



## Broadcasting and Telecom Regulatory Policy CRTC 2009-430

Route reference: Broadcasting Notice of Public Hearing 2008-8 / Telecom Public Notice 2008-8

File number: 8665-C12-200807943

Ottawa, 21 July 2009

### Accessibility of telecommunications and broadcasting services

*In this Regulatory Policy, which addresses unresolved issues related to the accessibility of telecommunications and broadcasting services to persons with disabilities, the Commission*

- *requires telecommunications service providers to provide a new relay service – Internet Protocol Relay Service.*
- *initiates further investigation into possible improvements to emergency 9-1-1 service, including text messaging to 9-1-1.*
- *requests that wireless service providers, in consultation with persons with disabilities, offer at least one type of wireless mobile handset to serve the needs of people who are blind and/or have moderate-to-severe mobility or cognitive disabilities, noting that it will consider imposing such a requirement in the future if necessary.*
- *requires telecommunications service providers and broadcasting distribution undertakings to improve the accessibility of the information, service and support they offer to Canadians.*
- *directs television broadcasters to improve and control the quality of closed captioning, including in digital formats. It intends to impose conditions of licence in these areas at the broadcasters' licence renewals.*
- *intends to require additional television broadcasters to provide described video through conditions of licence imposed at their licence renewals. The Commission also sets out various measures designed to increase the awareness and accessibility of described video.*
- *intends to require television broadcasters to provide high-quality audio description through conditions of licence to be imposed at the time of their licence renewals.*
- *notes that, under its revised approach for closed captioning and described video, French-language broadcasters will now have the same requirements to provide these services as English-language broadcasters.*

## Introduction

1. In previous decisions and policy statements, the Commission has addressed the telecommunications and broadcasting needs of persons with disabilities. With Broadcasting Notice of Public Hearing 2008-8/Telecom Public Notice 2008-8, the Commission initiated a converged telecommunications and broadcasting proceeding to address unresolved issues related to the accessibility of those services to persons with disabilities. The proceeding included a public hearing in the National Capital Region, which began on 17 November 2008. The record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

## Issues

2. The Commission has taken into consideration all submissions made during this proceeding and determines that the following is the key issue to be addressed in this Regulatory Policy.

How can the Commission improve, where appropriate, its established determinations on the accessibility of

- relay services (operator-assisted services that enable Canadians with hearing and speech disabilities to place and receive telephone calls);
- emergency telecommunications services;
- mobile wireless services;
- customer information, service and support;
- closed captioning (the audio component of a television program in textual form); and
- described video and audio description (an audio narrative of a television program's key visual elements)?

## Legal framework

3. As a regulatory tribunal, the Commission must exercise its powers to implement the policy objectives set out in the *Broadcasting Act* and the *Telecommunications Act*. The Commission must also act in a manner that is consistent with the *Canadian Charter of Rights and Freedoms*.
4. Given the breadth of the broadcasting and telecommunications policy objectives contained in section 3 of the *Broadcasting Act* and section 7 of the *Telecommunications Act* and the directions contained in section 5 of the *Broadcasting Act* and section 47 of the *Telecommunications Act*, regulation of the broadcasting and telecommunications systems necessarily involves the balancing of competing objectives.

5. Thus, in assessing the reasonableness of the accommodations proposed in this proceeding, the Commission has considered the extent to which resources are available in the context of paragraph 3(1)(p) of the *Broadcasting Act* and whether or not discrimination in the provision of or the charging of a rate for a telecommunications service is “unjust” within the meaning of subsection 27(2) of the *Telecommunications Act*.
6. The Commission has done so within the broader policy framework imposed by the governing legislation and, in the case of telecommunications, with reference to the *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*<sup>1</sup> (the Policy Direction). In considering whether or not the proposed accommodations are reasonable, the Commission has also utilized leading Canadian human rights principles that recognize that equality is a fundamental value and central component of the public interest.

#### **Policy Direction analysis of telecommunications determinations**

7. As required under section 47 of the *Telecommunications Act*, the Commission must exercise its powers in accordance with any policy direction from the Governor in Council. The Policy Direction requires the Commission to implement the policy objectives in the *Telecommunications Act* in accordance with specific terms and criteria, including the reliance on market forces to the maximum extent feasible.
8. In all cases in this Regulatory Policy where the Commission has imposed regulatory requirements on telecommunications service providers (TSPs), it has done so where market forces cannot be relied upon to achieve the telecommunications policy objectives. In this regard the Commission considers that persons with disabilities generally are not able to influence the market sufficiently to obtain accessible telecommunications products and services. Where it has imposed regulatory requirements, the Commission has used measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.
9. The Commission considers that the policy objectives set out in paragraphs 7(a), 7(b), 7(c), 7(g) and 7(h) of the *Telecommunications Act* are advanced by the telecommunications regulatory measures imposed in this regulatory policy.
10. The Commission has imposed the regulatory measures set out in this Regulatory Policy in a symmetrical and competitively neutral manner to the greatest extent possible.

#### **Relay services**

11. In previous decisions, the Commission has established a policy framework that recognizes the telecommunications needs of persons with hearing and speech disabilities. The Commission determined that Canadians with hearing and speech disabilities should have the same ability as other users of telephone services to communicate using such services. It also noted that relay services provide persons with hearing or speech disabilities with the technical means<sup>2</sup> to communicate via a telephone call with other subscribers. Accordingly, the Commission required TSPs to provide relay service to their telephony customers – 24 hours a day, seven days a week.

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<sup>1</sup> P.C. 2006-1534, 14 December 2006

<sup>2</sup> The “technical means” is the provision of the relay operator – a third party in a call between a person with and a person without a hearing or speech disability who transmits information back and forth (i.e. “relays” information) between the caller and the person called.

