



Broadcasting Regulatory Policy CRTC 2010-840

Additional reference: 2009-546

Ottawa, 10 November 2010

Addition of a general authorization permitting broadcasting distribution undertakings to distribute a local package

In this information bulletin, the Commission sets out a general authorization that grants broadcasting distribution undertakings an exception to section 5 of the Broadcasting Distribution Regulations, subject to certain conditions, so as to permit them to distribute a local package both in and outside mandatory markets for digital transition, without having to provide users of the local package with the full basic service.

Background

1. In Broadcasting Regulatory Policy 2009-546, the Commission set out general authorizations for all licensees of terrestrial (i.e., cable, digital subscriber line, multipoint distribution system) broadcasting distribution undertakings (BDUs) and direct-to-home satellite BDUs.
2. In Broadcasting Regulatory Policy 2010-167, the Commission addressed, among other things, the issue of digital television transition for English- and French-language conventional television broadcasters. In that regulatory policy, the Commission acknowledged that some analog transmitters operated by broadcasters outside the mandatory markets¹ may not be converted to digital, and that other broadcasters may cease operating over-the-air transmitters altogether. In order to maintain Canadians' access to these services, the Commission recognized the merits of permitting BDUs to provide a package of local and regional conventional television signals at no charge.
3. Accordingly, in Broadcasting Regulatory Policy 2010-485, the Commission announced its intention to establish a general authorization, pursuant to Broadcasting Regulatory Policy 2009-546, permitting BDUs to distribute, at no charge, a package consisting of all local and regional conventional television signals currently available over the air in a given market (the local package).
4. In light of the above, the Commission sets out below a general authorization that grants BDUs an exception to section 5 of the *Broadcasting Distribution Regulations*, subject to certain conditions, so as to permit them to distribute a local package both in and outside mandatory markets, without having to provide users of the local package with the full basic service. This general authorization reads as follows:

¹ The mandatory markets include the National Capital Region and all provincial and territorial capital cities, as well as markets either served by multiple originating stations (including Canadian Broadcasting Corporation stations) or with populations greater than 300,000. See Broadcasting Regulatory Policy 2010-167 for a full list of these markets.

The licensee is authorized to distribute, at its option, a local package without having to provide users of that local package with the full basic service. The distribution of a local package is subject to the following provisions:

- (a) Only local and regional television stations that were available to the subscribers on an over-the-air basis as of 10 November 2010 are to be included in the local package. Stations must provide their signals to broadcasting distribution undertaking (BDU) head-ends or up-link centres, by any means.
 - (b) Users cannot receive video-on-demand or any other broadcasting services in conjunction with the local package.
 - (c) BDUs may offer telecommunications services to local package users, but may not offer a local package as part of a bundle or otherwise make receiving this package contingent on purchasing other services.
 - (d) No fee shall be charged for the local package, but users may be required to purchase or rent equipment, or pay for service/support calls. In addition, users may choose to pay for the use of an electronic programming guide.
 - (e) Any future compensation related to the proposed local television signal compensation regime will not apply to the local package.
5. The full list of general authorizations for BDUs, including those set out in Broadcasting Regulatory Policy 2009-546, is set out in the appendix to the present regulatory policy.
 6. The Commission notes that exempt BDUs will also be authorized to offer the local package to subscribers. As set out in section 13(c) of the appendix to Broadcasting Order 2009-544, exempt BDUs are authorized to undertake any activity authorized in Broadcasting Regulatory Policy 2009-546, as amended from time to time, under the terms and conditions set out in that regulatory policy.

Secretary General

Related documents

- *Issues related to the digital television transition*, Broadcasting Regulatory Policy CRTC 2010-485, 16 July 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009
- *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2009-544, 31 August 2009

Appendix to Broadcasting Regulatory Policy CRTC 2010-840

General authorizations

Terrestrial (cable, digital subscriber line, multipoint distribution system) and direct-to-home satellite broadcasting distribution undertakings

Use of local availabilities

1. The licensee may, at its option, insert certain promotional material as a substitute for the “local availabilities” (i.e., non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25% of the local availabilities may be used to provide subscribers with information regarding customer service and channel realignments, and for the promotion of discretionary programming services and packages, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.

Distribution of satellite subscription radio services

2. The licensee is authorized to distribute, at its option, the audio programming service of any licensed satellite subscription radio undertaking on a digital basis. The distribution of satellite subscription radio signals is subject to the following provisions:
 - (a) Subject to the exception outlined in (b), the licensee may not count the signals of conventional radio programming undertakings for the purpose of fulfilling the preponderance requirement set out in section 6(2) of the *Broadcasting Distribution Regulations* (the Regulations) unless a subscriber is already receiving 40 channels of one or more licensed pay audio programming undertakings.
 - (b) A licensee is entitled to count the signals of conventional radio programming undertakings that a licensee is required to distribute under section 22 of the Regulations for the purpose of fulfilling the preponderance requirement set out in section 6(2) of the Regulations.
 - (c) The Canadian-produced channels offered by the satellite subscription radio undertaking are deemed to be “Canadian programming services” for the purposes of section 6(2) of the Regulations.

