



Broadcasting Public Notice CRTC 2005-45

Ottawa, 11 May 2005

Distribution and linkage requirements for Class 1 and Class 2 licensees

The Commission, by this notice, replaces the requirements set out in Distribution and linkage requirements for Class 1 and Class 2 licensees, Broadcasting Public Notice CRTC 2004-56, 29 July 2004. The revisions to the distribution and linkage requirements, as set out herein, reflect the Commission's determinations set out in Improving the diversity of third-language television services – A revised approach to assessing requests to add non-Canadian third-language television services to the lists of eligible satellite services for distribution on a digital basis, Broadcasting Public Notice CRTC 2004-96, 16 December 2004.

The Commission may make further revisions to the distribution and linkage rules after rendering its determination with respect to the proceedings announced in Call for comments on applying new distribution and linkage rules to non-Canadian third-language services already on the lists of eligible satellite services, Broadcasting Public Notice CRTC 2005-16, 25 February 2005.

General

1. The provisions set out in this public notice govern the distribution, by licensees of broadcasting distribution undertakings (BDUs) holding a Class 1 or a Class 2 licence, of the following programming services as part of the basic service, as part of an analog discretionary tier, or as part of a discretionary digital tier:
 - a) any pay television service and any television pay-per-view service, the operator of which is authorized to provide the service to all or any part of the licensed area of the BDU;
 - b) any specialty service, the operator of which is authorized to provide the service to all or any part of the licensed area of the BDU;
 - c) any Category 1 or Category 2 service, the operator of which is authorized to provide the service to all or any part of the licensed area of the BDU;
 - d) any satellite service contained in the list of Part 2 eligible satellite services, other than a Part 2 eligible satellite service that the licensee was authorized to distribute as part of its basic service before 3 June 1993; any satellite service as set out in the new list of Part 2, Part 3 and DTH eligible satellite services for digital distribution; as well as any non-Canadian religious satellite service; and

e) any Canadian television service included on the list of Part 3 eligible satellite services.

2. The distribution and linkage requirements are presented in two parts, one dealing with the requirements applicable to Class 1 licensees, and the other dealing with the requirements applicable to Class 2 licensees. The provisions set out in this notice replace those contained in *Distribution and linkage requirements for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2004-56, 29 July 2004.

Part I

Rules applicable to Class 1 licensees

Rules regarding the distribution of programming services on an analog basis

3. Where a Class 1 licensee distributes any of the following specialty programming services, the licensee is required to distribute that service on a dual status basis, that is, as part of the basic service, unless the operator of that service consents in writing to its distribution as a discretionary service:
 - CBC Newsworld;
 - Vision TV;
 - YTV;
 - MuchMusic;
 - VRAK-TV;
 - MétéoMédia/The Weather Network;
 - MusiquePlus;
 - TV5;
 - Le Réseau de l'information (RDI); and,
 - any other specialty programming service that may be designated by the Commission for distribution on a dual status basis.
4. a) Where a Class 1 licensee distributes any of the following specialty programming services, the licensee is required to distribute that service on a modified dual status basis, that is, on a discretionary basis, unless the licensee and the programming service operator agree to its distribution as part of the basic service:
 - The Comedy Network
 - The Sports Network (TSN);
 - Réseau des Sports (RDS);
 - Country Music Television (CMT);
 - History Television;
 - Teletoon;
 - CTV NewsNet ;

- Canadian Learning Television (CLT);
- Rogers SportsNet;
- ROBTv (Report on Business Television);
- TreeHouse TV;
- Prime TV;
- Space;
- Outdoor Life;
- Home and Garden Television (HGTV);
- Star TV;
- Cable Pulse 24;
- The Score;
- MuchMoreMusic;
- Talk TV;
- Food Network Canada;
- Canal Vie;
- Le Canal Nouvelles (LCN);
- Musimax;
- Canal Z;
- Séries+;
- Canal Évasion;
- Historia;
- ARTV;
- Life Network;
- Showcase;
- Bravo!;
- W (Women's Television Network);
- Discovery Channel;
- Canal D; and
- any other specialty programming service that may be designated by the Commission for distribution by Class 1 licensees on a modified dual status basis.