12. The obligation to provide relay service originally applied to incumbent local exchange carriers (ILECs) and, in a series of decisions,<sup>3</sup> was extended to all local exchange carriers (LECs), including small ILECs (SILECs) and competitive local exchange carriers (CLECs), including wireless CLECs, resellers of local exchange services, and fixed and nomadic voice over Internet Protocol (VoIP) providers. These TSPs meet the obligation to provide relay service by providing the operator service in-house or by outsourcing the service to another provider (e.g. the local ILEC).
13. Several forms of relay services are available internationally, including Teletypewriter Relay Service (TTY Relay),<sup>4</sup> Internet Protocol Relay Service (IP Relay), and Video Relay Service (Video Relay). Detailed descriptions of these services are set out in Appendix 1 to this Regulatory Policy. From the perspective of a person with a hearing or speech disability, the key difference between types of relay services is the method of communicating with the operator: TTY Relay and IP Relay are text-based services and Video Relay is a sign language-based service.
14. At present, the Commission's requirement on TSPs to provide relay service applies to TTY Relay exclusively. Parties to this proceeding representing the interests of persons with hearing and speech disabilities submitted that due to the limitations and obsolescence of teletypewriter (TTY) technology, the provision of TTY Relay alone is no longer the best method for persons with hearing and speech disabilities to access telephone services. These parties submitted that IP Relay and Video Relay offer significant improvements over TTY Relay and requested that the Commission require TSPs to also provide IP Relay and/or Video Relay.

#### **IP Relay**

15. In all relay calls, the relay operator is an intermediary between the caller and the intended recipient of the call who transmits messages back and forth. In a TTY relay call, the relay operator transmits messages via TTY-based text conversation with a person with a hearing or speech disability and via voice conversation with a person without such a disability.
16. In an IP Relay call, the relay operator transmits messages via Internet Protocol (IP)-based text conversation with a person with a hearing or speech disability and via voice conversation with a person without such a disability. The person with a hearing or speech disability communicates using text with the relay operator via the Internet and accesses the IP Relay service through the IP Relay provider's Web page or an Instant Messaging application using IP-based text messaging supported on a web-enabled device (mobile wireless phone, smartphone, web-capable telephone, etc.).<sup>5</sup>

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<sup>3</sup> In Telecom Decision 1985-29, the Commission required a TSP to provide relay service to its customers in its serving territory and extended this obligation to the other ILECs in subsequent decisions. In Telecom Decision 1997-8, the Commission required all LECs (ILECs, SILECs, and CLECs) to provide relay service and extended this obligation to wireless CLECs in Telecom Order 98-1. In Telecom Decision 2005-28, the Commission required all VoIP providers (fixed and nomadic) to provide relay service. The Commission notes that resellers providing local exchange services are required to meet certain of the service requirements that the Commission imposes on LECs, including relay service, by virtue of the underlying LEC's obligations, as set out in Telecom Decision 1997-8.

<sup>4</sup> In previous decisions, the Commission has referred to TTY Relay as "message relay service" or "MRS."

<sup>5</sup> For example, an IP Relay provider may provide its relay service users with hearing or speech disabilities with the "contact" or "buddy" information of its relay call centre. In that case, the relay service user can communicate via text (i.e. Instant Messaging) with an operator after adding the call centre to his or her Instant Messaging "contact" or "buddy" lists.

17. From the perspective of a relay service user with a hearing or speech disability, IP Relay is a logical evolution of TTY Relay. Both TTY Relay and IP Relay are text-to-voice relay services; however, IP Relay is not subject to the same technological limitations as TTY Relay. IP Relay enables faster communication between the user with a disability and the relay operator (including calls to 9-1-1). IP Relay enables users to make relay calls using a web-capable device where there is Internet access. IP Relay allows users to see significantly more of the conversation on their computer screens than they can see with a TTY liquid crystal display (LCD) window. IP Relay allows users to print out and save conversations. IP Relay users can initiate multiple calls simultaneously and make conference calls. In light of the above, the Commission considers that the provision of IP Relay would provide significant benefit to TTY Relay users.
18. Based on the record of this proceeding, the Commission finds that it is technically feasible for TSPs to provide IP Relay. The Commission also notes that TTY Relay costs have decreased since the TTY Relay service rates were last adjusted. The record shows that, on average, between the years 2004 and 2008, the ILECs collectively collected<sup>6</sup> \$28.5 million per year and collectively spent \$11.7 million per year to provide TTY Relay. During that period, the amount collected to provide TTY Relay has exceeded the amount required to provide it by an average of \$16.8 million per year. The Commission finds that the recent excess in the rates collected to provide TTY Relay provides the funding to support the introduction and operation of IP Relay as an adjunct to TTY Relay via the same revenue stream.<sup>7</sup>
19. Accordingly, the Commission finds it appropriate to require the provision of IP Relay.
20. The Commission further finds it appropriate to continue to require the provision of TTY Relay to meet the specific needs of certain Canadians – particularly those who are DeafBlind, those without Internet access and those who access relay services using payphones.

#### **Implementation of IP Relay**

21. The Commission directs all LECs, including wireless CLECs, and VoIP providers that are required to provide TTY Relay to provide IP Relay, 24 hours a day, 7 days a week, by **21 July 2010**. As with TTY Relay, TSPs may meet the obligation to provide IP Relay by providing the service directly or by outsourcing the provision of the service to a third-party. Further, by **21 July 2010**, all references to “message relay service” in the existing relay service requirements set out in previous Commission decisions shall be read to include both TTY Relay and IP Relay.
22. By **21 April 2010** the ILECs are to file revised proposed relay service tariffs. The Commission does not expect the proposed tariffs to include rate increases.

