



Broadcasting Notice of Consultation CRTC 2009-49

Ottawa, 4 February 2009

Call for comments on the transition to digital broadcasting – distribution of U.S. 4+1 signals and related short-term issues

*In this public notice, the Commission calls for comments with respect to its preliminary views regarding certain distribution issues arising in the short term relating to the transition from analog to digital broadcasting, and, in particular, distribution issues arising as a result of the cessation of analog over-the-air television broadcasting in the United States early in 2009. The deadline for the receipt of comments is **6 March 2009**.*

Among other things, the Commission sets out its preliminary view as to the appropriate terms and conditions under which broadcasting distribution undertakings should be permitted to distribute down-converted versions of digital U.S. 4+1 signals.

Introduction

1. In the United States, federal law requires that, in February 2009, full-power television stations cease analog broadcasting and broadcast only digital transmissions, with minor exceptions for emergency information and for information concerning the digital transition. The television stations in question include the U.S. 4+1 signals, that is, the signals of the four main U.S. commercial networks (ABC, CBS, NBC and FOX) and the U.S. Public Broadcasting System (PBS).
2. With respect to the Canadian transition to digital over-the-air (OTA) broadcasting, in Broadcasting Public Notice 2007-53, the Commission adopted a shut-down date for analog television transmission of 31 August 2011. It stated that OTA television licences would only be issued or renewed for analog transmission until that date, and that OTA television licences would be authorized only for digital transmission after that date.
3. While longer-term issues related to the Canadian transition to digital broadcasting will be addressed in future proceedings (including upcoming television station licence renewals), the Commission considers that there is an immediate need to deal with certain issues arising in the short term, most notably, issues arising by virtue of the fact that analog U.S. 4+1 signals will not be available for distribution as of February 2009. Accordingly, in this notice of consultation, the Commission calls for comments on, among other things, its preliminary view as to the terms and conditions under which broadcasting distribution undertakings (BDUs) should be permitted to distribute down-converted versions of digital U.S. 4+1 signals. Since further proceedings are contemplated, the Commission is of the preliminary view that any rules or authorizations established as a result of this proceeding should expire as of 1 September 2011, unless explicitly extended in those further proceedings.

The Commission's preliminary views

U.S. 4+1 signals

4. Virtually without exception, Canadian BDUs make available to their subscribers at least one set of U.S. 4+1 signals, generally as part of the basic service. However, as of February 2009, analog OTA U.S. 4+1 signals will not be available for Canadian BDUs to distribute to their customers. Rather, they will be replaced by digital OTA signals. Further, the primary digital signals broadcast by these networks will contain increasing amounts of high definition (HD) programming. The Commission therefore anticipates that, at least for some period of time, BDUs will wish to provide down-converted versions of the U.S. 4+1 signals to analog subscribers and to digital subscribers that do not have HD set-top boxes.
5. Accordingly, for those BDUs wishing to continue to make even a first set of U.S. 4+1 signals available, there will be a need for them either to obtain analog or standard definition (SD) versions of these signals by some alternative means or to down-convert the signals themselves for distribution to analog subscribers and/or to digital subscribers who do not have HD set-top boxes.
6. In this regard, the Commission notes the possibility that U.S. broadcasters may elect to use part of their available digital bandwidth to broadcast SD digital versions of their signals in addition to the primary HD version (i.e., via "multi-casting"). Alternatively, the possibility exists that Canadian BDUs could obtain SD versions of primary HD signals via direct feed from the U.S. broadcasters. BDUs could then distribute SD versions to any digital subscribers who have not as yet upgraded to an HD set-top box. Further, given that the aspect ratio of SD and analog signals is the same, cable BDUs could readily down-convert these SD signals to analog for distribution to their analog subscribers.
7. The Commission notes that the current authorities it has granted to BDUs to distribute U.S. 4+1 signals do not fully contemplate the distribution of signals as described above. Accordingly, in order to ensure that service to subscribers is not disrupted, the Commission is of the preliminary view that it would be appropriate to grant BDUs a general authorization to distribute any SD versions of the primary HD U.S. 4+1 signals that may be made available via the use of multi-cast technology or any SD or analog versions that might be made available via direct feed.
8. With respect to the first set of U.S. 4+1 signals distributed by a BDU, the Commission therefore proposes to:
 - authorize BDUs to distribute any SD version of a primary digital U.S. 4+1 signal that may be provided by the U.S. broadcaster, for example, by "multi-cast" or by direct feed, or any analog version that may be made available by direct feed. Such distribution would be subject to all the rules otherwise applicable to the distribution of these signals;

- authorize cable BDUs to down-convert any SD version that may be provided by the U.S. broadcaster to analog for distribution to analog subscribers; and
 - where the U.S. broadcaster does not provide an SD version, authorize BDUs to down-convert the OTA HD signal to SD and/or to analog themselves, for distribution to SD digital and analog subscribers, respectively.
9. With respect to BDUs that have been authorized to provide a second set of U.S. 4+1 signals to subscribers, as first set out in Decision 2000-437,¹ the Commission is also of the preliminary view that it would be appropriate to authorize the distribution of down-converted SD versions of these additional U.S. 4+1 signals that may be provided by U.S. broadcasters, and the down-conversion of such signals from HD to SD where the broadcasters do not themselves make down-converted versions available. Distribution of such signals would, within the time frame contemplated by this notice, be subject to the existing requirements for program deletion or such alternatives as may be established.
10. The Commission proposes that the above authorizations be subject to the further terms and conditions set out later in this public notice.

