



Broadcasting Regulatory Policy CRTC 2011-399

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List of non-Canadian programming services authorized for distribution

The Commission replaces its current lists of eligible satellite services with a simplified, consolidated list to be known as the List of non-Canadian programming services authorized for distribution. The list, which is appended to this regulatory policy, will come into effect on 1 September 2011. It is also available on the Commission's website at www.crtc.gc.ca under "Broadcasting Sector."

Introduction

1. In Broadcasting Public Notice 2008-100, the Commission announced its intention to simplify and consolidate the lists of eligible satellite services (the lists) in a single list of services authorized for analog and digital distribution by all broadcasting distribution undertakings (BDUs).
2. Accordingly, the Commission issued Broadcasting Notice of Consultation 2011-65 in which it called for comments on a proposed consolidated list. Specifically, the Commission proposed to combine the different sections, appendices and parts of the lists, resulting in one list of non-Canadian services authorized for distribution by all Canadian distributors, regardless of their size or the technology used to distribute signals.
3. Broadcasting Notice of Consultation 2011-65 also proposed the following changes that would be incorporated in the consolidated list:
 - removal of references to Canadian services, including satellite-to-cable services; and
 - harmonization of the rights requirements for non-Canadian services.
4. Historically, the inclusion of Canadian services on the lists has served as an authorization for their distribution by BDUs. In Broadcasting Notice of Consultation 2011-65, the Commission announced its intention to authorize the distribution of the majority of these Canadian services by way of the revised *Broadcasting Distribution Regulations* (the revised Regulations) issued for public comment in Broadcasting Notice of Consultation 2010-931. The revised Regulations would not, however, include an authorization for the distribution of certain satellite-to-cable services. Therefore, in order to maintain the authority to distribute satellite-to-cable services,

the Commission proposed to add the following authorization to the list of general authorizations for terrestrial and direct-to-home (DTH) BDUs.¹

The licensee is authorized to distribute the signal of any satellite-to-cable service.

5. The Commission received comments in response to Broadcasting Notice of Consultation 2011-65 from the Coalition of Small Market Independent Television Stations (SMITS), Rogers Communications Partnership (Rogers), CBC/Radio-Canada, Bell Canada (Bell) as well as from an individual who did not address matters directly related to the lists. The comments can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

6. After examining the comments, the Commission finds that the issues to be determined are as follows:
 - Does the consolidated list permit the distribution of an unlimited number of U.S. 4+1 signals?²
 - Does elimination of references to Canadian signals in the consolidated list eliminate the authority that allows certain BDUs to distribute such signals?
 - Is the proposed name for the consolidated list appropriate?

Does the consolidated list permit the distribution of an unlimited number of U.S 4+1 signals?

Positions of parties

7. The SMITS argued that the proposed changes to the lists, combined with the absence of explicit provisions in the revised Regulations³ limiting a distributor to no more than two sets of U.S. 4+1 signals, could be interpreted as authorizing a DTH BDU to provide a subscriber with an unlimited number of U.S. 4+1 signals. The SMITS suggested incorporating an explicit limitation on the number of sets of U.S. 4+1 signals that may be distributed in the revised Regulations.

Commission's determinations

8. The Commission notes that the limitation allowing distribution of a maximum of two sets of U.S. 4+1 signals is present in the current lists and will be maintained in

¹ The list of general authorizations for broadcasting distribution undertakings is available on the Commission's website at www.crtc.gc.ca under "Broadcasting sector" and "Distribution."

² The term "U.S. 4+1 signals" refers to a set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network.

³ See Broadcasting Notice of Consultation 2010-931.

the new consolidated list. However, to ensure that this limitation is clear, the Commission is amending the language of the notes originally proposed in Broadcasting Notice of Consultation 2011-65. The Commission reminds parties that the notes, which are found at the end of the list, form an integral part of the authorization to distribute services set out in the list. Accordingly, all BDUs, including DTH BDUs, may distribute no more than two sets of U.S. 4+1 signals, unless otherwise authorized by the Commission.

Does elimination of references to Canadian signals in the consolidated list eliminate the authority that allows certain BDUs to distribute such signals?

