



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

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November 20, 2006

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Ms. Rhéaume:

Re: Broadcasting Public Notice CRTC 2006-136 *Call for comments on proposed amendments to the Commission's policy on the distribution of previews, and to its regulations regarding the use of promotional channels by broadcasting distribution undertakings* (PN 2006-136)

1. The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view television services. The CAB is pleased to respond to the above-noted call for comments on the distribution of previews and the use of barker channels by broadcasting distribution undertakings (BDUs).

Policy re distribution of previews

2. The CAB endorses the Commission's confirmation that its current policy on the distribution of previews, as set out in Public Notice CRTC 1998-73, also encompasses Canadian Category 1 and Category 2 digital services. Licensed diginets should be able to benefit from the offering of free previews by BDUs under the same policy that has applied for several years to all other licensed specialty and pay services.

3. Furthermore, the CAB has no objection to the Commission's view that it would be appropriate to permit previews of authorized non-Canadian services originating from countries other than the United States. The Commission's current policy on previews of non-Canadian services pertains only to U.S.-originated satellite services, and the proposed change would place non-Canadian services originating from other countries on the same footing.
4. The CAB notes that the Commission's proposed amendment to the preview policy could also benefit licensed third-language Canadian services that are linked to non-Canadian, non-U.S.-originated services by way of the Commission's "buy-through" rules.

Use of promotional channels by BDUs

5. In PN 2006-136, the Commission has also called for comment on whether it should permit previews of entire programs or services on the promotional channels authorized by sections 19(n), 33(k) and 39(f) of the *Broadcasting Distribution Regulations*. These channels, commonly referred to as barker channels, are currently limited to the distribution of promotional programming such as clips and trailers not exceeding 10 minutes in length.
6. The CAB acknowledges that there may be merit in providing a degree of flexibility with respect to the nature of promotional content of BDU barker channels, particularly those barker channels that are distributed on analog cable channels. In situations where there is no other analog capacity available for previews of digital services, for example, a limited use of an analog barker channel for long-form previews could provide subscribers with an opportunity they might not otherwise have to sample new services. This would help boost penetration of Canadian specialty and pay services, including those distributed on a digital-only basis, to the ultimate benefit of those services.
7. At the same time, however, the CAB believes that it would be appropriate to maintain certain restrictions on the use of an analog barker channel for the distribution of previews, in order to ensure that it does not lose its focus as a promotional tool for all programming services.
8. Accordingly, the CAB recommends a balanced approach respecting use of the scarce analog capacity represented by traditional barker channels that provides an opportunity for subscribers to sample new Canadian services while maintaining the central role of the barker channel in promoting all programming services.

9. The key elements of the CAB's recommended approach are as follows:
- Permit long-form previews of licensed Canadian specialty and pay services, including Category 1 and Category 2 digital services, on analog cable barker channels in circumstances where there is no other analog special programming channel or otherwise unused analog capacity available for that purpose. The scarce analog capacity occupied by a barker channel should not be used for previews of non-Canadian services, in keeping with the fundamental principle of giving priority to the distribution of Canadian services. Non-Canadian services can still be previewed on the digital platform in keeping with existing Commission policy.
 - The BDU must obtain the prior written consent of the programming service in question as to the terms of distribution of the preview.
 - BDUs would be required to provide access and terms of distribution of previews on the barker channel on a fair and non-discriminatory basis to all licensed Canadian specialty and pay services, including Category 1 and Category 2 digital services. This provision would also safeguard against potential preferential treatment of BDU-affiliated programming services.
 - A maximum of 50% of the time allotted to an analog barker channel in any given week could be used for the distribution of previews. This ensures that the barker channel is available for the majority of the time to continue to fulfill its primary objective as a vehicle to promote all programming services distributed by a BDU.
 - All relevant criteria of the Commission's current policy on the distribution of previews, as detailed in Public Notice CRTC 1998-73, would also apply to any previews distributed on an analog barker channel. Specifically:
 - no preview may be distributed during major national broadcasting rating periods, with the exception of a preview accompanying the initial launch of a newly licensed service;
 - programming distributed during the preview periods may only consist of the real-time programs that are part of the programming services actually offered to subscribers; and
 - the scheduling and content of previews must meet the same rules and standards that currently apply to conventional broadcasters.
10. Finally, the CAB emphasizes that any increased flexibility provided to cable BDUs with respect to the provision of previews must not be used as an excuse to add a new analog barker channel, thereby causing the displacement or premature migration of Canadian services.

11. The CAB submits that this approach to the use of barker channels makes effective use of scarce analog capacity on cable BDUs while balancing the interests of all Canadian programming services, and is therefore in the public interest.
12. The CAB appreciates the opportunity to submit these comments.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Glenn O'Farrell". The signature is fluid and cursive, with the first name "Glenn" and last name "O'Farrell" clearly distinguishable.

Glenn O'Farrell
President & CEO

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