory option. Pelmorex also submitted a similar proposal for the analogue optional model that had a \$0.06 rate for the first five years and a \$0.04 rate thereafter. According to Pelmorex, the year 7 profit before interest and taxes (PBIT) margin under this model would be 17%.

The CBC

66. The CBC reiterated that the effective implementation of its proposed emergency alert service by BDUs could be accomplished through an amendment to the Regulations. Currently, under section 7(d) of the Regulations, BDUs must secure the agreement of every program service on their channel line up in order to distribute authorized public alerts on all channels. In the CBC's view, this is not a practical way to implement an emergency alert service given that some programming services might refuse to participate or participate only on a conditional basis, while the public interest requires full participation and the distribution of the alerts on all channels.

ExpressVu

67. ExpressVu stated that the distribution of an alphanumeric crawl would not constitute a programming undertaking and, therefore, no broadcasting licence is required to undertake such activity.
68. In response to concerns expressed by the CAD, ExpressVu confirmed that its proposed full-frame, audio and text-based emergency alerts would not be blocked by the closed captioning box.

Commission's analysis and determinations

Overall approach

69. Having considered the submissions of participants in this proceeding, the Commission is of the view that, to build an effective national emergency alert system, the coordination, cooperation and will of all levels of government and of emergency management officials, broadcasters, BDUs and other stakeholders is required. The Commission also agrees with the submissions that universal and timely delivery of alert messages across the country can only be achieved by deploying multiple distribution platforms. The Commission considers that the broadcasting system, as one of the most powerful delivery platforms, has a vital role to play in the provision of emergency alerts to the Canadian public.⁶
70. Having so concluded, the Commission must decide how best the broadcasting system can make its contribution and what is the most appropriate framework to adopt for broadcasting emergency alerts. In answer to the first question, the Commission considers that the most immediate step it must take is to remove regulatory impediments in order to enable those BDUs that are ready and willing to implement an effective emergency alert system of their choice. As for the most appropriate framework to adopt under all of the circumstances, the Commission is of the view that a broadcast emergency alert system should, to the greatest possible extent,
 - be built and operated through the joint efforts of, and recognize the respective roles and concerns of, emergency management officials, broadcasters and BDUs;
 - be capable of responding to local, regional and national emergencies;
 - deliver alerts to those who watch or listen to Canadian broadcasting services, including those with visual and hearing impairments, wherever they may reside;
 - make use of radio and television broadcast facilities as well as cable, satellite, wireline/wireless distribution undertakings effectively and economically;

⁶ In *Use of E9-1-1 information for the purpose of providing an enhanced community notification service*, Telecom Decision CRTC 2007-13, 28 February 2007, the Commission approved the request by certain municipal governments and emergency management agencies that a municipal, regional or other government be permitted access to the incumbent local exchange carriers' enhanced 9-1-1 database so that providers of community notification services can issue telephone calls to the public in case of emergencies.

- have the ability to target alerts to specific geographic areas; and
- recognize Canada's linguistic duality.

A voluntary versus a mandatory alert system

71. The applicants proposed two different overall approaches to an emergency alert system. The CBC and ExpressVu advocated a voluntary approach, which could be implemented through a change in the Regulations or conditions of licence, while Pelmorex advocated a mandatory approach under which an order would be issued pursuant to section 9(1)(h) of the Act to ensure carriage of its ACA service.
72. Those involved in emergency management generally favoured a mandatory approach under which alerts must be carried and broadcast. However, certain advocates of a mandatory system did not necessarily support a system under which such alerts would be provided from a single source.
73. BDU operators opposed the establishment of an emergency alert system provided by a third party that they must carry on a mandatory basis. Rogers pointed to its stated commitment to implement such a system in the short term on a voluntary basis as a reason for finding unnecessary the adoption of a mandatory approach. Telco TV and other BDUs also expressed a willingness to roll out an emergency alert service on a voluntary basis. The support of BDUs is necessary if a broadcast emergency alert system is to be as effective as possible. Broadcasters, for their part, opposed a mandatory system under which they would cede control over their broadcasting signals.
74. It is important to acknowledge that there will likely always be multiple alert providers in Canada. The CBC, acknowledging this fact, stated:
- No one medium can reach all Canadians at all times with an alert message. For this reason the Government of Canada, through its CANALERT initiative, plans to put in place an integrated system which will be able to issue the same alert message on cable, DTH, over-the-air broadcast, wireless telephones, land line phones and the Internet. Universal access by the public to alert messages can only be realized through this multiplatform approach...⁷
75. Pelmorex possesses substantial expertise in the area of weather-related emergency alerts. It has provided valuable emergency alerts to Canadians relating to weather disturbances since its inception. The Commission further notes that Pelmorex has forged strong working relationships with the aforementioned provinces and emergency planning officials respecting the provision of emergency alerts.