b) Notwithstanding paragraph 4.a) and except as otherwise provided under a condition of its licence, where a Class 1 licensee that operates an undertaking in a French-language market distributes any of the following programming services, the licensee must distribute that service solely on a discretionary basis. All of the following services, depending on their availability, must be part of the same tier:

- Canal Z;
- Séries+;
- Canal Évasion; and,
- Historia.

c) Notwithstanding paragraph 4.a) and except as otherwise provided under a condition of its licence, where a Class 1 licensee that operates a cable distribution undertaking in a Francophone market distributes the service of ARTV, the licensee must distribute that service on the existing discretionary tier having the largest penetration, that is, the discretionary tier that is received by the highest number of subscribers. The fee payable to the service provider shall be in the amount of \$0.55 per subscriber per month.

d) Notwithstanding paragraph 4.a) and except as otherwise provided under a condition of its licence, where a Class 1 licensee operates a multipoint distribution system (MDS) undertaking in a Francophone market, the licensee must provide the service of ARTV to any subscriber that receives, on a discretionary basis, three or more French-language specialty services. The fee payable to the service provider shall be in the amount of \$0.55 per subscriber per month.

e) Except as otherwise provided under a condition of its licence, where a Class 1 licensee was already distributing the U.S. specialty service, TV Food Network, on an analog basis on 4 July 2000, the licensee is required to distribute the service of Food Network Canada on a modified dual status basis, that is, on a discretionary basis, unless the licensee and the programming service operator agree to its distribution as part of the basic service.

5. Except as otherwise provided under a condition of its licence, where a Class 1 licensee distributes any of the following programming services, the licensee is required to distribute that service exclusively as a discretionary service:
- Fairchild Television;
 - Talentvision;
 - Telelatino;
 - Odyssey;
 - South Asian Television;
 - any single or limited point-of-view religious specialty service;
 - any other specialty programming service that is designated by the Commission for carriage on a discretionary only basis;
 - any pay television service or any television pay-per-view service offered by a pay television undertaking; and
 - any satellite service as set out in the list of Part 2 eligible satellite services, other than a Part 2 eligible satellite service that the licensee was authorized to distribute as part of its basic service before 3 June 1993; or any non-Canadian religious satellite service.
6. Where a Class 1 licensee is authorized under the *Broadcasting Distribution Regulations* or a condition of its licence to distribute, on a discretionary basis, U.S. independent or duplicate network stations, each such service must be distributed on a separate channel.

Linkage requirements with respect to programming services, other than single or limited point-of-view religious services, distributed as discretionary services

7. The non-Canadian satellite services specified in the list of Part 2 eligible satellite services may only be offered by Class 1 licensees in a package with Canadian pay television and/or Canadian specialty services, and such a package must be distributed on a discretionary basis, subject to the following linkage requirements:
 - a) 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 list of Part 2 eligible satellite services, but in no case can a licensee distribute more than five channels of non-Canadian-originated services linked with Canadian pay television services, regardless of the number of Canadian pay television services distributed by the licensee;
 - b) (i) 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 Section A of the list of Part 2 eligible satellite services or the non-Canadian-originated services referred to in paragraph 8 of this notice;
 - (ii) a Class 1 licensee may designate one of the U.S. superstations specified in Section B of the list of Part 2 eligible satellite services, and distribute the signal of that superstation within a given discretionary tier that may include one or more Canadian specialty and/or pay television services, provided that the superstation is included in a tier that is distributed on a digital basis only;
 - (iii) a Class 1 licensee is not permitted to link services on the list of Part 2 eligible satellite services with a Canadian specialty service distributed on the basic service; and
 - c) a Class 1 licensee is not permitted to offer a tier containing only non-Canadian services.

