



## Broadcasting Information Bulletin CRTC 2010-718

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Ottawa, 28 September 2010

### **Clarifications regarding the interpretation of section 8 of the *Pay Television Regulations, 1990* and section 12 of the *Specialty Services Regulations, 1990*, as they relate to the transmission of Category A services from their production facilities to broadcasting distribution undertakings' head ends and uplink centres**

*Section 8 of the Pay Television Regulations, 1990 and section 12 of the Specialty Services Regulations, 1990 require that Category A services (that is, Canadian analog and Category 1 pay and specialty services) ensure their transmission from their production facilities to each broadcasting distribution undertaking's (BDU's) head end **and** satellite uplink centre. The Commission considers that a pay or specialty service that provides its signal to a satellite relay distribution undertaking has effectively fulfilled the requirement set out in the above-noted sections of each set of regulations. As set out in this information bulletin, in order to provide the industry with added clarity, the Commission will publish for comment amendments to the respective regulations to require that Category A services transmit their signals to the BDU's head end **or** uplink centre.*

1. In Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory Policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008 (Broadcasting Public Notice 2008-100), the Commission reviewed the structure governing the relationship between Canadian broadcasting distribution undertakings (BDUs) and programming undertakings.
2. As part of this review, the Commission noted that it is reasonable to expect pay and specialty services with guarantees of access (that is, Canadian analog and Category 1 pay and specialty services, to be known as Category A services as of 1 September 2011) to be responsible for and generally pay for the transmission of their services to distributors. As a result, the Commission determined that it would require Category A services to bear the responsibility with respect to the costs of transporting either standard definition or high definition signals to a BDU's head end or uplink centre. The Commission indicated at that time that it would amend the Pay Television Regulations, 1990 (the Pay Television Regulations) and the Specialty Services Regulations, 1990 (the Specialty Services Regulations) accordingly.
3. On 1 September 2009, section 8 of the Pay Television Regulations and section 12 of the Specialty Services Regulations came into force. The respective sections are identical and specifically set out the following:

Except as otherwise provided under a condition of its licence, a licensee shall, in respect of each programming service that is required to be distributed under section 18 of the *Broadcasting Distribution Regulations*, by the Commission under section 9(1)(h) of the Act or by order of the Commission made under subsection 9(4) of the Act,

(a) ensure the transmission of the programming service from its production facilities to each broadcasting distribution undertaking's head end and satellite uplink centre that is within the area for which the licensee is licensed; and

(b) bear the costs of the transmission.

4. Subsection a) above currently requires a transmission to each BDU's head end and satellite uplink centre. It has come to the Commission's attention that the use of the word "and" in subsection a) (i.e., head end **and** satellite uplink centre) has caused some confusion in the industry as to the pay or specialty service's obligations under their respective regulations. Concern has been expressed that should this subsection be left unamended in each set of regulations, BDUs could opt to remove their satellite reception capacity and demand that the broadcaster transmit its signal by fibre directly to the distributor's head end.
5. The Commission reiterates its intent, as expressed in Broadcasting Public Notice 2008-100, that it is reasonable to require Category A services to bear the responsibility with respect to the costs of transmitting their signals to a BDU's head-end or uplink centre.
6. Section 8 of the Pay Television Regulations and section 12 of the Specialty Services Regulations are silent on the method by which such a transmission is to be provided. The Commission considers that a pay or specialty service that provides its signal to a satellite relay distribution undertaking (SRDU) has effectively fulfilled the requirement, set out in section 8 of the Pay Television Regulations and section 12 of the Specialty Services Regulations to "ensure the transmission of the programming service from its production facilities to each broadcasting distribution undertaking's head end and satellite uplink centre." Under this scenario, the programming signal has been transmitted and has been effectively made available for reception by all BDUs. The Commission considers that reading the provision in such a way as to demand that the broadcaster transmit its signal by fibre directly to the distributor's head end would not reflect the Commission's original intent. As a result, the Commission will consider that a pay or specialty service has fulfilled its requirements under sections 8 and 12 of the respective regulations when it has ensured that its signal is uplinked to an SRDU, thereby making the signal available for reception by BDUs.
7. Nevertheless, in order to provide the industry with added clarity, the Commission will publish for comment amendments to the respective regulations to require that the programming service transmit its signal to the BDU's head end **or** uplink centre. The Commission intends to publish these amendments concurrently with the amendments

to the *Broadcasting Distribution Regulations* that seek to implement the remainder of the Commission's policies set out in Broadcasting Public Notice 2008-100.

Secretary General