



Broadcasting Regulatory Policy CRTC 2012-133

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Route reference: 2011-668

Ottawa, 5 March 2012

Amendment to the buy-through requirement in section 27(4) of the *Broadcasting Distribution Regulations*

The Commission announces that it has amended the buy-through requirement set out in section 27(4) of the Broadcasting Distribution Regulations (the Regulations) to require broadcasting distribution undertakings that distribute to subscribers either a general interest third-language Category B service, or a general interest non-Canadian third-language service, to also distribute ethnic specialty Category A services in the same principal language. The amendment came into force on 23 January 2012.

The amended Regulations were registered on 23 January 2012 and published in the Canada Gazette, Part II, Vol. 146, No. 3 on 1 February 2012 (SOR/2012-4). A copy of the amended Regulations is attached to this regulatory policy.

Introduction

1. In Broadcasting Regulatory Policy 2011-455, the Commission affirmed that the existing buy-through requirement, previously set out in the distribution and linkage rules,¹ remained an important regulatory measure to support ethnic specialty Category A services in satisfying their regulatory obligations. The existing buy-through requirement generally established that where a subscriber wished to subscribe to a third-language general interest programming service in a principal language served by one of the ethnic specialty Category A services, the subscriber must also subscribe to that ethnic specialty Category A service. In the amendments to the *Broadcasting Distribution Regulations* (the Regulations) set out in Broadcasting Regulatory Policy 2011-455, the Commission intended to maintain, via section 27(4) of the Regulations, the buy-through requirement concerning the distribution of ethnic specialty Category A services.
2. Following the amendments to the Regulations set out in Broadcasting Regulatory Policy 2011-455, the Commission received letters, dated 11 and 23 August 2011, from Fairchild Television Ltd. (Fairchild) and Asian Television Network International Limited (ATN), respectively, expressing concern that section 27(4) of the amended Regulations did not fully retain the buy-through requirement as the Commission intended. As worded, section 27(4) did not require licensees that were distributing non-Canadian third-language services to also distribute ethnic specialty

¹ See Broadcasting Regulatory Policy 2010-312.

Category A services in the same principal language. Fairchild and ATN urged the Commission to amend section 27(4) to impose such a requirement on licensees distributing non-Canadian third-language services.

3. In Broadcasting Notice of Consultation 2011-668 (the Notice of Consultation), the Commission called for comments on the wording of a proposed amendment to the buy-through requirement set out in section 27(4) of the Regulations. In the Notice of Consultation, the Commission explained that the amendment would further support ethnic specialty Category A services in satisfying their regulatory obligations and give full effect to the buy-through objectives established in Broadcasting Regulatory Policy 2011-455.

Comments

4. The Commission received five comments from Fairchild, ATN, Odyssey Television Network Inc., Telelatino Network Inc. and Dhamaal Media Group supporting the proposed amendment as worded in the Notice of Consultation. The complete record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
5. Dhamaal Media Group also submitted that the Commission should further amend section 27(4) of the Regulations to relieve licensees that distribute general interest third-language Category B services from the requirement to also distribute ethnic specialty Category A services available in the same principal language, as ethnic specialty Category A services do not need to be protected from competition from general interest third-language Category B services.

Commission's analysis and decision

6. The Commission considers that its intention to incorporate the Commission's existing buy-through requirement, via section 27(4) of the Regulations, was clearly set out in Broadcasting Regulatory Policy 2011-455. This policy has been to require that a general interest service that broadcasts 40% or more of its programming in the principal language of an ethnic Category A service only be offered by a licensee to subscribers who also subscribe to that ethnic Category A service. The Commission is satisfied that the proposed amendment implements the buy-through policy objectives set out in Broadcasting Regulatory Policy 2011-455.
7. With respect to the request made by Dhamaal Media Group that the Commission amend the buy-through requirement further, the Commission considers that such an amendment would be inconsistent with the policy set out in Broadcasting Regulatory Policy 2011-455, and that adequate opportunity was given to provide input on this matter in the public proceeding leading to Broadcasting Regulatory Policy 2011-455.

Conclusion

8. In light of the above, the Commission has adopted the proposed amendment to section 27(4) of the Regulations as published in the Notice of Consultation. The amended Regulations were registered on 23 January 2012 and published in the *Canada Gazette*, Part II, Vol. 146, No. 3 on 1 February 2012 (SOR/2012-4). A copy of the amended Regulations is attached to this regulatory policy.

Secretary General

Related documents

- *Call for comments on an amendment to the Commission's buy-through requirement*, Broadcasting Notice of Consultation CRTC 2011-668, 26 October 2011
- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011
- *Distribution and linkage requirements for Class 1 and Class 2 licensees and Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Regulatory Policy CRTC 2010-312, 27 May 2010

Appendix to Broadcasting Regulatory Policy CRTC 2012-133

REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

1. Subsection 27(4) of the *Broadcasting Distribution Regulations*² is replaced by the following:

(4) Except as otherwise provided under a condition of its licence, a licensee that distributes a general interest non-Canadian third-language service or a general interest Category B third-language service to subscribers shall also distribute an ethnic Category A service to them if one is available in the same principal language.

COMING INTO FORCE

2. These Regulations come into force on the day on which they are registered.

² SOR/97-555