Linkage requirements with respect to single or limited point-of-view religious services distributed as discretionary services

8. Each Canadian single or limited point-of-view religious pay or specialty service may be offered by Class 1 licensees in a package only with other Canadian single or limited point-of-view religious pay or specialty services, and with any non-Canadian religious satellite services, and all such services must be distributed as discretionary services, subject to the following linkage requirements:

a) each Canadian single or limited point-of-view religious pay service may be linked in a single discretionary tier with no more than five channels containing eligible non-Canadian religious satellite services, but in no case can a single discretionary tier, whose Canadian component consists only of single or limited point-of-view religious pay services, contain more than five channels containing eligible non-Canadian religious satellite services, regardless of the number of Canadian single or limited point-of-view religious pay services included in that tier;

b) each Canadian single or limited point-of-view religious specialty service may be linked, within a discretionary tier that may include one or more Canadian single or limited point-of-view religious services, with no more than one channel containing any of the eligible non-Canadian religious satellite services; and

c) a Class 1 licensee is not permitted to offer a tier containing only non-Canadian religious satellite services.

Rules regarding the distribution of programming services on a digital basis

9. Except as otherwise provided under a condition of its licence, where a Class 1 licensee distributes any of the following programming services, the licensee is required to distribute that service exclusively as a discretionary service on a digital basis:
 - Sport/Specials Pay-Per-View; and,
 - any other pay television, pay-per-view or specialty programming service that may be designated by the Commission for carriage exclusively as a discretionary service on a digital basis.
10. A Class 1 licensee is not permitted to distribute a Category 1 specialty programming service on a stand-alone basis unless the Category 1 service is also distributed as part of a package.
11. A Class 1 licensee is not permitted to package an Adult Category 2 programming service in such a way that subscribers are obligated to purchase the service in order to purchase any other programming service. Licensees are required to take measures to fully block the reception of both the audio and video portions of any Adult Category 2 programming service to subscribers who request that it not be receivable in their home (in either unscrambled or scrambled mode).
12. Except as otherwise provided under a condition of its licence, where a Class 1 licensee distributes any of the following programming services, the licensee is required to distribute that service exclusively as a discretionary service:
 - a) any pay television service or any television pay-per-view service offered by a pay television undertaking;

b) any satellite service as set out in the list of Part 2, Part 3 and DTH eligible satellite services for digital distribution as well as any non-Canadian religious satellite services.

Linkage requirements with respect to programming services, other than single or limited point-of-view religious services, distributed as digital discretionary services

13. Any Canadian television service that is included on the list of Part 3 eligible satellite services and that a Class 1 licensee is authorized to distribute may be linked with a second set of 4+1 U.S. network signals that the licensee is authorized to distribute provided that these signals are offered on a discretionary digital basis only.

Linkage requirements with respect to single or limited point-of-view religious services distributed as digital discretionary services

14. Any Canadian single or limited point-of-view religious programming service, and any non-Canadian religious satellite service set out in the list of Part 2, Part 3 and DTH eligible satellite services for digital distribution, may be offered on a “stand-alone” digital discretionary basis. Such services may also be offered in a package with other Canadian single or limited point-of-view religious services or with non-Canadian religious satellite services. Class 1 licensees are not permitted to offer such services in packages with any other type of Canadian or non-Canadian programming service.

Additional rules regarding the distribution of certain third-language Part 2 eligible satellite services authorized after 16 December 2004

15. For the purpose of paragraphs 16 and 17, the following definitions apply:

“general interest service” means a service that offers programming from a broad spectrum of program genres and categories.

“third language” means a language other than English or French.

“third-language service” means a service that provides at least 90% of its programming in one or more third languages. Programming that is accompanied by secondary audio programming (SAP) or subtitles in English or French does not count as third-language programming.

“principal language” means a language in which 40% or more of the programming is broadcast.