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<sup>6</sup> I.e., via the retail and wholesale TTY-RS rates that the Commission regulates. The Commission does not regulate the TTY Relay service rates charged by other service providers.

<sup>7</sup> In addition, the Commission notes that, in Telecom Decision 2008-1, it approved the use of deferral account funds for the purpose of supporting certain IP Relay start up costs incurred by Bell Canada, TELUS Communications Company (TCC), and Saskatchewan Telecommunications (SaskTel).

23. The Commission considers that its power under section 24 of the *Telecommunications Act* to impose conditions on the offering and provision of telecommunications services on Canadian carriers is an appropriate means to impose requirements with respect to IP Relay. The Commission requires Canadian carriers, as a condition of the provision of service, to include in their contracts with resellers, a condition that resellers of local exchange services comply with the same obligations imposed on Canadian carriers.

#### **Video Relay**

24. Unlike TTY Relay or IP Relay, Video Relay enables communication with a relay operator using sign language. As such, Video Relay provides significant benefit to those persons with hearing and speech disabilities who communicate via sign language (e.g. American Sign Language (ASL) or Langue des signes québécoise (LSQ)).
25. The Commission considers that the record of this proceeding is insufficient to determine whether TSPs should be required to provide Video Relay. In particular, the record did not establish critical information such as the costs of providing this service, the size of the individual ASL or LSQ Video Relay user markets, or projected use. The record does indicate that the costs of providing a Video Relay service would be high, considering the need for high bandwidth and highly-skilled language interpretation in two sign languages.
26. Therefore, the Commission considers that further investigation into this matter is necessary to acquire accurate information pertaining to cost, user market size and projected use of this service. The Commission intends to assess whether a follow-up proceeding on Video Relay is warranted three years from the date of this Regulatory Policy. The Commission considers that information resulting from the Video Relay initiatives (trials) approved in Telecom Decision 2008-1 is vital to determining whether such a follow-up proceeding is warranted. Therefore, the Commission reiterates its determination that Bell Canada and TELUS Communications Company are to implement the initiatives by the date set out in that Decision (31 December 2011).<sup>8</sup> The Commission considers that this timeframe will also allow for actual information pertaining to the use, cost and rates of IP Relay and TTY Relay (information that would be relevant to such a proceeding) to become available.
27. The Commission notes that any TSP may choose to provide Video Relay, on a regional or national basis, subject to Commission approval of a Video Relay tariff.

#### **Emergency telecommunications services**

28. Access to emergency telecommunications services, including 9-1-1, is critical to the health and safety of Canadians. The record of this proceeding identified several significant limitations of access to 9-1-1 for persons with hearing and speech disabilities.
29. At present, persons without hearing or speech disabilities communicate directly with 9-1-1 operators via voice calls. Most voice calls are compatible with Enhanced 9-1-1, which automatically provides the 9-1-1 operator with the caller's location information and phone number. The automatic provision of this information improves the speed of the emergency response and enables the operator to resume communication with the caller if the call is disconnected.

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<sup>8</sup> See Commission Letters to Bell and TELUS, *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009.

30. In contrast, Canadians who cannot communicate clearly via a voice call, because of a hearing or speech disability, must establish 9-1-1 communications either through a direct TTY-to-TTY call or through a TTY Relay call. The record of the proceeding indicates that both of these approaches have certain limitations that affect the ability of persons with hearing and speech disabilities to communicate clearly, quickly, or directly with 9-1-1 operators. First, reliable direct TTY-to-TTY access to 9-1-1 service is not guaranteed in all regions of Canada, largely because not all Public Safety Answering Points (PSAPs) are TTY-equipped. Second, there are inherent delays in using a TTY Relay operator to contact 9-1-1. Third, the caller's location and phone number are not automatically transmitted to the PSAP during a relay call as it is the relay operator who makes the call.
31. The record of the proceeding indicates that access to 9-1-1 via IP Relay would allow for improved speed and flow of conversation with the relay operator during calls to 9-1-1 compared to such calls using TTY Relay. However, the record also shows that 9-1-1 IP Relay calls are likely to be subject to significant limitations of access to 9-1-1/Enhanced 9-1-1 services. These include the effects of power and Internet outages on the ability to access 9-1-1 services, as well as the requirement for callers to provide location information to the IP Relay operator.
32. Certain parties considered that access to emergency services by Canadians with hearing and speech disabilities could be improved if such Canadians were able to communicate with PSAPs using various forms of text messaging, including short message service (SMS), Instant Messaging (IM) or Real-Time Text (RTT). They proposed that such text messaging could take the form of text messages being sent directly to PSAPs or via relay operators.
33. The Commission considers that because the record of this proceeding does not sufficiently address the technical feasibility or financial viability of the proposals set out above, it is unable, at this time, to determine how best to improve access to 9-1-1 by persons with hearing or speech disabilities. Therefore, the Commission requests that the CRTC Interconnection Steering Committee (CISC) Emergency Services Working Group (ESWG) conduct an investigation and evaluation of the benefits, uses, and limitations of access to 9-1-1 services via various forms of text messaging, including SMS, IM, and RTT, as well as IP Relay, and file a report by **21 January 2010**. The Commission notes that the PSAPs and PSAP advisory boards have been active participants in the ESWG and looks forward to their continued participation.
34. The report should address text messaging directly to PSAPs as well as text messaging to PSAPs using relay operators. The report should identify any impediments of access to 9-1-1 via these services and propose viable solutions by which such services could be used to improve access to 9-1-1 by persons with hearing and speech disabilities. The report should also address possible methods of associating the caller's phone number and automatic location information with the communication with the 9-1-1 operator, methods of ensuring that communications directed to 9-1-1 reach the appropriate PSAP first, as well as the need for ease and speed of communication (without delay) between the persons with a disability and the 9-1-1 operator.<sup>9</sup>

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<sup>9</sup> The Commission notes that while it does not have jurisdiction over PSAPs, it is not precluded from taking steps to ensure that the 9-1-1 telecommunications networks can support text messaging to 9-1-1.