⁷ See page 2 of the CBC's response to questions by the Commission dated 21 October 2005.

76. It is notable, however, that no BDU operator offered full or unconditional support for the Pelmorex proposal; most opposed it strongly, while others advocated the adoption of a more scaled down version of the proposed ACA service (i.e., digital only). The lack of support by BDU operators has hampered Pelmorex's ability to effect a coordinated approach to the implementation of its proposed alerting system.
77. As noted above, the Commission considers that the joint efforts and cooperation of emergency management officials, broadcasters and BDU operators are crucial to the successful implementation of an efficient, effective national emergency alert system.
78. At this time, the Commission accepts the argument that Pelmorex's proposal for a mandatory system that requires access to the network infrastructure of every large BDU in the country, the use of proprietary technology and an increase in the monthly charge is unduly intrusive. Under the current circumstances, such intrusion may not be justifiable given the stated intention and commitment of some of the major BDU operators to implement voluntarily an emergency broadcast alert system in the short term. The Commission is also concerned that a mandatory system could discourage others from providing and developing alternative technologies for the provision of alerts. The Commission further notes that, while the Pelmorex alerts would be provided to broadcasters, the system was directed to BDUs. In the Commission's view, the full participation of broadcasters in an emergency alert system is just as necessary.
79. In light of all of the above, the Commission considers that a voluntary approach is currently the best option for the establishment of a Canadian emergency alert system.

Amendments to section 7(d) of the Regulations

80. To remove regulatory barriers to the timely implementation of an emergency alert service by all industry stakeholders, an amendment to section 7(d) of the Regulations is required.
81. Section 7(d) currently states:
 7. A licensee shall not alter or delete a programming service in a licensed area 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;
82. The Regulations currently define an "emergency alert message" as "a warning to the public announcing an imminent or unfolding danger to life or property."

83. In the view of alert providers and BDU operators, the requirement to obtain an agreement from the operator of the programming service or network responsible for the service before broadcasting an emergency alert message makes it impossible to issue timely warnings in the event of an urgent crisis. Broadcasters, on the other hand, were concerned that a national emergency warning system could be put to an ever-expanding menu of potential uses. In such an event, they stated that they would lose effective control of their programming content and, thus, of their undertakings.
84. While the Commission is sensitive to the concerns of broadcasters, it is also of the view that the provision of life-saving information to the Canadian public is an issue of sufficient importance to warrant the alteration or deletion of a broadcaster's signal. It considers, however, that emergency alert services should only be used to interrupt programming services without the broadcaster's consent in serious situations involving an imminent or unfolding danger to life.
85. Accordingly, the Commission proposes to amend section 7(d) of the Regulations to read as follows:
7. A licensee shall not alter or delete a programming service in a licensed area in the course of its distribution except
- (d) for the purpose of altering a programming service to insert an emergency alert message;
86. Further, since as noted above, the Commission considers that emergency alert services should only be used in situations involving imminent harm to the public, it proposes to amend the definition of an emergency alert message so that it no longer includes a reference to property. Thus, an emergency alert message will be defined as "a warning to the public announcing an imminent or unfolding danger to life." The broadcast of other types of alerts continues to require the agreement of the programming service.
87. It is the Commission's view that the proposed amendment to the definition of an emergency alert message will serve to attenuate the concerns expressed by broadcasters and also bring the definition more in line with CANALERT's proposed definition, which encapsulates only the most urgent emergencies and limits the airing of alerts to situations that represent an imminent danger to life and health.
88. The Commission is issuing *Call for comments on proposed amendments to the Broadcasting Distribution Regulations*, Broadcasting Public Notice CRTC 2007-21, of today's date, in which it calls for comments on the wording of the proposed amendments set out above.