16. Any non-Canadian general interest Part 2 eligible satellite service that was added to the list of Part 2 eligible satellite services after 16 December 2004 and that provides at least 40% of its programming in the same third language as a principal language of one or more licensed general interest Category 2 services, may only be offered by Class 1

licensees where the Class 1 licensee also distributes at least one general interest Category 2 service that provides at least 40% of its programming in that language. Furthermore, any Category 2 service distributed pursuant to this requirement must be available to subscribers as part of a package with the non-Canadian general interest third-language service, but no subscriber shall be required to subscribe to that non-Canadian service in order to obtain the Category 2 service, nor shall any subscriber be required to subscribe to the Category 2 service to obtain the non-Canadian general interest Part 2 eligible satellite service.

17. In addition to the requirement in paragraph 16, any non-Canadian general interest Part 2 eligible satellite service that was added to the list of Part 2 eligible satellite services after 16 December 2004, and that provides:
- a) at least 40% of its programming in the Cantonese language, may only be offered by Class 1 licensees to subscribers that also subscribe to Fairchild Television;
 - b) at least 40% of its programming in the Italian or Spanish language, may only be offered by Class 1 licensees to subscribers that also subscribe to Teletatino;
 - c) at least 40% of its programming in the Mandarin language, may only be offered by Class 1 licensees to subscribers that also subscribe to Talentvision;
 - d) at least 40% of its programming in the Hindi language, may only be offered by Class 1 licensees to subscribers that also subscribe to South Asian Television; and
 - e) at least 40% of its programming in the Greek language, may only be offered by Class 1 licensees to subscribers that also subscribe to Odyssey.

Part II

Rules applicable to Class 2 licensees

Rules regarding the distribution of programming services on an analog basis

18. a) Except as otherwise provided under a condition of its licence, where a Class 2 licensee that operates a cable distribution undertaking in a Francophone market distributes the service of ARTV, the licensee must distribute that service on the existing discretionary tier having the largest penetration, that is, the discretionary tier that is received by the highest number of subscribers. The fee payable to the service provider shall be in the amount of \$0.55 per subscriber per month.

b) Except as otherwise provided under a condition of its licence, where a Class 2 licensee operates a multipoint distribution system (MDS) undertaking in a Francophone market, the licensee must provide the service of ARTV to any subscriber that receives, on a discretionary basis, three or more French-language specialty services. The fee payable to the service provider shall be in the amount of \$0.55 per subscriber per month.

Linkage requirements with respect to programming services, other than single or limited point-of-view religious services, distributed as discretionary services

19. The non-Canadian satellite services specified in the list of Part 2 eligible satellite services may only be offered by a Class 2 licensee in a package with Canadian pay television and/or Canadian specialty services, and such a package must be distributed on a discretionary basis, subject to the following linkage requirements:

a) 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 list of Part 2 eligible satellite services, but in no case can a licensee distribute more than five channels of non-Canadian-originated services linked with Canadian pay television services, regardless of the number of Canadian pay television services distributed by the licensee;

b) (i) 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 Section A of the list of Part 2 eligible satellite services or the non-Canadian-originated services referred to in paragraph 23 of this notice;

(ii) a Class 2 licensee may designate one of the U.S. superstations specified in Section B of the list of Part 2 eligible satellite services, and distribute the signal of that superstation within a given discretionary tier that may include one or more Canadian specialty and/or pay television services, provided that the superstation is included in a tier that is distributed on a digital basis only;

(iii) a Class 2 licensee is not permitted to link services on the list of Part 2 eligible satellite services with a Canadian specialty service distributed on the basic service; and

c) a Class 2 licensee is not permitted to offer a tier containing only non-Canadian services.