35. The report should address any changes that would be required to TSP networks to enable such services, proposed timelines for implementation, and proposals as to how the costs of implementing such changes could be supported. To the extent technically feasible, these proposals should also identify the necessary technical and/or operational changes required by the PSAPs.
36. The Commission notes that, as TSPs, all IP Relay providers are required to provide access to 9-1-1 service. The Commission hereby requires TSPs that provide IP Relay to provide notification to their subscribers on the availability, characteristics and limitations of using IP Relay service to access 9-1-1 service, both initially at service commencement and at least once a year during service provision.
37. The notification must indicate all of the following: that access to 9-1-1 via IP Relay has certain limitations relative to Enhanced 9-1-1 service, which is available on most “traditional” telephone service; the circumstances in which access to 9-1-1 service would or would not be available; the nature of the access to 9-1-1 service that is provided and on what conditions; the material differences between the access to 9-1-1 service that is provided and traditional Enhanced 9-1-1 service; the measures that should be taken by a 9-1-1 caller as a result of such differences; and, the applicable limitations of liability. IP Relay service users should contact their Service Provider for any clarifications of the 9-1-1 notification.
38. The Commission, upon receiving and reviewing the above report, will determine if any follow-up actions are necessary to further address issues related to access to 9-1-1 via IP Relay and other services.

#### **Other matters**

39. Some parties requested that the Commission modify its existing payphone removal requirements such that no future payphone removals be permitted, in order to improve access to 9-1-1 by Canadians with disabilities. The Commission remains of the views set out in Telecom Decision 2004-47 with respect to the withdrawal of payphones. Parties also requested that the Commission modify the current payphone service requirements such that all payphones be TTY-equipped. The Commission addressed the accessibility of payphones in Telecom Decision 2004-47 and remains of the views set out therein.

#### **Mobile wireless services**

40. Consistent with its prior conclusions on the accessibility of wireline service,<sup>10</sup> the Commission considers that the provision of a wireless service includes the means of accessing it. In order to attain access to wireless services, the terminal equipment (handsets) necessary to use the service must be accessible.
41. The record of this proceeding shows that some Canadian carriers that are wireless service providers (WSPs) currently offer handsets that are accessible by persons with disabilities. However, many WSPs do not. The lack of availability of accessible handsets is particularly acute for persons who are blind or have moderate to severe mobility or cognitive impairments.

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<sup>10</sup> See Telecom Decision 2007-20.

42. The Commission considers that referring customers with disabilities to other handset suppliers would not be a reasonable accommodation by WSPs. When persons with disabilities are able to obtain accessible network-compatible devices from sources other than their WSP, such devices must generally be adapted for operation with the WSP's network. Also, these customers may not obtain the necessary access to full technical support to address limitations in the use of wireless features and services supported by their handsets. Lastly, more cost is incurred as these customers do not benefit from pricing subsidies available in integrated service packages offered by their WSPs.
43. The record of this proceeding indicates that accessible mobile wireless handsets exist in other jurisdictions, such as the United States.
44. Accordingly, the Commission requests that, by **21 October 2009**, all WSPs offer and maintain in their inventories at least one type of wireless mobile handset that will provide access to wireless service by persons who are blind and/or have moderate-to-severe mobility or cognitive disabilities.
45. In forbearing from the regulation of wireless service, the Commission retained its jurisdiction under section 24 and subsection 27(2) of the *Telecommunications Act*. Accordingly, the Commission will, if necessary, consider imposing a section 24 condition on the offering or provision of wireless service, requiring WSPs to provide such handsets.
46. The Commission requests that WSPs consult with parties representing persons with disabilities on an ongoing basis to determine which handsets they will make available to address the needs of persons with disabilities. Also in consultation with these groups, the Commission requests that the service providers provide reasonable technical and lifecycle support of these handsets in order to address unique needs, such as those imposed by assistive technologies.

### **Customer information, service and support**

47. The Commission considers that access to appropriate information, customer service and support in relation to telecommunications and broadcasting services allows customers with disabilities to make meaningful use of the services offered by TSPs and broadcasting distribution undertakings (BDUs).
48. As set out in Telecom Order 98-62, the Commission considers that the provision of certain information to customers is a telecommunications service under section 23 of the *Telecommunications Act* as it is incidental to the business of providing telecommunications services. In a 1996 Commission Letter Decision with respect to a specific cable distribution undertaking, the Commission noted that the provision to subscribers of bills and information concerning programs and channel line-ups is integral to the functions of a cable distribution undertaking.<sup>11</sup> The Commission remains of the same view and considers this to be equally the case for all BDUs. In this regard, the Commission notes that customer service information ensures that subscribers may benefit fully from the service provided by the BDU.

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<sup>11</sup> The Commission concluded that bills, subscriber information regarding rates and services, as well as channel and programming information should be provided, upon request, in alternative formats accessible to visually impaired subscribers. The Commission also concluded that adequate mechanisms should be put in place to ensure that visually impaired subscribers are aware of the availability of this information.

