



Broadcasting Regulatory Policy CRTC 2011-522

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General authorizations for broadcasting distribution undertakings

In this regulatory policy, the Commission amends the general authorizations for broadcasting distribution undertakings (BDUs) in order to:

- *remove the expiry date from the authorization to down-convert digital-only conventional programming services;*
- *add an authorization to permit BDUs to up-convert analog versions of programming services into standard definition; and*
- *update the general authorizations as a result of amendments made to the Broadcasting Distribution Regulations.*

The revised general authorizations are set out in the appendix to this regulatory policy.

Introduction

1. In Broadcasting Regulatory Policy 2009-546, the Commission set out general authorizations that are incorporated by reference into the licences of all broadcasting distribution undertakings (BDUs). These include an authorization for BDUs to distribute down-converted versions of television signals that is set to expire on 1 September 2011.
2. In Broadcasting Notice of Consultation 2011-187, the Commission called for comments on whether it should remove the expiry date from the general authorization for BDUs to down-convert digital-only television signals so that BDUs may continue to benefit from the authorization.
3. The Commission received comments from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (Bell TV), MTS Allstream Inc., Rogers Communications Inc. (Rogers), Shaw Communications Inc. (Shaw), ZoomerMedia Limited (ZoomerMedia) and from three individuals. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

4. After examining the record of the proceeding and taking into account the amendments to the *Broadcasting Distribution Regulations* (the Regulations), the Commission has identified the following issues to be addressed in its determinations:
 - the extension of the authorization to down-convert digital-only conventional programming services;
 - whether and how down-conversion provisions would apply to direct-to-home (DTH) BDUs;
 - the addition of an authorization permitting BDUs to up-convert analog versions of programming services into standard definition (SD); and
 - other changes to the general authorizations.

Extension of the authorization to down-convert digital-only conventional programming services

5. In their comments, most interveners submitted that the down-conversion provisions included in the general authorizations should be extended beyond 1 September 2011. Zoomermedia, however, opposed the extension submitting that it did not make sense that BDUs would be authorized to down-convert programming services to analog after Zoomermedia was required to spend considerable time and resources converting its analog broadcasting facilities to digital.
6. The Commission notes that the requirement for broadcasters to transition to digital is a result of the need for more efficient and effective management of spectrum. BDUs do not use spectrum to deliver their services to their subscribers and consequently, there is no immediate need to require them to fully convert their analog distribution systems to digital, or to totally eliminate analog distribution.
7. The Commission considers that maintaining the down-conversion rules after 1 September 2011 will benefit BDU subscribers, BDUs and the conventional television stations that are distributed by the BDUs. BDU subscribers will not have to subscribe to digital service, or incur additional expenses, in order to continue to receive the same television stations; BDUs will be able to provide their customers with the same level of service; and broadcasters will continue to reach the same number of subscribers.
8. In response to the concern raised by Zoomermedia, the Commission notes that the general authorization in question requires that BDUs obtain the consent of the Canadian programming service before being authorized to distribute a down-converted version of that service.

9. Accordingly, the Commission is extending the general authorization for BDUs to down-convert digital-only television signals beyond the digital transition date of 1 September 2011. The amended authorization is set out in the appendix to this regulatory policy.

Whether and how the down-conversion provisions would apply to direct-to-home broadcasting distribution undertakings