Positions of parties

9. Rogers argued that removing all references to Canadian signals in the consolidated list would eliminate the authority that Class 3 licensees have to distribute any over-the-air (OTA) television stations operating in Canada. This would deprive customers of the ability to receive distant Canadian television signals. Rogers further submitted that this proposal could prevent exempt BDUs from distributing distant Canadian signals since they rely on an authorization to carry any service that is authorized for distribution by the Commission. In order to avoid these consequences, Rogers recommended that the Commission add a new part to the revised Regulations that would apply only to terrestrial BDUs with fewer than 20,000 subscribers and revise the *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*⁴ to specifically authorize exempt BDUs to distribute any OTA television station operating in Canada.
10. CBC/Radio-Canada supported the Commission's proposal to remove all references to Canadian OTA television stations from the lists, submitting that this approach would help to avoid inconsistencies with the distant signals carriage framework, while providing clarity for BDUs.

Commission's determinations

11. The Commission considers that Rogers' argument that the removal of all references to Canadian services in the consolidated list would have the effect of eliminating the authority that Class 3 licensees currently rely on to distribute OTA television stations is incorrect. Former Class 3 BDUs will continue to have authority to distribute distant Canadian OTA television stations provided that they comply with the new regulatory framework set out in Broadcasting Public Notice 2008-100.⁵
12. As announced in Broadcasting Public Notice 2008-100, the Commission will introduce, with the revised Regulations, a single class of licence for BDUs that are

⁴ See Broadcasting Order 2009-544.

⁵ The new regulatory framework will be implemented with the Commission's determinations in the proceeding initiated by Broadcasting Notice of Consultation 2010-931. These determinations will be published prior to the implementation date of 1 September 2011.

not eligible for exemption. Consequently, the former Class 3 licensees will be either exempt or will operate within the single class of licensed BDUs. BDUs that remain licensed will be authorized under the revised Regulations to offer distant Canadian signals.

13. With respect to exempt BDUs and Rogers' suggestion to revise the *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers* to specifically authorize an exempt BDU to distribute any OTA television station operating in Canada, the Commission notes that exempt BDUs are already permitted to distribute such services, by virtue of section 13(a) of the above-noted exemption order. This section authorizes exempt BDUs to distribute any service that the Commission has authorized for distribution by any other BDU anywhere in Canada. In light of this, the Commission considers that it is unnecessary to revise the *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*.

Is the proposed name for the consolidated list appropriate?

14. In Broadcasting Notice of Consultation 2011-65, the Commission proposed that the consolidated list be called the *List of eligible satellite services*.

Positions of parties

15. Bell suggested that the Commission modify the name of this list, arguing that the use of the word "satellite" was unnecessary and confusing since nothing requires BDUs to receive these services via satellite. Bell submitted that renaming the list the "List of eligible non-Canadian services" would prevent members of the public from confusing the services on the list with services eligible for distribution in Canada by a licensed DTH BDU or satellite relay distribution undertaking (SRDU).

Commission's determinations

16. The Commission agrees that the word "satellite" in the name is unnecessary and could lead to confusion. Accordingly, the Commission will refer to the consolidated list as the *List of non-Canadian programming services authorized for distribution*.

Conclusion

17. In light of all of the above, the Commission replaces its current lists of eligible satellite services with a simplified, consolidated list to be known as the *List of non-Canadian programming services authorized for distribution*. The list, which is appended to this regulatory policy, will come into effect on 1 September 2011. The Commission will update the list to reflect the Commission's determinations in the proceeding initiated by Broadcasting Notice of Consultation 2010-931, should these determinations have an impact on the specific sections of the *Broadcasting Distribution Regulations* referenced in the list. The *List of non-Canadian programming services authorized for distribution* is also available on the

Commission's website at www.crtc.gc.ca under "Broadcasting Sector" and may be obtained in hard copy on request.