49. Furthermore, the Commission considers that insofar as the TSPs' and BDUs' websites provide information and permit customers to contract services, pay bills, manage their accounts, and receive customer service and support, they are incidental to the business of providing telecommunications services and integral to the functions of a BDU.
50. The Commission has required that TSPs provide certain documents to persons with visual impairments in alternative formats, upon request.<sup>12</sup> The record of this proceeding shows that some service providers also provide information on disability-specific products and services in various places, including on their websites, in their telephone directories and from their customer service representatives.
51. Nevertheless, the record demonstrates that in some cases persons with disabilities have reduced access to customer information because it is only provided in formats or through customer service channels that are not accessible to them. This creates barriers to access to telecommunications and broadcasting services.
52. The Commission considers it important that persons with disabilities have access to information on disability-specific products and services as well as general information that would improve access to telecommunications and broadcasting services and products available to all customers.
53. The Commission notes that service providers offer customer service through various channels. However, the Commission considers that websites and general call centres are particularly important sources of information and customer service.
54. The Commission also considers it important that any new regulatory requirements be as flexible as possible in order to recognize the different models of customer service that the various TSPs and BDUs employ.
55. The Commission has taken the above considerations into account in determining which measures would constitute reasonable accommodation. Those determinations are set out below.<sup>13</sup>

#### **Promotion of disability-specific services and products**

56. The Commission requires the TSPs and Class 1 and direct-to-home (DTH) BDUs to promote information on all of their disability-specific services and products, in the accessible manner(s) of their choice, by **21 July 2010**.
57. The Commission encourages the TSPs and all BDUs to promote disability-specific information over their websites. Further, the Commission requires the TSPs and Class 1 and DTH BDUs to incorporate an easy-to-find home page link to the special needs/disability sections of their websites, if their websites include such sections, by **21 July 2010**.

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<sup>12</sup> See Telecom Decision 2002-13. Also see the list of related documents. Persons who are blind or visually impaired have the option to receive bills, bill inserts and information setting out the rates, terms and conditions of a service in an alternative billing format, for example in Braille, large print, or electronic version. Alternative billing formats must be made available, upon request, as a condition of providing any telecommunications service to a consumer.

<sup>13</sup> The implementation of the Commission's determinations is outlined in paragraphs 70 and 71.

58. The Commission notes that service providers generally offer a limited number of service options and bundles that are suitable for persons with disabilities, particularly in relation to wireless services. The Commission encourages the TSPs to consult with customers with disabilities and the appropriate advocacy groups to develop suitable options and packages of optional features for persons with disabilities and to offer such options at the earliest possible opportunity.

**Alternative formats for persons with visual impairments**

59. The Commission considers that alternative format obligations apply to each customer, rather than to each household. Each qualifying customer who requests to receive information to which the obligations apply in an alternative format should be provided with such information in that format, even if another person in the same household has received the same information in a different format.
60. In relation to general consumer information, the Commission notes that it maintained certain information requirements<sup>14</sup> in Telecom Regulatory Policy 2009-156 and Telecom Regulatory Policy 2009-304. The Commission considers that a number of these requirements consist of information on rates, terms and conditions of service,<sup>15</sup> and therefore must be provided according to the current alternative format requirements.
61. Certain other information requirements that the Commission retained do not consist of information on the rates, terms and conditions of service. The Commission is of the preliminary view that the information subject to these requirements ought to be made available in alternative formats for persons with visual impairments on request.
62. The Commission therefore directs the TSPs to show cause, including cost justification, as to why the following should not be provided in alternative formats for persons with visual impairments, upon request: information on the National Do Not Call List, information on Bill Management Tools, notification of the removal of the last payphone in a community, the ILEC's communications plans on local forbearance, information on dialling plan changes, and quality of service information. Comments must be received by **21 September 2009**, and reply comments must be received by **21 October 2009**.

**Additional alternative formats for persons with disabilities**

63. The Commission is of the view that there is insufficient evidence on the record of this proceeding to support a determination to require the provision of specific pieces of information in additional alternative formats such as sign language or plain language suitable for persons with cognitive disabilities.

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<sup>14</sup> An information requirement is an obligation imposed on a TSP to provide information to its customers about a regulatory measure or related to its telecommunications services.

<sup>15</sup> This includes terms of service – the general obligation on ILECs and CLECs to provide consumers with information about their telecommunications services, including, at a minimum, the information on the policies set out in Telecom Decisions 86-7 and 97-8, respectively; the general obligation on TSPs to inform their customers of privacy features and their limitations; and the general obligation on TSPs to inform consumers about their policies regarding annoying and offensive telephone calls.

64. Nevertheless, the Commission encourages the TSPs and BDUs to work with groups representing persons with disabilities to develop information in additional alternative formats, and requires the TSPs and Class 1 and DTH BDUs to report on progress to the Commission by **21 July 2010**.

#### **Websites**

65. The Commission encourages the TSPs and all BDUs to adopt the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (W3C Guidelines) and to conduct user testing in order to make the customer service portions of their websites as accessible as possible for persons with disabilities. While they work towards this goal, the Commission requires TSPs and Class 1 and DTH BDUs to make the information on telecommunications and broadcasting services and products on their websites accessible to the point of providing a reasonable accommodation for persons with disabilities, with the service providers determining how to achieve this, by **23 July 2012**.
66. The Commission considers that the following are examples of reasonable accommodations in relation to the customer service information on websites, provided that the resulting information is usable and comprehensible:

All textual content meets the W3C Guidelines, along with all new content. Existing audio-visual content that does not comply with the Guidelines should be described and accessible in another manner.

A website that satisfies the W3C Guidelines, where the only exceptions are linked to guidelines not commonly supported by older web browsers, or that offer equivalent or better accessibility through other means.

