



## Broadcasting Public Notice CRTC 2007-83

Ottawa, 17 July 2007

### **Amendments to the *Broadcasting Distribution Regulations*— Emergency Alert Messages**

*The Commission has amended paragraph 7(d) of the Broadcasting Distribution Regulations (the Regulations) with respect to the broadcast of emergency alert messages. Paragraph 7(d)(i) continues to allow broadcasting distribution undertakings (BDUs) to insert warnings concerning any danger to life or property into a programming service with the consent of the operator of the programming service or the network responsible for the service. A new paragraph, paragraph 7(d)(ii), allows BDUs to insert warnings into a programming service without such consent in cases of imminent or unfolding threats to life. In light of these changes, the definition of “emergency alert message” in section 1 of the Regulations was repealed. These amendments were published in Part II of the Canada Gazette on 11 July 2007 and came into effect on the day they were registered, 27 June 2007.*

#### **Introduction**

1. In Broadcasting Public Notice 2007-20, the Commission issued its policy framework for emergency alert services in broadcasting. Its approach was based on the removal of regulatory obstacles, including the provisions set out in section 1 and paragraph 7(d) of the *Broadcasting Distribution Regulations* (the Regulations), so that a voluntary emergency alert system could be created.
2. At the time that Public Notice 2007-20 was issued, section 1 of the Regulations defined an “emergency alert message” as “a warning to the public announcing an imminent or unfolding danger to life or property.”
3. Paragraph 7 (d) stated:
  7. A licensee shall not alter or delete a programming service in a licensed area in the course of its distribution except
    - (d) for the purpose of altering a programming service to insert an emergency alert message in accordance with an agreement entered into with the operator of the service or the network responsible for the service.
4. In Broadcasting Public Notice 2007-21, the Commission proposed to amend the definition of “emergency alert message” found in section 1 of the Regulations in order to narrow the circumstances under which an alert message would be issued and to amend paragraph 7(d) to remove the need for broadcaster consent prior to inserting an “emergency alert message.”

5. As a result, the definition of an “emergency alert message” would be amended to read as follows:

“emergency alert message” means a warning to the public announcing an imminent or unfolding danger to life.

6. Paragraph 7(d) would be amended to read as follows:

7. A licensee shall not alter or delete a programming service in a licensed area in the course of its distribution except

(d) for the purpose of altering a programming service to insert an emergency alert message;

7. In Public Notice 2007-21, the Commission called for comments on these proposed amendments to the Regulations. In response, the Commission received comments from the Canadian Broadcasting Corporation (CBC), Pelmorex Communications Inc. (Pelmorex), the Nova Scotia Emergency Management Office (NSEMO), the Canadian Meteorological and Oceanographic Society (CMOS), the City of Brandon (Brandon) and Bell Canada. These comments are available on the Commission’s Web site at [www.crtc.gc.ca](http://www.crtc.gc.ca) under “Public Proceedings.”

8. The following four issues arose from comments:

- Should the Commission keep threats to property in the definition of an “emergency alert message”?
- Should the Commission remove the term “or unfolding” from the definition of an “emergency alert message”?
- Should there be a definition of who is authorized to issue emergency alert messages in the Regulations?
- Can imminent or unfolding dangers to property continue to be broadcast with broadcasters’ consent?

**Should the Commission keep threats to property in the definition of an “emergency alert message”?**

9. The NSEMO disagreed with the proposal to remove the reference to property from the definition of an “emergency alert message.” The NSEMO and Brandon submitted that the removal of threats to property from the definition of an “emergency alert message” demands that one distinguish between threats to life and threats to property in the crucial minutes of an emergency or crisis.

10. Pelmorex and the CBC supported the Commission’s proposal to remove imminent or unfolding threats to property from the definition of an emergency alert message. The CBC added that emergency alert messages should not be used to replace other reliable sources of information used by Canadians to learn about less immediate threats.

11. In Public Notice 2007-20, the Commission stated that the provision of life-saving information to the Canadian public is of sufficient importance to warrant the alteration or deletion of a broadcaster's signal without consent. However, emergency alert services should only be used to interrupt programming services without the broadcaster's consent in the most serious situations involving an imminent or unfolding danger to life.
12. The Commission remains convinced that it is appropriate to remove threats to property from the definition of an "emergency alert message" in situations where such emergency alert messages are to be broadcast without consent. This would also attenuate concerns over the potential overuse of the emergency alert system.

**Should the Commission remove the term "or unfolding" from the definition of an "emergency alert message"?**

13. The CBC recommended removing the words "or unfolding" from the definition of an "emergency alert message." It was of the view that inclusion of these words could create ambiguity regarding when emergency alert messages should be issued, and also create a potential for overuse of the emergency alert system. The CBC submitted that emergency messages should be issued only to advise the public of imminent dangers to life.
14. The Commission notes that the term "or unfolding" and the French version, "ou actuel," have been in the Regulations since at least 1998. In the Commission's view, keeping "or unfolding" in the definition of an "emergency alert message" would not create two different standards, although the inclusion of threat to "property" might. The Commission is also of the view that removing the term "or unfolding" from the definition of an "emergency alert message" would overly restrict the use of emergency alert messages. Accordingly, the Commission has determined that it is appropriate to keep the words "or unfolding" and the French equivalent "ou actuel" in the definition of an "emergency alert message."