18. In Broadcasting Notice of Consultation 2011-65, the Commission stated that it would add an authorization to the list of general authorizations for terrestrial and DTH BDUs set out in Broadcasting Regulatory Policy 2010-840 (List of general authorizations) to permit the distribution of satellite-to-cable services. However, the Commission notes that the List of non-Canadian programming services authorized for distribution will only come into effect 1 September 2011. Accordingly, BDUs continue to be authorized to distribute satellite-to-cable programming services by virtue of their inclusion in the current *Lists of eligible satellite services* until 31 August 2011. The Commission intends to add an authorization to distribute satellite-to-cable programming services to the *List of general authorizations* on or before 1 September 2011.
19. The Commission reiterates that the adoption of the *List of non-Canadian programming services authorized for distribution* is not intended to result in changes to the authorization to distribute Canadian services by BDUs, aside from those specifically identified in Broadcasting Public Notice 2008-100 and included in the revised Regulations. Beginning 1 September 2011, BDUs will be authorized to distribute these Canadian services through other regulatory means, such as the *List of general authorizations* or the revised Regulations.
20. As is the case with the current lists, the Commission will maintain up-to-date versions of the *List of non-Canadian programming services authorized for distribution* on its website at www.crtc.gc.ca under "Broadcasting Sector." The Commission will periodically issue regulatory policies setting out a revised list that includes references to all amendments that have been made since the previous regulatory policy setting out the list that was issued.

Secretary General

Related documents

- *Call for comments on a consolidated list of eligible satellite services*, Broadcasting Notice of Consultation CRTC 2011-65, 2 February 2011
- *Call for comments on amendments to the Broadcasting Distribution Regulations*, Broadcasting Notice of Consultation CRTC 2010-931, 10 December 2010
- *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2009-544, 31 August 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008

Appendix to Broadcasting Regulatory Policy CRTC 2011-399

List of non-Canadian programming services authorized for distribution

The notes located at the end of the list form an integral part of the authorization

WCVB-TV Boston/WKBW-TV Buffalo/WVNY Burlington/ ABC
WXYZ-TV Detroit/WJET-TV Erie/KSTP-TV Minneapolis/
KXLY-TV Spokane/KOMO-TV Seattle

WBZ-TV Boston/WIVB-TV Buffalo/WCAX-TV Burlington/ CBS
WSEE Erie/WTOL-TV Toledo/WCCO-TV Minneapolis/
KREM-TV Spokane/KIRO-TV Seattle/WWJ-TV Detroit

WHDH-TV Boston/WGRZ-TV Buffalo/WPTZ Burlington/ NBC
WDIV Detroit/WICU-TV Erie/KARE Minneapolis/
KHQ-TV Spokane/KING-TV Seattle

WUTV Buffalo/WFFF-TV Burlington/WFTC Minneapolis/ FOX
WUHF Rochester/KAYU-TV Spokane/KCPQ Tacoma/
WFXT Boston

WGBH-TV Boston/WNED-TV Buffalo/WETK Burlington/ PBS
WTVS Detroit/WQLN Erie/KSPS-TV Spokane/KCTS-TV Seattle

KSTW (IND) Tacoma/Seattle

KTLA Los Angeles

KWGN-TV Denver

WGN-TV Chicago

WPCH-TV Atlanta

WPIX New York City

WSBK-TV Boston

WUAB-TV (IND) Cleveland

WWOR-TV New York City

Aaj Tak Channel

Aastha Bhajan

Al Arabiya News Channel

Al Jazeera*

Al Jazeera English

American Movie Classics
Ariana Television
ART America
ART Movies
The Arts and Entertainment Network (A&E)
ATV Home Channel (America)
Azteca 13 International
Baby TV
BabyFirstTV
BBC World
Beijing TV
Benfica TV
Big Ten Network
Black Entertainment Television (BET)
Bloomberg Television
Bridges TV
BVN-TV
Cable News Network (CNN)
Cable Satellite Public Affairs Network (C-Span)
Canal 52 MX
Canal de las Estrellas Latinoamérica
Canal SUR
Caracol Television International
CaribVision
CBS College Sports Network
CCTV-4
CCTV Entertainment Channel

Channel-i
Channel One Russia Worldwide TV
Channel [V] Taiwan
China Yellow River Television Station
CineLatino
CNN Headline News (CNN-2)
CNN International
Comedy Central
Consumer News and Business Channel (CNBC)
Court TV
Cubavision Internacional
Dandana TV
De Pelicula Channel
Deutsche Welle
Dragon TV
El Gourmet.com
ET-Global Channel
Eternal Word Television Network
ETV Bangla
Eurochannel
EuroNews
Eurosportnews
The Filipino Channel
Fox Business Network
Fox News
France 24 (English)
France 24 (French)