Maximum W3C Guidelines compliance, where persons with disabilities can obtain information on telecommunications and broadcasting services and products through the website. (Any inaccessibility would relate, for example, to a marketing factor or an application that is not relevant to customer service).

A text only version of the website, easily accessed from the home page, that complies with W3C Guidelines and provides information on services and products.

All high volume portions of a website meet the W3C Guidelines, with action plans to make further accessibility improvements at the earliest opportunity.

67. The Commission also considers that an audit of a TSP or BDU website with an action plan for timely improvements could constitute a reasonable accommodation in relation to the information on telecommunications and broadcasting services and products that is made available on the service provider's website. At a minimum, this would include the following:
- a basic audit using available online tools and manual checks on a representative number of web pages;
  - an associated action plan that outlines progressive improvements to the information on services and products;

- user testing, conducted within two years, to identify further accessibility issues;
  - inclusion of the findings of the testing in the action plan; and
  - filing of the action plan and the results of user testing with the Commission by **23 July 2012**.
68. Where customer service functions on websites are not accessible, persons with disabilities must not incur a charge or otherwise be disadvantaged if they use an alternate channel of customer service to access those functions. In addition, the Commission requires the TSPs and Class 1 and DTH BDUs to make accessible any customer service functions that are available solely over the service providers' websites, by **23 July 2012**.

#### **General call centres**

69. The Commission requires the TSPs and Class 1 and DTH BDUs to make their general call centres accessible to the point of providing a reasonable accommodation to persons with disabilities by a) training customer service representatives in handling enquiries from persons with disabilities, and familiarizing them with the service providers' products and services for persons with disabilities, by **21 July 2010**; and b) making Interactive Voice Response systems<sup>16</sup> accessible, by **21 July 2011**. However, the Commission considers that a service provider with a disability call centre could meet this requirement by developing and implementing protocols for the appropriate transfer of calls to the call centre.

#### **Implementation**

70. The Commission considers that its power under section 24 of the *Telecommunications Act* to impose conditions on the offering and provision of telecommunications services on Canadian carriers is an appropriate means to impose requirements with respect to customer service accessibility. As such, pursuant to section 24 of the *Telecommunications Act*, the Commission requires Canadian carriers, as a condition of providing service, to implement the above requirements and to include in their contracts and other forms of agreements or arrangements with resellers, a condition that resellers comply with those requirements.
71. In regard to BDUs, the Commission will consider imposing requirements on Class 1 and DTH BDUs in the form of conditions of licence at the time of their licence renewal if such requirements are necessary to achieve the Commission's goals. While the Commission does not intend to impose requirements on exempt BDUs at this time, it will monitor complaints to determine if a future requirement may be appropriate.

#### **Closed captioning**

72. Television broadcasters provide access to television programming for persons who are deaf and hard of hearing through closed captioning.

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<sup>16</sup> An Interactive Voice Response system is a technology that allows a computer to detect voice and touch tones using a normal phone call and replaces customer service representatives for the portion of the phone call that uses the system.

## **Quantity**

73. The Commission's Closed Captioning Policy<sup>17</sup> sets out the Commission's goal of moving toward the full captioning of all television programming. Accordingly, the policy states that television broadcasters must caption 100 percent of their programs aired during the broadcast day, excluding advertising and promotional announcements (promos).
74. The record demonstrates that many advertisements are captioned even though it is not required. The Commission considers that there is little that prevents sponsorship messages and promos from being captioned. With respect to the overnight hours, many programs aired during the overnight period are captioned even though there is no requirement in this regard.
75. Accordingly, the Commission expects broadcasters to ensure that advertising, sponsorship messages and promos are captioned by the end of their next licence term, at which time the Commission will determine whether or not a condition of licence should be imposed. The Commission notes that, as indicated in Broadcasting Decision 2009-279, the next licence term for the television stations operated by CTV Television Inc., Canwest Television Limited Partnership and Sun TV Company as well the Citytv stations operated by Rogers Broadcasting Limited will expire in 2010, and the licences for the stations operated by TVA Group Inc. will expire in 2011. For the OMNI television stations operated by Rogers Broadcasting Limited, as well as those operated by RNC MEDIA Inc. and Télé Inter-Rives ltée, which will be renewed for six and seven year terms, the Commission intends to amend the conditions of licence related to closed captioning in five years pursuant to section 9(1)(c) of the *Broadcasting Act*, if it considers that there is a need. Further, when captions are available, the Commission expects broadcasters to provide viewers with a closed captioned version of all programming aired during the overnight period. The Commission will review licensees' performance in this regard at their next licence renewal.
76. The record further shows that captioning technology, including voice recognition software – which is used extensively in captioning French-language programming – has greatly improved and should no longer be considered a technology in development.
77. Accordingly, the Commission no longer considers captioning technology as a factor when considering requests by broadcasters, including French-language broadcasters, for exceptions to the policy that generally requires that 100 percent of programming be closed captioned.

## **Quality**

78. In the Closed Captioning policy, the Commission requested that the Canadian Association of Broadcasters (CAB) coordinate the establishment of French- and English-language working groups (the Working Groups) to develop and implement universal standards for closed captioning and develop concrete solutions with respect to other aspects of captioning quality. The preliminary reports of the Working Groups were placed on the public record of this proceeding and parties were provided an opportunity to comment.

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<sup>17</sup> Set out in Broadcasting Public Notice 2007-54.