Overview of decisions on individual applications

89. Today, the Commission has issued decisions on the applications by Pelmorex, the CBC and ExpressVu that reflect its determinations set out above to implement an emergency alert system on a voluntary basis and to amend section 7(d) of the Regulations. An overview of each decision is set out below.

Pelmorex

90. BDU operators argued that the Pelmorex ACA service would clearly be composed of visual images that would consist primarily of alphanumeric text and that it would therefore fall outside the definition of a “program” in section 2 of the Act. As such, they were of the view that the ACA service would not be licensable by the Commission. Pelmorex, for its part, considered that the ACA alerts would serve as a related enhancement of its licensed programming services The Weather Network and Météomédia.
91. The Commission notes that if the approach suggested by BDU operators were to be followed, a determination of what constitutes a predominantly alphanumeric service would apparently be based on what the viewer sees on the television screen at a specific moment in time. In this regard, the Commission considers that it would not be appropriate to determine that a programming service becomes a non-programming service in cases where it offers, for a brief period, a screen full of related alphanumeric material, such as a display of movie credits on a movie service or sports scores on a sports service. The Commission considers that a preferable approach would be to examine whether the service in question is essentially connected to, or an enhancement of, the programming service as a whole. In the present case, consistent with the conclusion set out in Decision 2001-123, the Commission considers that the ACA service is essentially connected to, and an enhancement of, the main programming of The Weather Network and Météomédia as a whole.
92. In *Pelmorex emergency alert service*, Broadcasting Decision CRTC 2007-72, 28 February 2007, the Commission **approves in part** the Pelmorex application. More specifically, the Commission **approves** Pelmorex’s proposal to amend its nature of service condition of licence to permit it to carry emergency messages on The Weather Network and Météomédia. Pelmorex may also offer an ACA service to BDUs for carriage on voluntary basis. The Commission, however, **denies** Pelmorex’s proposal for a mandatory order that would require that its service be carried by BDUs, as well as the related increase in its wholesale rate.
93. The Commission notes, however, that Pelmorex has a condition of licence that limits to \$0.23 per subscriber per month the amount that it may charge for The Weather Network/Météomédia when those services are carried on the basic service of a BDU. The Commission is of the view that Pelmorex’s ACA service would require additional

staffing and other resources to implement. Accordingly, the Commission is amending Pelmorex's licence for The Weather Network/Météomédia in order to remove the limit on its maximum wholesale rate only in cases where Pelmorex is providing its ACA service to BDUs that have agreed to distribute the ACA service on all channels.

94. The Commission notes that Pelmorex indicated at the hearing that it was prepared to provide an EAS version of each of its alerts for those broadcasters who were willing to participate.
95. The Commission expects Pelmorex to continue its participation on the CANALERT committees. In addition, the Commission expects Pelmorex to work with the alert providers, emergency measures organizations and distributors on an ongoing basis in order to ensure that its ACA system provides an effective warning system that responds to the needs of both the providers and the users.

The CBC

96. In *CBC emergency alert service*, Broadcasting Decision CRTC 2007-73, 28 February 2007, the Commission fully endorses the CBC's emergency alert system proposal and encourages it to offer an emergency alert service in accordance with the Commission's determinations set out in this public notice. The Commission further encourages the broadcast of emergency alert messages by the CBC and by any other broadcaster or distributor that might choose to carry them. No further regulatory action is necessary in light of the proposed amendment to section 7(d) of the Regulations.
97. The Commission expects the CBC to continue its participation on the CANALERT committees. In addition, the Commission expects the CBC to work with the alert providers, emergency measures organizations and participating distributors on an ongoing basis to ensure that its warning system is effective and responds to the needs of both the providers and the users.
98. The Commission notes that the CBC provides native-language programming in a number of northern communities. The Commission expects the CBC to examine the possibility of providing alerts in native languages to such communities.

