



Broadcasting Notice of Consultation CRTC 2012-185

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Ottawa, 29 March 2012

Call for comments on amendments to the *Specialty Services Regulations, 1990* in regard to the definition of “commercial message,” and on amendments to the *Broadcasting Distribution Regulations* in regard to the definition of “demarcation point”

The Commission calls for comments on proposed amendments to the definition of “commercial message” set out in the Specialty Services Regulations, 1990 that would clarify that non-traditional advertising does not fall within the maximum number of advertising minutes that may be broadcast on specialty services.

The Commission also calls for comments on proposed amendments to the definition of “demarcation point” set out in the Broadcasting Distribution Regulations that would permit access by subscribers and competing broadcasting distribution undertakings to inside wire in commercial and institutional properties.

The deadline for the receipt of comments is 30 April 2012.

Introduction

1. In the present notice, the Commission addresses concerns relating to the definition of “commercial message” set out in the *Specialty Services Regulations, 1990* (Specialty Services Regulations), and to the definition of “demarcation point” set out in the *Broadcasting Distribution Regulations* (BDU Regulations).

Definition of “commercial message”

2. In Broadcasting Decision 2011-445, the Commission, in the context of its group-based approach to the licensing of large English-language private television ownership groups (the group-based policy),¹ renewed the broadcasting licences for various services affiliated with the Shaw Media Inc. broadcasting ownership group (the Shaw Media group). In Broadcasting Decision 2011-441, in which the group-based policy was implemented, the Commission noted that the Shaw Media group requested, as part of its application for the above-mentioned licence renewals, that its conditions of licence limiting its specialty services to 12 minutes of advertising per clock hour be amended to specifically exclude forms of non-traditional advertising, such as product placement or virtual ads, from being counted towards that limit.

¹ See Broadcasting Regulatory Policy 2010-167.

3. As stated in Broadcasting Decision 2011-441, the Commission did not intend for specialty services to count non-traditional forms of advertising towards this 12-minute advertising limit. It noted that for conventional television stations, it amended, in Broadcasting Public Notice 2007-98, the definition of “commercial message” set out in the *Television Broadcasting Regulations, 1987* (Television Broadcasting Regulations) so that an advertisement must be “broadcast in a break within a program or between programs” in order to be counted as a commercial message.
4. The Commission therefore announced in Broadcasting Decision 2011-441 that, in order to clarify its policy and harmonize its treatment of commercial messages for specialty services with the treatment given to conventional television stations, it intended to amend the definition of “commercial message” in the Specialty Services Regulations so that it would be in line with the definition of the term set out in the Television Broadcasting Regulations.

Definition of “demarcation point”

5. In Broadcasting Notice of Consultation 2011-299, the Commission called for comments on a request by Bell TV to amend the BDU Regulations so that a licensee that owns inside wire in commercial or institutional properties would be required to allow subscribers and competing BDUs to use that inside wire on request. In Broadcasting Regulatory Policy 2011-774, the Commission considered it appropriate to approve Bell TV’s request. In regard to the implementation of that decision, the Commission stated in that regulatory policy that it would be appropriate to amend the BDU Regulations to permit access by subscribers and competing BDUs to inside wire in commercial and institutional properties, which would facilitate the competitive use of inside wire by licensees.
6. As noted in Broadcasting Regulatory Policy 2011-774, a number of amendments to the BDU Regulations that came into effect on 1 September 2011 have already expanded the definitions of “demarcation point” and “inside wire” to refer not only to where a subscriber resides but also to a “subscriber’s residence and other premises.” Consequently, the Commission stated that only further minor amendments to the definition of “demarcation point” would be required to give full effect to its determinations in that policy. Accordingly, in that regulatory policy, the Commission announced its intention to issue a call for comments on amendments to the BDU Regulations to that effect.