*Mandate and operation of the Working Groups*

79. The Commission considers that it is important that the Working Groups continue and that their membership be extended to better reflect the interests of users of captioning and BDUs.
80. Accordingly, the Commission extends the mandate of the Working Groups and directs them to file the following for approval by the Commission:
- administrative procedures, including:
    - a breakdown of costs and funding for each group as a means to address the funding of high cost elements of the Working Groups' activities. The report should reflect the fact that not all participants have the same financial resources or are affected equally by the standards developed by the Working Groups.
    - the means by which meetings are conducted and facilitated, taking into account the Canadian Association of the Deaf's concern that it has been unable to participate as an equal member in the meetings of the English-language Working Group.
  - a revised membership composition for the Working Groups that includes additional representatives from user groups as well as BDU/satellite relay distribution undertaking (SRDU) representation. The CRTC will continue to participate in the Working Groups.
  - an action plan with specific timelines regarding each of the deliverables set out in this Regulatory Policy.

*Proposed standards*

81. The record of the proceeding demonstrates that some of the proposed standards were undisputed, some were disputed, and some standards still need to be developed. The Commission considers that the undisputed standards nonetheless require further attention. The Commission directs the Working Groups to address the standards set out below.

*Pop-on versus roll-up captions*

82. While roll-up captions are used in programming such as live local news, discussion programs, variety shows and sports, evidence from the record indicates that pop-on captioning is preferable for pre-recorded programming such as dramas and documentaries. However, some U.S. programming that is broadcast at the same time by English-language Canadian broadcasters in order to take advantage of simultaneous substitution is provided with roll-up captions that would not be practical to reformat. Broadcasters do, however, have control over the format of captioning in Canadian programming.
83. Accordingly, the Commission directs the English-language Working Group to amend the standards to stipulate that all Canadian pre-recorded programming must be captioned in pop-on format.

*Speed of captions*

84. The record of the proceeding establishes that captioning – particularly roll-up captioning – is often not understandable because it is too fast. The Working Groups did not provide evidence supporting the proposed speed for pop-on captions, nor did they propose a speed for roll-up captions.
85. Accordingly, the Commission directs the Working Groups to:
- review and revise the standards for speed of pop-on captioning;
  - establish appropriate standards for speed of roll-up captioning; and
  - establish an appropriate standard with respect to the speed of captioning of children’s programming.

*Blocked captions*

86. The issue of blocked captions<sup>18</sup> was not addressed in the reports of the Working Groups, as was requested in the Closed Captioning Policy. Accordingly, the Commission directs the Working Groups to develop standards to deal with blocked captions.

*Sign-language interpretation in emergency messages*

87. The Commission directs the English-language Working Group to review its emergency broadcast standards to determine whether it is appropriate to include a provision that a sign-language message be broadcast during emergency programming. The Commission notes that such a provision is included in the proposed French-language standards.

*Error rate*

88. The record of the proceeding establishes that an acceptable error rate must be established and applied in order to determine if the quality of closed captioning is improving.
89. Accordingly, the Commission directs the Working Groups to determine an acceptable error rate for closed captioning in live and pre-recorded programming and to
- define what constitutes an error and develop a methodology for determining what an acceptable error rate would be; and
  - include in their standards a requirement for broadcasters to correct captioning errors in live programming before such programs, or segments within those programs, are rebroadcast.

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<sup>18</sup> Blocked captions occur when captions are covered by or are covering other on-screen information.

*Standards for digital broadcasting*

90. The record of the proceeding demonstrates that different standards are needed for the production and delivery of programming in a digital environment, including high definition (HD). Given that the Commission is requiring broadcasting in digital format by August 2011,<sup>19</sup> it is of the view that it is important to establish captioning standards for digital broadcasting.
91. Accordingly, the Commission directs the Working Groups to develop standards for delivery of closed captioning in a digital environment, including in HD.

*Validation of standards*

92. The Closed Captioning Policy stated that the proposed standards developed by the Working Groups should be accompanied by evidence demonstrating that they are acceptable to users of captioning.
93. The record of the proceeding demonstrates that the methodology that the CAB employed to validate the proposed standards could have been more rigorous. In particular, the Commission notes the relatively small size of the sample.
94. Accordingly, the Commission directs the Working Groups to provide:
  - concrete evidence that the standards they develop with respect to speed of captioning, digital captioning and error rate are acceptable to users of captioning by way of a methodologically sound validation exercise; and
  - a description of the methodology employed and evidence that the results achieved are statistically valid and representative of the user communities. Children should be included in validation exercises for speed of captioning in children's programming.

*Conditions applicable to all standards*

95. The Commission considers that, for standards to be effective and enforceable, they must be specific and measurable. They must also include a useful and complete definition of terms.
96. Accordingly, all standards, including those that were undisputed in this proceeding and new standards to be developed must:
  - contain imperative language and concrete examples of what is and is not acceptable;
  - include a definition of terms, with visual illustrations as examples where appropriate; and
  - eliminate inconsistent information and information not pertinent to the standards.

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<sup>19</sup> Broadcasting Public Notice 2007-53

### *Time frame*

97. The Commission directs the television industry's French- and English-language Working Groups to file the information set out above by the following deadlines for Commission approval:

- information regarding the mandate and operation of the Working Groups – **21 October 2009**
- revised versions of the undisputed standards to reflect the conditions applicable to all standards in paragraph 96 above, new standards for blocked captions; revisions to the English-language standards for the use of pop-on versus roll-up captioning and the use of sign language during emergency messages – **21 January 2010**;
- proposed and validated standards pertaining to speed of captioning, including children's programming; blocked captions; and error rate – **21 July 2010**; and
- proposed and validated standards for digital broadcasting – **21 January 2011**.