**Should there be a definition of who is authorized to issue emergency alert messages in the Regulations?**

15. The CBC recommended adding "by a mandated government authority" to the definition of an "emergency alert message," such that it would read:

"emergency alert message" means a warning to the public by a mandated government authority announcing an imminent danger to life.
16. Pelmorex expressed concern that the definition of an "emergency alert message" remains too broad since it does not identify who will have authority to originate messages, and therefore does not ensure that only alerts issued by legally authorized officials and agencies will be broadcast over broadcasting distribution undertakings' (BDUs') networks.
17. The CMOS was concerned that the proposed amendments would not distinguish between warnings issued by national agencies with a legal responsibility to do so, such as the Meteorological Service of Canada (MSC), and other agencies that do not have the legal authority to issue warnings. The CMOS submitted that the onus to determine what is life threatening should fall on agencies such as

the MSC. It recommended that BDUs be required to enter into binding agreements with the authorized agencies to ensure that they distribute warnings expeditiously and can be held accountable for their performance in that regard.

18. As stated in Broadcasting Decision 2007-73 and Public Notice 2007-21, the Commission remains of the view that including in the Regulations the requirement that an authorised agency issue an “emergency alert message” would complicate the delivery of such alerts. By removing regulatory barriers, not increasing them, the Commission has provided an opportunity for all parties involved to continue to develop and distribute emergency alert messages in a voluntary manner. For these reasons, the Commission has determined that it is not appropriate to include the terms “authorized or mandated government authority” or any equivalent into the Regulations at this time.

### **Can imminent or unfolding dangers to property continue to be broadcast with broadcasters’ consent?**

19. The CBC assumed that other types of alerts, including those less urgent or pertaining to threats to property, could still be broadcast despite the amendment to paragraph 7(d), provided approval is sought from programming services. Pelmorex was concerned that the proposal to eliminate the requirement for BDUs to obtain consent from service or network operators before altering their signals could be problematic.
20. The Commission is of the view that the effect of amending paragraph 7(d) in the manner proposed in Public Notice 2007-21 would eliminate the possibility of a BDU altering a programming service to insert a message with a broadcaster’s consent if that message does not meet the definition of an “emergency alert message” set out in section 1 of the Regulations.
21. As stated in Decision 2007-73, the proposed amendments to the Regulations do not prohibit a broadcaster from interrupting its own signal to insert an alert message. A broadcaster is free to insert an alert message into its own signal at whatever level of emergency it deems appropriate.
22. Further, as stated in Public Notice 2007-20, the Commission’s objective for an emergency alert system is to create a system that is flexible enough to meet the needs of Canadians, on a local, regional and national level, through the joint efforts of, and recognizing the respective roles and concerns of, emergency management officials, broadcasters, and BDUs. To facilitate this system, the Commission decided to remove regulatory impediments to the creation of a voluntary emergency alert message system.
23. Therefore, the Commission has determined that it is appropriate to add a new paragraph 7(d)(ii) to the Regulations. Paragraph 7(d)(ii) essentially maintains the *status quo* in that it allows the alteration or deletion of a programming service in order to insert a warning to the public of any danger to life or property, with the broadcaster’s consent.
24. Since the definition of an “emergency alert message” is used only in paragraph 7(d), the Commission has determined that it is appropriate to repeal the definition found in section 1 and to integrate the contents of that definition into paragraph 7(d). Therefore the provisions have been reorganized as follows:

- paragraph 7(d)(i) essentially maintain the *status quo*, allowing for the insertion of warnings concerning any danger to life or property, with the broadcaster's consent; and
- paragraph 7(d)(ii) allows for the insertion of warnings without the consent of broadcasters in cases of imminent or unfolding threats to life.

### **Implementation of the amendments**

25. In light of the above, the Commission has adopted the amendments as attached to this notice in the Appendix. These amendments, which were published in Part II of the *Canada Gazette* on 11 July 2007, came into effect the date they were registered, 27 June 2007.

Secretary General

### **Related documents**

- *Call for comments on proposed amendments to the Broadcasting Distribution Regulations*, Broadcasting Public Notice CRTC 2007-21, 28 February 2007
- *Emergency Alert Services*, Broadcasting Public Notice CRTC 2007-20, 28 February 2007
- *Pelmorex emergency alert service*, Broadcasting Decision CRTC 2007-72, 28 February 2007
- *CBC emergency alert service*, Broadcasting Decision CRTC 2007-73, 28 February 2007
- *ExpressVu emergency alert service*, Broadcasting Decision CRTC 2007-74, 28 February 2007
- *Call for applications to provide an all channel alert (ACA) service*, Broadcasting Public Notice CRTC 2005-38, 22 April 2005

*This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## **Appendix to Broadcasting Public Notice CRTC 2007-83**

### **Regulations amending the Broadcasting Distribution Regulations**

#### **AMENDMENTS**

**1. The definition “emergency alert message” in section 1 of the *Broadcasting Distribution Regulations*<sup>1</sup> is repealed.**

**2. Paragraph 7(d) of the Regulations is replaced by the following:**

(d) for the purpose of altering a programming service to insert a warning to the public announcing

- (i) any danger to life or property if the insertion is provided for in an agreement entered into by the licensee with the operator of the service or the network responsible for the service, or
- (ii) an imminent or unfolding danger to life if there is no agreement with the operator of the service or the network responsible for the service;

#### **COMING INTO FORCE**

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

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<sup>1</sup> SOR/97-555