



Broadcasting Notice of Consultation CRTC 2009-728

Route reference: 2009-679

Ottawa, 27 November 2009

Call for comments on proposed amendments to the *Distribution and linkage requirements for Class 1 and Class 2 licensees* and the *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*

The Commission calls for written comments on proposed amendments to the Distribution and linkage requirements for Class 1 and Class 2 licensees set out in Broadcasting Public Notice 2007-51 and to the Linkage requirements for direct-to-home (DTH) satellite distribution undertakings set out in Broadcasting Public Notice 2007-52.

Background

1. In its recent applications for the renewal of the regional broadcasting licences for its terrestrial broadcasting distribution undertakings (BDUs) serving communities in British Columbia and Alberta, TELUS Communications Inc., and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company (TELUS) requested a condition of licence, applicable to each regional licence, that would permit it to depart from aspects of the *Distribution and linkage rules for Class 1 and Class 2 licensees*. Specifically, TELUS requested that it be permitted to package the non-Canadian services found in Section B of the *List of Part 2 eligible satellite services* (the Part 2 lists) with Canadian specialty services as well as with Canadian pay services.
2. The Commission did not receive any interventions opposing this request. Accordingly, in Broadcasting Decision 2009-679, which renewed TELUS' licences, the Commission approved the following condition of licence:

The licensee may distribute, at its option, and on a discretionary basis, any of the non-Canadian-originated services specified in Part 2, Section B of the *List of eligible satellite services* in a package with a Canadian pay and/or Canadian specialty service. The licensee may link up to five of these services to a Canadian pay television service or may link one of these services to a Canadian specialty service.

3. In Broadcasting Decision 2009-679, the Commission noted that the licensees of two other BDUs intervened to request a similar authorization, by way of a standard condition of licence (i.e., a general authorization), such as those set out in the appendix to Broadcasting Regulatory Policy 2009-546. However, the Commission concluded that, rather than proceeding as requested by these BDUs, it would be more appropriate to issue a public notice to consider an amendment to the distribution and linkage rules themselves.

The distribution and linkage rules

4. Among other things, the current distribution and linkage rules for Class 1 BDUs and Class 2 BDUs set out in Broadcasting Public Notice 2007-51 specify that a Canadian pay television service may be linked in a given discretionary tier with no more than five channels containing any of the non-Canadian-originated services specified in either Section A or Section B of the Part 2 lists (the 1:5 rule). Further, each Canadian specialty service may be linked in a given discretionary tier with no more than one channel containing any of the non-Canadian-originated services specified in Section A of the Part 2 lists (the 1:1 rule). Similar rules apply to direct-to-home distributors by virtue of paragraph 9.b)(i) of Broadcasting Public Notice 2007-52.
5. In Broadcasting Public Notice 2008-100, the Commission determined that it would eliminate the 1:5 and 1:1 packaging rules, along with other distribution and linkage rules, as of 31 August 2011, at the same time that it enacts new regulations in order to implement other findings in that public notice. The Commission also stated that it would simplify and consolidate the lists of eligible satellite services in a single list of services authorized for either analog or digital distribution by all BDUs. In Decision 2009-679, the Commission noted, among other things, that granting the flexibility requested by TELUS would be consistent with its general approach to liberalizing packaging rules.

Call for comments

6. The Commission invites comments on proposed amendments to the distribution and linkage rules that would grant other BDUs the same packaging flexibility accorded TELUS in Broadcasting Decision 2009-679. In particular, the Commission requests comment on proposed amendments to sections 9.b)(i) and 23.b)(i)¹ of the distribution and linkage rules set out in Broadcasting Public Notice 2007-51. The proposed amendments would permit other Class 1 and Class 2 BDUs to link the services in Section B of the Part 2 lists with Canadian specialty services on a 1:1 basis², as follows:

Each Canadian specialty service may be linked, when distributed on a discretionary basis within a given discretionary tier that may include one or more Canadian specialty and/or pay television services, with no more than one channel containing any of the non-Canadian-originated services specified in **either** Section A **or** **Section B** of the list of Part 2 eligible satellite services or the non-Canadian-originated services referred to in paragraph 9 of this notice.

7. The Commission also invites comment on similar proposed amendments applicable to direct-to-home distributors by virtue of paragraph 9.b)(i) of Broadcasting Public Notice 2007-52.

¹ Applicable to Class 1 and Class 2 licensees, respectively.

² The Commission does not propose to change the 1:5 ratio applicable for packaging Canadian pay services with the non-Canadian services in Section B.

8. The Commission will accept comments that it receives on or before 29 December 2009. The Commission cannot be held responsible for postal delays and will not notify a party whose intervention is received after the deadline date. The intervention will not be considered by the Commission and will not be part of the public file.
9. The Commission will not formally acknowledge comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedures for filing comments

10. Interested parties can file their comments to the Secretary General of the Commission in **only one** of the following formats:

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

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

11. The Commission advises those who file and serve by electronic means to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.
12. Parties must ensure that, before initiating service through electronic mode, they will be able to satisfy the Commission, upon request, that service of the notification was completed.
13. Submissions longer than five pages should include a summary.
14. 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

15. Note that all information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail 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 information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.

16. 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.
17. Documents received electronically or otherwise will be put 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.
18. Please note that 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 that was provided as part of this public process.
19. The Commission encourages interested parties to monitor the public examination file and the Commission's website for additional information that they may find useful when preparing their comments.

Examination of documents

20. A list of all comments will be available on the Commission's website. An electronic version of all comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.
21. 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
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Regional offices

Metropolitan Place
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580 Hornby Street
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Tel.: 604-666-2111
TDD: 604-666-0778
Fax: 604-666-8322

Related documents

- *Class 1 regional broadcasting licences for terrestrial broadcasting distribution undertakings serving communities in British Columbia and Alberta – Licence renewals and licence amendments*, Broadcasting Decision CRTC 2009-679, 30 October 2009
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory Policy – Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2007-52, 16 May 2007
- *Distribution and linkage requirements for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2007-51, 16 May 2007

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>.