Call for comments

7. The proposed amendments to the definition of “commercial message” set out in the Specialty Services Regulations and to the definition of “demarcation point” set out in the BDU Regulations (subparagraph (a)(ii) for “single unit” buildings and subparagraph (b)(ii) for “multiple unit” buildings) are appended to this notice. The Commission invites comments on the wording of the proposed amendments. The Commission will accept comments that it receives on or before **30 April 2012**.

Procedure

8. The new *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* SOR/2010-277 (the Rules of Procedure) set out, among other things, the rules for content, format, filing and service of comments. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."
9. In accordance with the Rules of Procedure, a document must be filed with, not merely sent to, the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will not notify a party whose submission is received after the deadline date. Late submissions will not be considered by the Commission and will not be made part of the public file.
10. The Commission will not formally acknowledge comments. It will, however, fully consider all submissions, and they will form part of the public record of the proceeding, provided that the procedures for filing set out in the Rules of Procedure and this notice have been followed.
11. Submissions must be filed by sending them to the Secretary General of the Commission by **only one** of the following means:

by using the
[\[Broadcasting interventions/comments form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

12. Submissions longer than five pages should include a summary.
13. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Important notice

14. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email, or through the

Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information provided.

15. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
16. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
17. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information provided as part of this public process.
18. The Commission encourages parties and interested persons to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Examination of documents

19. A list of all comments and answers will also be available on the Commission's website. The list is accessible by selecting "View all proceedings open for comment" from the "Public Proceedings" section of the Commission's website and clicking on the "Intervention/Answers" link associated with this notice.
20. The public may examine public comments and related documents at the following Commission offices during normal business hours.

Location of Commission offices

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional offices

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia
B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West
Suite 504
Montréal, Quebec
H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East
Suite 624
Toronto, Ontario
M4T 1M2
Tel.: 416-952-9096

360 Main Street
Suite 970
Winnipeg, Manitoba
R3C 3Z3
Tel.: 204-983-6306
Fax: 204-983-6317

2220 – 12th Avenue
Suite 620
Regina, Saskatchewan
S4P 0M8
Tel.: 306-780-3422

100 – 4th Avenue SW
Suite 403
Calgary, Alberta
T2P 3N2
Tel.: 403-292-6660
Fax: 403-292-6686

858 Beatty Street
Suite 290
Vancouver, British Columbia
V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Access to inside wire in commercial and institutional properties*, Broadcasting Regulatory Policy CRTC 2011-774, 14 December 2011
- *Shaw Media Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2011-445, 27 July 2011
- *Group-based licence renewals for English-language television groups – Introductory decision*, Broadcasting Decision CRTC 2011-441, 27 July 2011
- *Call for comments on access to inside wire in commercial and institutional properties*, Broadcasting Notice of Consultation CRTC 2011-299, 5 May 2011
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Amendments to the Television Broadcasting Regulations, 1987 – Implementation of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-98, 31 August 2007

Appendix to Broadcasting Notice of Consultation CRTC 2012-185

REGULATIONS AMENDING CERTAIN REGULATIONS MADE UNDER THE *BROADCASTING ACT*

SPECIALTY SERVICES REGULATIONS, 1990

1. The definition “commercial message” in section 2 of the *Specialty Services Regulations, 1990*¹ is replaced by the following:

“commercial message” means an advertisement that is intended to sell or promote goods, services, natural resources or activities, including an advertisement that mentions or displays in a list of prizes the name of the person selling or promoting the goods, services, natural resources or activities, and that is broadcast in a break within a program or between programs; (*message publicitaire*)

BROADCASTING DISTRIBUTION REGULATIONS

2. (1) Subparagraph (a)(ii) of the definition “demarcation point” in section 1 of the *Broadcasting Distribution Regulations*² is replaced by the following:

(ii) any point to which the licensee and the customer or subscriber have agreed; and

(2) Subparagraph (b)(ii) of the definition “demarcation point” in section 1 of the *Regulations* is replaced by the following:

(ii) any point to which the licensee and the customer or subscriber have agreed. (*point de démarcation*)

COMING INTO FORCE

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

¹ SOR/90-106

² SOR/97-555