Linkage requirements with respect to single or limited point-of-view religious services distributed as discretionary services

20. Each Canadian single or limited point-of-view religious pay or specialty service may be offered by a Class 2 licensee in a package only with other Canadian single or limited point-of-view religious pay or specialty services, and with any non-Canadian religious satellite services, and all such services must be distributed as discretionary services, subject to the following linkage requirements:
- a) each Canadian single or limited point-of-view religious pay service may be linked in a single discretionary tier with no more than five channels containing eligible non-Canadian religious satellite services, but in no case can a single discretionary tier, whose Canadian component consists only of single or limited point-of-view religious pay services, contain more than five channels containing eligible non-Canadian religious satellite services, regardless of the number of Canadian single or limited point-of-view religious pay services included in that tier;
 - b) each Canadian single or limited point-of-view religious specialty service may be linked, within a discretionary tier that may include one or more Canadian single or limited point-of-view religious services, with no more than one channel containing any of the eligible non-Canadian religious satellite services; and
 - c) a Class 2 licensee is not permitted to offer a tier containing only non-Canadian religious satellite services.

Rules regarding the distribution of programming services on a digital basis

21. Where a Class 2 licensee distributes any of the Category 1 specialty programming services, the licensee will not be permitted to distribute any of these services on a stand-alone basis unless the Category 1 service is also distributed as part of a package.
22. A Class 2 licensee is not permitted to package an Adult Category 2 programming service in such a way that subscribers are obligated to purchase the service in order to purchase any other programming service. Licensees are required to take measures to fully block the reception of both the audio and video portions of any Adult Category 2 programming service to subscribers who request that it not be receivable in their home (in either unscrambled or scrambled mode).

Linkage requirements with respect to single or limited point-of-view religious services distributed as digital discretionary services

23. Any Canadian single or limited point-of-view religious programming service, and any non-Canadian religious satellite service set out in the list of Part 2, Part 3 and DTH eligible satellite services for digital distribution, may be offered on a “stand-alone”

digital discretionary basis. Such services may also be offered in a package with other Canadian single or limited point-of-view religious services or with non-Canadian religious satellite services. Class 2 licensees are not permitted to offer such services in packages with any other type of Canadian or non-Canadian programming service.

Additional rules regarding the distribution of certain third-language Part 2 eligible satellite services authorized after 16 December 2004

24. For the purpose of paragraphs 25 and 26, the following definitions apply:

“general interest service” means a service that offers programming from a broad spectrum of program genres and categories.

“third language” means a language other than English or French.

“third-language service” means a service that provides at least 90% of its programming in one or more third languages. Programming that is accompanied by secondary audio programming (SAP) or subtitles in English or French does not count as third-language programming.

“principal language” means a language in which 40% or more of the programming is broadcast.

25. Any non-Canadian general interest Part 2 eligible satellite service that was added to the list of Part 2 eligible satellite services after 16 December 2004 and that provides at least 40% of its programming in the same third language as a principal language of one or more licensed general interest Category 2 services, may only be offered by Class 2 licensees where the Class 2 licensee also distributes at least one general interest Category 2 service that provides at least 40% of its programming in that language. Furthermore, any Category 2 service distributed pursuant to this requirement must be available to subscribers as part of a package with the non-Canadian general interest third-language service, but no subscriber shall be required to subscribe to that non-Canadian service in order to obtain the Category 2 service, nor shall any subscriber be required to subscribe to the Category 2 service to obtain the non-Canadian general interest Part 2 eligible satellite service.
26. In addition to the requirement in paragraph 25, any non-Canadian general interest Part 2 eligible satellite service that was added to the list of Part 2 eligible satellite services after 16 December 2004, and that provides:
- a) at least 40% of its programming in the Cantonese language, may only be offered by Class 2 licensees to subscribers that also subscribe to Fairchild Television;
 - b) at least 40% of its programming in the Italian or Spanish language, may only be offered by Class 2 licensees to subscribers that also subscribe to Telelatino;

c) at least 40% of its programming in the Mandarin language, may only be offered by Class 2 licensees to subscribers that also subscribe to Talentvision;

d) at least 40% of its programming in the Hindi language, may only be offered by Class 2 licensees to subscribers that also subscribe to South Asian Television; and

e) at least 40% of its programming in the Greek language, may only be offered by Class 2 licensees to subscribers that also subscribe to Odyssey.

Secretary General

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