10. Rogers submitted that the provisions regarding down-conversion included in the general authorizations should apply equally to terrestrial and DTH BDUs. In particular, it indicated that DTH service providers should be subject to the same conditions as those imposed on terrestrial BDUs when distributing certain signals in accordance with the general authorizations. Rogers suggested that the requirement that a BDU distribute the signals of local Canadian TV stations in both HD and SD when distributing U.S. 4+1 signals in HD (or a down-converted version of these signals) be imposed on DTH BDUs as well.
11. The Commission is of the view that to the greatest extent possible, regulatory provisions should apply equally to terrestrial and DTH BDUs. The Commission considers that where a DTH or terrestrial BDU distributes any authorized HD or SD programming service on a down-converted basis, it should be required to distribute HD or SD Canadian programming services in a similar fashion, without undue discrimination or undue preference. To that end, the general authorizations have been clarified such that this principle now applies to all licensed BDUs. Applying the general principle that BDUs distribute down-converted versions of other comparable HD or SD Canadian programming services in a similar fashion without undue discrimination or undue preference also provides for a flexible application given the differing distribution platforms and regulatory requirements imposed on terrestrial BDUs and DTH BDUs respectively. For example, the distribution of HD or SD Canadian programming services in a similar fashion could be applied on a tier by tier, or package by package, basis.

Whether to add an authorization permitting broadcasting distribution undertakings to up-convert analog versions of programming services into standard definition

12. In their comments, Rogers and Shaw requested that the Commission make clear that the amendments to section 7 of the Regulations would not prohibit up-converting of programming services.
13. The Commission notes that section 7 of the Regulations currently prohibits a licensee from altering or deleting a programming service in a licensed area in the course of its distribution except under certain circumstances specifically enumerated in that section. The amended Regulations, which will come into force on 1 September 2011, clarifies that this prohibition applies to the content or format of a programming service, thereby generally prohibiting BDUs from converting a programming service.
14. The Commission notes that BDUs may be currently distributing up-converted versions of analog-only programming services so their digital subscribers are able to

view these programming services. Further, conventional television services in non-mandatory markets may choose to continue to transmit in analog beyond the digital transition date of 1 September 2011. Consequently, if BDUs are not authorized to continue to up-convert analog programming services into standard definition, BDU digital subscribers would no longer be able to view these programming services.

15. The Commission considers it appropriate that the general authorizations include a provision permitting BDUs to up-convert analog programming services into SD. This will ensure that digital subscribers do not lose access to local programming. As is the case for down-conversion, BDUs will also be required to obtain consent from the Canadian programming service before being authorized to distribute an up-converted version of that service.

Other changes to the general authorizations

16. The Commission recently made amendments to the Regulations, as set out in Broadcasting Regulatory Policy 2011-455. As a result of the amended Regulations, several of the provisions included in the general authorizations are no longer required. In examining the record of this proceeding and the proceeding initiated by Broadcasting Notice of Consultation 2010-931, the Commission considers that additional changes to the general authorizations are necessary in order to make the authorizations consistent with the new Regulations.
17. For example, section 3(f)(v) of the general authorizations as set out in Broadcasting Regulatory Policy 2009-546 imposed on licensees an obligation to perform simultaneous substitution on a format specific basis (HD over HD, SD over SD, and analog over analog). The Commission notes that these requirements have now been incorporated into the amended Regulations. Specifically, sections 38(5) and 51(5) of the Regulations provide that the programming service to be substituted shall be of the same format as, or of higher format than, the programming service to be deleted. Accordingly, the Commission is removing paragraph 3(f)(v) from the general authorizations since this requirement is provided for in the amended Regulations.
18. As part of the proceeding initiated by Broadcasting Notice of Consultation 2010-931, Bell TV submitted that the Commission should authorize the down-conversion of all programming services, including pay and specialty services. The Commission considers that in order to ensure continuity of services received by subscribers, it is reasonable that BDUs be allowed, with the consent of the Canadian programming undertaking, to down-convert pay and specialty services. Such an authorization is consistent with sections 18(5) and 47(3) of the amended Regulations which provide that a licensee fulfill its distribution obligations by distributing either the SD version or HD version of a programming service.
19. Accordingly, the Commission amends the authorizations to permit the down-conversion of all types of HD or SD programming services. The current authorizations as set out in Broadcasting Regulatory Policy 2009-546 included certain terms and conditions that have been replaced with a general requirement that BDUs

not unduly discriminate against or disadvantage Canadian services by down-converting other comparable services. For example, this would mean that if a BDU distributes a conventional station on a down-converted basis in one market, it must also distribute down-converted versions of other comparable conventional stations in a similar fashion in that market, without undue discrimination or undue preference.