Future Television Channel
Game Show Network
GEO TV
German Kino Plus
German TV
GMA Life TV
GMA Pinoy TV
The Golf Channel
Grandes Documentales de TVE
HDNet
Headlines Today Channel
HTV
Horizon Channel
Hunan Satellite TV
Indus Music
Indus Vision
ITVN
Jewish Life Television
Jiangsu International TV Channel
KTO
LBC America
The Learning Channel
Lifetime Television
LUXE.TV
MBC Channel (America)
Mezzo
Military Channel

MSNBC

Muslim Television Ahmadiyya

MyZen.TV

NASA Television

NDTV GOOD TIMES

Network TEN (Australia)

NEW SAT

New Tang Dynasty Television (NTDTV)

NFL Network

NTV Bangla

Oxygen Network

Paris-Première

Phoenix InfoNews Channel

Phoenix North American Chinese Channel (PNACC)

Planète

Planète Thalassa

Playboy TV**

Polsat 2 International

Premiere Futebole Clube (PFC)

ProSiebenSat.1 Welt

PTV-Prime USA

Radio-France outre-mer (RFO1)

Radio Television Portugal International (RTPi)

RAI International 2

Ritmoson Latino Channel

Romanian Television International (RTVI)

RTR-Planeta TV

RTV

RTV Palma

Russia Today

Sahara One

The Satellite Channel of Southern Television Guandong

The Silent Network (Kaleidoscope)

Sony Entertainment Television Asia (SET Asia)

Sony Max

Southeast TV Station

Speed Channel

Spike TV

Star Chinese Channel

Star Chinese Movies 2

Star India Gold

Star India News Channel

Star India One Channel

Star India Plus

Sun TV

Supercanal Caribe

TELEFE Internacional

TL Novelas Channel

TRACE TV

TV Asia

TV Chile

TVColombia

TV Globo Internacional

TV Japan

TV Land

TV Polonia

TVE Internacional

TV3 Republic of Ireland

TV3 Television Network (New Zealand)

TV4 Television Network (New Zealand)

Turner Classic Movies

Utilisima

Vijay Channel

The Weather Channel (TWC)

WMNB-TV: Russian-American Broadcasting Company

Notes specific to particular services

- * On the condition that the licensee has a condition of licence governing the distribution of Al Jazeera
- ** Playboy TV is only authorized for distribution at the specific request of a subscriber. Distributors are not permitted to package Playboy TV in such a way that subscribers are obligated to purchase Playboy TV in order to purchase any other programming service. Distributors are required to take measures to fully block the reception of both the audio and video portions of Playboy TV to subscribers that request it not be receivable in their home (in either unscrambled or scrambled analog form).

General notes

Authorization for the services on this list is subject to the following:

- Providers of these foreign services must have obtained and must remain in possession of all necessary rights for the distribution of their programming in Canada.
- Providers of these foreign services must not hold, nor try to obtain, nor exercise, preferential or exclusive programming rights in relation to the distribution of programming in Canada.
- Licensees are permitted to distribute to their subscribers no more than two sets of U.S. commercial and non-commercial stations, unless otherwise authorized by the

Commission. Specifically,

- o licensees not already authorized to distribute to their subscribers a set of U.S. commercial stations affiliated with ABC, CBS, NBC and/or Fox and a U.S. non-commercial station affiliated with PBS pursuant to section 20 or 48 of the Regulations,ⁱ may distribute to their subscribers two sets of such stations taken from this list.

- o licensees distributing to their subscribers one set of U.S commercial stations affiliated with ABC, CBS, NBC and/or Fox and a U.S. non-commercial station affiliated with PBS pursuant to section 20 or 48 of the Regulations may distribute to their subscribers one additional set of such stations taken from this list. Licensees distributing to their subscribers two or more sets of U.S commercial stations affiliated with ABC, CBS, NBC and/or Fox and U.S. non-commercial stations affiliated with PBS pursuant to section 20 or 48 of the Regulations may not distribute an additional set of such signals taken from this list unless otherwise authorized by the Commission.

ⁱ In this paragraph and in the paragraph that follows, the references to section numbers are as proposed in Broadcasting Notice of Consultation 2010-931. However, these section numbers are subject to change when the Commission has finalized and issued the amended *Broadcasting Distribution Regulations*.