ExpressVu

99. In light of the Commission's proposed amendment to section 7(d) of the Regulations, ExpressVu would not require the specific condition of licence that it has requested to offer its proposed alert service. Therefore, in *ExpressVu emergency alert service*, Broadcasting Decision CRTC 2007-74, 28 February 2007, the Commission **denies** the application by ExpressVu for a change to its conditions of licence. ExpressVu will be able to deliver alerts to its subscribers once the proposed amendments to the Regulations have been adopted. The Commission fully endorses ExpressVu's proposal and encourages it to offer an emergency alert service in accordance with the Commission's determinations set out in this public notice.

100. The Commission expects ExpressVu to continue its participation on the CANALERT committees. In addition, the Commission expects ExpressVu to work with alert providers, emergency measures organizations and participating broadcasters on an ongoing basis to ensure that its warning system is effective and responds to the needs of both the providers and the users.

Carriage of alert services

101. The Commission strongly expects that all BDUs will voluntarily carry the warnings distributed and broadcast by the CBC or Pelmorex, or that they will develop an alert system of their own.

Format of alerts

102. The Commission has reviewed the material filed by the applicants and is satisfied that the active participation of all three applicants in the Department's CANALERT Initiative will ensure that the alerting format ultimately agreed upon by CANALERT will reflect industry input and perspective. In the view of the Commission, the finalized protocols, based on industry input and consultation, will set the standard for emergency alerting guidelines in Canada and should form the basis of any emergency alert service offered to the public.

Language of alerts

103. The Commission is satisfied that each applicant possesses the technical ability to provide emergency alerts in both official languages where such alerts are provided in both official languages by authorized users of the system. The Commission also expects that the applicants will, where appropriate to their service areas, investigate the possibility of providing alerts to consumers in languages other than in English or French. The Commission expects to be updated on such efforts at each licence renewal.

Persons who are deaf or hard of hearing

104. The Commission is satisfied that the applicants have either addressed the concerns of the CAD regarding the potential overlap of alerts with closed captioning or are committed to consulting with the CAD until a suitable solution has been found. The applicants should, for the information of the Commission and the public, file with the Commission their plans to avoid overlap and/or conflict between closed captioning and an emergency text alert.

Persons with visual impairments

105. In the view of the Commission, before a licensee may direct persons with visual impairments to seek information elsewhere, such as a toll-free number, it must provide adequate audio information respecting the nature of the emergency and its level of threat to the community. This is to ensure that persons with visual impairments are made aware, in an equally timely fashion, of the urgency and basic nature of the imminent

threat without having to rely on a secondary source of information. Licensees that intend to provide an emergency alert service should, for the information of the Commission and public, file with the Commission their plans to provide emergency audio alerts.

Misuse of an alert system

106. In the Commission's view, the question of when an imminent threat to life becomes worthy of an emergency alert message is best left to government authorities mandated to deal with such situations. It further notes the commitments by all of the applicants to adhere to the protocols and guidelines developed by CANALERT. The Commission expects the applicants to enter into a standard agreement with each alert originator outlining the modalities of system implementation and operation, including protocols with respect to those who would be authorized to issue alerts and what kind of emergencies would warrant the issuance of an emergency alert message. In the event that there are complaints about the misuse or overuse of an emergency alert system, the Commission considers that, in most cases, the complaint would be most appropriately dealt with between the complainant and the authorized user that issued the alert in question.

Conclusion

107. By the actions outlined above, the Commission has removed the regulatory obstacles to the provision of emergency alerts to Canadians. At the public hearing, parties expressed their willingness to participate voluntarily in the establishment of a national emergency alert system. The Commission expects the participants to follow through on these undertakings. With its endorsement of the CBC's proposal, the amendments to Pelmorex's conditions of licence, the changes to section 7(d) of the Regulations, and its expectation that parties continue to work with CANALERT, the Commission has set in place a framework that will allow emergency alerts to be disseminated across the country in a cooperative manner in which BDUs will participate.
108. If, in two years time, it becomes apparent that a voluntary approach is not adequate, the Commission may consider additional measures to ensure that Canadians receive timely warnings of imminent perils.
109. The Commission thanks all participants for contributing to a full discussion and analysis of these issues.

Secretary General

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