Canadian OTA signals

11. The Commission has received a request, dated 17 September 2008, from Quebecor Media Inc. (QMI) asking that it clarify aspects of its rules with respect to (among other things) the distribution and simultaneous substitution of digital-only OTA television stations, such as QMI's SUN-TV Ottawa signal, in the period leading up to the end of August 2011. QMI's request is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
12. Prior to the Commission's announcement of the mandatory analog shut-down, QMI was authorized to operate a digital and an analog television transmitter rebroadcasting SUN TV Toronto, in the Ottawa area. With the announcement of the analog shut-down, QMI decided that it would not construct the analog transmitter. QMI has requested that the Commission clarify whether it would nonetheless be entitled to analog distribution until the end of August 2011.
13. QMI submitted that the *Broadcasting Distribution Regulations* (the Regulations) do not discriminate between analog and digital local television stations. Thus, any local television station is a priority for terrestrial BDUs, whether the station broadcasts in the digital or the analog format.
14. QMI anticipated that many BDUs will continue to distribute down-converted versions of U.S. 4+1 signals past early 2009, and that they will likely want to offer at least some services on an analog basis even past August 2011.

¹ For the comparable authority for direct-to-home undertakings, see (for example) Decision 98-501.

15. QMI argued that, between early 2009 and 1 September 2011, U.S. television stations will be broadcasting in digital, while most Canadian stations will still broadcast in the analog mode. It submitted that down-converted digital signals are often of better quality than analog signals, and asked whether the Canadian signals would be entitled to simultaneous substitution, or whether substitution requests could be denied on the basis that substitution should not degrade signal quality.²
16. With regard to QMI's submission that the Regulations do not distinguish between digital and analog OTA signals, the Commission's digital OTA framework, issued prior to the announcement of the Canadian analog shut-down, did not contemplate that digital OTA television stations would be distributed on an analog basis. In the Commission's view, there is no reason to depart from that policy to the extent of imposing a general requirement that BDUs provide analog distribution of digital OTA signals. However, the Commission's preliminary view is that it would be appropriate to authorize such analog distribution, and to require it in some circumstances, for example, if the BDU is distributing other Canadian or non-Canadian signals on a down-converted basis.
17. In light of the above, the Commission is of the preliminary view that Canadian OTA broadcasters airing digital-only signals with HD content should be given a general authorization to provide distributors with an analog and/or SD version by direct feed. Further, distributors should be authorized to provide such versions, respectively, to analog subscribers or to digital subscribers with set-top boxes that are not capable of processing HD signals.
18. The Commission therefore proposes to:
 - authorize licensed OTA broadcasters airing digital-only signals (i.e., where there is no equivalent analog transmitter) to provide distributors, by direct feed, with analog versions, or, when the OTA signal has HD content, with SD and/or analog versions;
 - authorize BDUs to provide such versions to their SD digital or analog subscribers; and
 - where an SD or analog version is not provided by the broadcaster, authorize BDUs to perform the down-conversions themselves, either to SD digital or analog, and to distribute those down-converted signals to their subscribers, provided that they have the consent of the broadcaster to do so.

² The general policy with respect to HD substitutions is that substitution will only be permitted when the signal to be substituted is of a quality equal to or greater than the signal being replaced.

19. In the Commission's preliminary view, the authorization for broadcasters to provide down-converted signals, or to consent to down-conversion by a BDU, should be subject to the proviso that they will be provided to distributors on a non-discriminatory basis. The Commission proposes that these authorizations be subject to the further terms and conditions set out below.

Further terms and conditions

20. The Commission is of the preliminary view that the authorizations described above should also be subject to the following terms and conditions.
- BDUs that have a digital offering would also be required to distribute the primary digital OTA signal as transmitted by the broadcaster.
 - If a terrestrial BDU elects to distribute any authorized digital-only OTA signal on a down-converted basis, it must distribute all Canadian digital-only signals in a similar fashion on a non-discriminatory basis (unless a particular broadcaster indicates to the BDU that it does not want its signal distributed on a down-converted basis). If a terrestrial BDU does not distribute down-converted versions of a second set of U.S. 4+1 signals, it would not be obliged to distribute down-converted versions of any distant Canadian digital-only OTA signals offered under the same authority (e.g., as first set out in Decision 2000-437).
 - Broadcasters would be permitted to request, and BDUs required to perform, simultaneous substitution of a Canadian OTA analog signal over a down-converted analog version of a U.S. 4+1 signal, and of an analog or SD version of a Canadian digital-only signal over an analog or SD version, respectively, of a U.S. 4+1 signal, in accordance with the rules and priorities generally applicable to simultaneous substitution.

Call for comments

21. The Commission invites comments that address the preliminary views set out above, or any other related short term issues raised by its proposals. The Commission will accept comments that it receives on or before **6 March 2009**.
22. 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

23. Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
[Broadcasting Intervention/Comments Form](#)

OR

- **by mail to**
CRTC, Ottawa, Ontario K1A 0N2

OR

- **by fax at**
819-994-0218

24. Submissions longer than five pages should include a summary.

25. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

26. Note that all information that you 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 your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.

27. The personal information you 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.

28. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as you send them, 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.

29. Please note that the information you 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 webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.
30. 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 public comments and related documents at the following Commission offices during normal business hours

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

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

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec K1A 0N2
Tel.: 819-997-2429
Fax: 819-994-0218

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

Kensington Building
275 Portage Avenue
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Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306
TDD: 204-983-8274
Fax: 204-983-6317

Cornwall Professional Building
2125 - 11th Avenue
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10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
Tel.: 604-666-2111
TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

Related documents

- *Regulatory frameworks for broadcasting distribution undertakings and for discretionary programming services* – Regulatory Policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007
- *Carriage of Canadian and U.S. 4+1 signals on a digital basis*, Decision CRTC 2000-437, 8 November 2000
- Decision CRTC 98-501, 23 November 1998

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>.