20. However, the Commission reminds parties that section 42 of the Regulations provides that a licensee may only distribute in analog those programming services that it was distributing on an analog basis before 10 December 2010. As such, the expanded authorization to down-convert does not authorize a BDU to down-convert and distribute in analog, programming services distributed on an exclusively digital basis prior to 10 December 2010.
21. In Broadcasting Regulatory Policy 2011-399, the Commission stated that it would add an authorization to the list of general authorizations for terrestrial and DTH BDUs to permit the distribution of satellite-to-cable services. Accordingly, the Commission adds this authorization to the general authorizations.
22. Lastly, the Commission notes that it has amended the general authorizations to reflect the new language used in the amended Regulations, which will be effective 1 September 2011.
23. The revised general authorizations, as set out in the appendix to this regulatory policy, will be effective 1 September 2011. For ease of reference, the amended general authorizations will also be available, as of 1 September 2011, on the Commission's website at the following address: <http://www.crtc.gc.ca/eng/publications/distga.htm>.

Secretary General

Related documents

- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011
- *List of non-Canadian programming services authorized for distribution*, Broadcasting Regulatory Policy CRTC 2011-399, 30 June 2011
- *Call for comments on an extension to the general authorization to down-convert digital-only television signals*, Broadcasting Notice of Consultation CRTC 2011-187, 15 March 2011
- *Call for comments on amendments to the Broadcasting Distribution Regulations*, Broadcasting Notice of Consultation CRTC 2010-931, 10 December 2010
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009

Appendix to Broadcasting Regulatory Policy CRTC 2011-522

General authorizations for broadcasting distribution undertakings

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

The terms “authorized non-Canadian programming service”, “Canadian programming service”, “high definition”, “non-Canadian programming service” and “standard definition” have the same meaning as that set out in the *Broadcasting Distribution Regulations* (the Regulations), as amended from time to time.

The general authorizations below are effective 1 September 2011.

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 authorized non-Canadian programming 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) 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(1) of the Regulations unless a subscriber is already receiving 40 channels of one or more licensed pay audio programming undertakings.
 - (b) The Canadian-produced channels offered by the satellite subscription radio undertaking are deemed to be “Canadian programming services” for the purposes of section 6(1) of the Regulations.

Distribution of down-converted programming services

3. Subject to section 42 of the Regulations, where a standard definition (SD) or analog version of a programming service is not provided by the broadcaster, the licensee is authorized to down-convert a high definition (HD) or SD version of any programming service authorized by the *Broadcasting Distribution Regulations*, by the *List of non-Canadian programming services authorized for distribution*, or by condition of licence into either SD or analog

format, and to distribute that version of the programming service to its subscribers. The above is subject to the following terms and conditions:

- (a) The terms and conditions otherwise applicable to the distribution of the television signals in question apply, *mutatis mutandis*, to the distribution of down-converted versions of those signals;
- (b) In the case of a Canadian programming service, the licensee obtains the consent of the Canadian programming undertaking; and
- (c) If the licensee distributes an authorized HD or SD programming service on a down-converted basis, it must distribute down-converted versions of other comparable HD or SD Canadian programming services in a similar fashion, without undue discrimination or undue preference.

Distribution of up-converted programming services

- 4. The licensee is authorized to distribute, with the consent of the Canadian programming undertaking, an up-converted version of any analog-only Canadian programming services in SD. Where the licensee distributes an analog programming service on an up-converted basis, it must distribute other Canadian programming services in a similar fashion, without undue discrimination or undue preference.

Distribution of a local package

- 5. 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.

Distribution of satellite-to-cable services

- 6. The licensee is authorized to distribute the signal of any satellite-to-cable service.