Distribution of down-converted digital-only television signals

3. (a) The licensee is authorized to distribute a standard definition (SD) version, provided by a U.S. broadcaster, of a primary upgraded U.S. over-the-air signal.
- (b) The licensee is authorized to down-convert any SD version provided as in paragraph (a), above, to analog format and to distribute it to analog subscribers.
- (c) The licensee is authorized to down-convert a primary upgraded U.S. digital over-the-air signal to either SD or analog format, and to distribute that SD or analog signal to its subscribers, if (i) an SD version is not provided by the U.S. broadcaster, or (ii) the U.S. broadcaster makes an SD version available, but has not objected in writing to the licensee performing the down-conversion itself.
- (d) The licensee is authorized to distribute any SD or analog version of an upgraded over-the-air digital-only television signal (i.e., where there is no equivalent analog transmitter), when that version is provided by a licensed Canadian over-the-air digital television undertaking.
- (e) Where an SD or analog version of an upgraded signal is not provided by the licensed Canadian over-the-air digital-only television station, the licensee is authorized, with the consent of the broadcaster, to down-convert the upgraded signal itself, to analog and/or to digital, for distribution to its subscribers.
- (f) The authorizations set out above expire as of 1 September 2011, and are subject to the following terms and conditions:
 - (i) The terms and conditions otherwise applicable to the distribution of the television signals in question apply, *mutatis mutandi*, to the distribution of down-converted versions of those signals.
 - (ii) If the licensee makes use of digital technology for the delivery of programming to subscribers, it must also distribute the primary digital version of the signal in an accepted Advanced Television Systems Committee (ATSC) high definition (HD) format (720p, 1080i or 1080p).
 - (iii) If the licensee of a terrestrial broadcasting distribution undertaking distributes an authorized upgraded digital-only over-the-air signal on a down-converted basis, it must distribute Canadian digital-only signals in a similar fashion, without undue discrimination or undue preference, unless the broadcaster indicates to the licensee that it does not wish to have its signal distributed on a down-converted basis. Without limiting the generality of the foregoing, if the licensee distributes any down-converted signals as part of its basic

service, it must distribute down-converted versions of all signals identified in section 17 of the *Broadcasting Distribution Regulations*, if the licensee is a Class 1 or Class 2 licensee, or section 32 of the *Broadcasting Distribution Regulations*, if the licensee is a Class 3 licensee. Similarly, if the licensee makes available a second set of U.S. 4+1 signals (ABC, CBS, NBC, FOX, PBS) on a down-converted SD basis, it must also make available on a down-converted SD basis, any distant Canadian digital-only signals that are also authorized for distribution on a digital discretionary basis.

- (iv) Notwithstanding section (iii), the licensee is not prohibited from down-converting and/or distributing other U.S. or Canadian digital-only upgraded signals by virtue of the fact that a particular Canadian digital-only broadcaster has not provided either a down-converted version of its service or its consent for the licensee to down-convert the primary digital upgraded version itself.
 - (v) Upon the request of a licensed Canadian over-the-air digital-only television station, the licensee must perform the following simultaneous substitutions, consistent with the procedures and priorities set out in section 30 of the *Broadcasting Distribution Regulations*, if the licensee is a Class 1 or Class 2 undertaking, or with section 42(a), if the licensee is a direct-to-home satellite distribution undertaking:
 - in the case of a signal distributed pursuant to paragraph (ii) above, a Canadian HD over-the-air signal over a U.S. HD over-the-air signal, provided that the Canadian signal is in any of the formats noted in that paragraph;
 - a Canadian SD over-the-air signal, or a Canadian HD over-the-air signal that has been down-converted to SD, over a U.S. SD over-the-air signal or over a U.S. HD over-the-air signal that has been down-converted to SD;
 - a Canadian analog over-the-air signal, or an analog version of a Canadian SD or HD over-the-air signal, over a U.S. SD or HD signal that has been down-converted to analog.
- (g) For the purposes of the above provisions, an “upgraded” service is a digital television service that contains any amount of programming in HD, and a “primary signal” or a “primary version” is the signal having the highest technical quality when a digital signal is used to transmit more than one program stream.

Distribution of a local package

4. The licensee is authorized to distribute, at its option, a local package without having to provide users of that local package with the full basic service. The distribution of a local package is subject to the following provisions:
 - (a) Only local and regional television stations that were available to the subscribers on an over-the-air basis as of 10 November 2010 are to be included in the local package. Stations must provide their signals to broadcasting distribution undertaking (BDU) head-ends or up-link centres, by any means.
 - (b) Users cannot receive video-on-demand or any other broadcasting services in conjunction with the local package.
 - (c) BDUs may offer telecommunications services to local package users, but may not offer a local package as part of a bundle or otherwise make receiving this package contingent on purchasing other services.
 - (d) No fee shall be charged for the local package, but users may be required to purchase or rent equipment, or pay for service/support calls. In addition, users may choose to pay for the use of an electronic programming guide.
 - (e) Any future compensation related to the proposed local television signal compensation regime will not apply to the local package.