



Broadcasting Regulatory Policy CRTC 2016-364

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Reference: 2016-76

Ottawa, 8 September 2016

General authorizations for broadcasting distribution undertakings

The Commission amends the general authorizations for broadcasting distribution undertakings to authorize the distribution of CTV Two Atlantic as part of the basic service in the Atlantic provinces, as an exception to sections 16.1 and 45.1 of the Broadcasting Distribution Regulations.

This amendment will provide Canadians residing in the Atlantic provinces with greater access to regionally relevant programming.

Introduction

1. In Broadcasting Decision 2016-75, the Commission authorized Star Choice Television Network Incorporated, operating as Shaw Direct, to distribute CTV Two Atlantic as part of its basic service to subscribers in the Atlantic provinces. In that decision, the Commission also expressed the preliminary view that it would be appropriate to allow all broadcasting distribution undertakings (BDUs), including terrestrial and direct-to-home (DTH) BDUs, to distribute CTV Two Atlantic on the basic service in the Atlantic provinces.
2. Sections 16.1 and 45.1 of the *Broadcasting Distribution Regulations* (the Regulations) limit the content of the basic service that BDUs can distribute to specified local television stations and certain other services. Because CTV Two Atlantic is a satellite-to-cable service, for BDUs to distribute CTV Two Atlantic as part of their basic service in the Atlantic provinces, they would require an exception to the Regulations.
3. Consequently, the Commission issued Broadcasting Notice of Consultation 2016-76, calling for comments on an amendment to the general authorizations applicable to terrestrial and DTH BDUs to allow CTV Two Atlantic to be included as part of the basic service in the Atlantic provinces, as an exception to sections 16.1 and 45.1 of the Regulations.

Interventions

4. In response to the call for comments, the Commission received comments from Bell Media Inc. (Bell), the licensee of CTV Two Atlantic, and Shaw Direct, as well as from an individual. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca.
5. Bell and Shaw Direct supported the proposed amendment to the general authorizations. Bell added that in the last group-based licence renewals for its stations, the Commission had treated CTV Two Atlantic as a local station by imposing requirements that are identical to Bell-owned local stations and very similar to those imposed on local stations owned by other large private broadcasting groups.
6. The individual opposed the amendment, arguing that the authorization to distribute CTV Two Atlantic would be similar to that requested by Videotron¹ and denied by the Commission in Broadcasting Decision 2016-70, namely, to be authorized to distribute a number of out-of-market television stations as part of the basic service in various service areas. The individual submitted that the Commission created a precedent by denying Videotron's application and that it should therefore not authorize the distribution of CTV Two Atlantic on the basic service in the Atlantic provinces. The individual added that the basic service requirements set out by the Commission as a result of the Let's Talk TV proceeding² were contrary to the *Broadcasting Act*, did not properly protect official language minority communities and should be completely revised.

Commission's analysis

7. The Commission considers that there are significant differences between the applications by Videotron that were denied in Broadcasting Decision 2016-70 and the proposed amendment to the general authorizations for BDUs. Specifically, Videotron's application sought authorization to include, as part of the basic service, television stations that were neither local nor regional. Moreover, approval of that application would have resulted in the distribution of out-of-market television signals as part of the basic service of different licensed areas served by Videotron. Finally, as noted in Broadcasting Decision 2016-70, approval of Videotron's application could have encouraged other BDUs to submit similar applications, which would be contrary to the Commission's objective of establishing a small basic service for Canadians who only want to subscribe to a limited number of services.
8. Conversely, the proposed amendment would not result in the distribution of an out-of-market station in the Atlantic provinces. Instead, it would recognize that CTV Two Atlantic was licensed as a satellite-to-cable service mandated to provide regional programming. CTV Two Atlantic has a standard requirement to broadcast at

¹ Quebecor Media Inc., on behalf of Videotron Ltd. and 9227-2590 Québec inc., partners in a general partnership carrying on business as Videotron G.P.

² See Broadcasting Regulatory Policy 2015-96.

least seven hours of local programming each broadcast week. Authorizing the inclusion of CTV Two Atlantic as part of the basic service would therefore allow all subscribers in the Atlantic provinces to continue to receive a service that provides them with regionally relevant programming.

9. Further, the other arguments submitted by the individual relate to the broader policy established in Broadcasting Regulatory Policy 2015-96 and not to the specific amendment proposed in Broadcasting Notice of Consultation 2016-76. As such, these arguments fall outside the scope of this proceeding.

Conclusion

10. In light of the above, the Commission amends the general authorizations for BDUs as follows to authorize the distribution of CTV Two Atlantic as part of the basic service in the Atlantic provinces:

7. As an exception to sections 16.1 and 45.1 of the *Broadcasting Distribution Regulations*, the licensee may distribute CTV Two Atlantic as part of the basic service offered to subscribers located in the Atlantic provinces.

11. The full list of general authorizations for BDUs is set out in the appendix to this regulatory policy.

Secretary General

Related documents

- *Call for comments on a proposed amendment to the General authorizations for broadcasting distribution undertakings to authorize the distribution of CTV Two Atlantic as part of the basic service in the Atlantic provinces*, Broadcasting Notice of Consultation CRTC 2016-76, 29 February 2016
- *Shaw Direct – Licence amendments*, Broadcasting Decision CRTC 2016-75, 29 February 2016
- *Various terrestrial broadcasting distribution undertakings in Quebec – Licence amendments*, Broadcasting Decision CRTC 2016-70, 24 February 2016
- *Let's Talk TV – A World of Choice – A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015

Appendix to Broadcasting Regulatory Policy CRTC 2016-364

General authorizations for broadcasting distribution undertakings

Terrestrial and direct-to-home (DTH) satellite broadcasting distribution undertakings

The terms “Atlantic provinces,” “authorized non-Canadian programming service,” “basic 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 **8 September 2016**.

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 local availabilities must be made available in each broadcast day for use by licensed Canadian programming services, in an equitable manner and on a cost-recovery basis, to promote first-run, original Canadian programs. 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 at least 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 Regulations, by the *List of non-Canadian programming services and stations 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.

Distribution of satellite-to-cable services

6. The licensee is authorized to distribute the signal of any satellite-to-cable service.
7. As an exception to sections 16.1 and 45.1 of the *Broadcasting Distribution Regulations*, the licensee may distribute CTV Two Atlantic as part of the basic service offered to subscribers located in the Atlantic provinces.