### *Implementation*

98. The Commission intends to require all television licensees to adhere to the standards it has approved through conditions of licence that will be applied at the time of licence renewal. In the meantime, the Commission expects television licensees to adhere to the standards as soon as possible. The Commission notes that, as indicated in Broadcasting Decision 2009-279, the licence terms for the television stations operated by CTV Television Inc., Canwest Television Limited Partnership and Sun TV Company as well the Citytv stations operated by Rogers Broadcasting Limited will expire in 2010, and the licences for the stations operated by TVA Group Inc. will expire in 2011. For the OMNI television stations operated by Rogers Broadcasting Limited, as well as those operated by RNC MEDIA Inc. and Télé Inter-Rives ltée, which will be renewed for six and seven year terms, the Commission intends to amend the conditions of licence related to closed captioning in five years pursuant to section 9(1)(c) of the *Broadcasting Act*, if it considers that there is a need.

### **Monitoring of captioning**

99. The Commission agrees with the recommendation of the Working Groups that each television licensee develop and submit, at the time of licence renewal, its own mechanisms and procedures related to the monitoring and quality control of closed captioning.
100. Accordingly, at the time of licence renewal, the Commission intends to impose a requirement that licensees put in place a monitoring system to ensure that closed captioning is included in the broadcast signal and that captioning reaches the viewer in its original form. The Commission, however, expects television licensees to implement such a system as soon as possible. The Commission notes that, as indicated in Broadcasting Decision 2009-279, the licence terms for the television stations operated by CTV Television Inc., Canwest Television Limited Partnership and Sun TV Company as well the Citytv stations operated by Rogers Broadcasting Limited will expire in 2010, and the licences for the stations operated by TVA Group Inc. will expire in 2011. For the OMNI television stations operated by Rogers

Broadcasting Limited, as well as those operated by RNC MEDIA Inc. and Télé Inter-Rives ltée, which will be renewed for six and seven year terms, the Commission intends to amend the conditions of licence related to closed captioning in five years pursuant to section 9(1)(c) of the *Broadcasting Act*, if it considers that there is a need.

101. It further requires television licensees to develop and submit, at the time of licence renewal, mechanisms and procedures related to quality control of closed captioning, including procedures to ensure that closed captioning is present throughout the entire program. These mechanisms and procedures should also set out the means by which the licensee intends to ensure that captioning errors are corrected before programming is rebroadcast.

### **Described video and audio description**

102. Television broadcasters provide access to television programming for those with visual impairments through two means: described video<sup>20</sup> and audio description.<sup>21</sup>

#### **Amount of described video**

103. In 2001, the Commission began to impose conditions of licence requiring minimum levels of described programming on licensees of major English-language conventional television stations.<sup>22</sup> These conditions require licensees to broadcast two hours per week of Canadian priority programming that is described during prime time in the early years of the licence term, ramping up to four hours by the end of the licence term. At least 50 percent of these hours must consist of original programming. Described programming must consist of dramas, documentaries or children's programming. The Canadian Broadcasting Corporation (CBC) French-language and English-language and television networks currently do not have conditions of licence requiring the provision of described video.<sup>23</sup> Starting in 2004, the Commission has, at the time of licence renewal, imposed similar conditions of licence on those analog and Category 1 English-language pay and specialty services whose schedule is comprised mainly of programming that lends itself well to described video, i.e. drama, documentaries and children's programming.<sup>24</sup>
104. The Commission is of the view that persons with disabilities should be able to access programming with described video from both the public and private sectors in French and English. The Commission further considers that basic levels of described video should be available on a wide variety of services. The Commission notes that the shortage of programming with described video is particularly acute for French-language programming since, up until now, none had been required and none had been provided.

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<sup>20</sup> Described video is a technique whereby a narrator provides a description of a program's key visual elements so that persons who are blind or have visual impairments can understand what is occurring on the screen.

<sup>21</sup> Audio description occurs when announcers read aloud the textual and graphic information that is displayed on the screen during information programs.

<sup>22</sup> The French-language TVA network is expected to provide described video, but has no condition of licence requiring it.

<sup>23</sup> Even though it is not subject to a condition of licence, the CBC English-language television network provided an average of 16 hours a week of described programming in 2007/2008. On the other hand, the CBC French-language television network did not report any hours of described programming in 2007-2008.

<sup>24</sup> Broadcasting Public Notice 2004-2.

105. During this proceeding, broadcasters submitted that the costs of providing described video are significant. In assessing whether or not resources are available for the provision of described video, the Commission has considered the costs and the benefits of providing described video and the difficult economic environment in which television broadcasters currently operate.
106. Accordingly, the Commission intends to apply, through condition of licence, the existing described video requirements not only to English-language television services operated by private broadcasters, but also to French-language services operated by private broadcasters and English-language and French-language television services operated by the CBC. As a result of the approach set out in this paragraph, a minimum of 15 additional English-language and 5 additional French-language television services will provide described video.
107. The Commission intends to impose requirements with respect to described video on additional licensees, as described above, at the time of licence renewal so that it can take into account the specific circumstances of the licensee, but encourages licensees to reach these levels of described video as soon as possible.
108. Currently conventional broadcasters must, according to their conditions of licence, fulfil obligations to provide described video with drama, documentaries and children's programming, which lend themselves well to described video. In order to provide these broadcasters with a measure of flexibility and to take into account requests from persons with disabilities for a wider of choice of described programming, the Commission considers it appropriate to add two more categories of programming to those that licensees of conventional television stations may use to fulfil their commitments for described video: 9 Variety and 11 General entertainment and human interest. Therefore, the conditions of licence imposed on conventional television stations from now on will allow them to fulfil their commitments for described video with programming from the following categories: 2(b) Long-form documentary; 7(a) Ongoing Dramatic Series; 7(b) Ongoing comedy series (sitcoms); 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(e) Animated television programs and films; 7(g) Other drama; 9 Variety; and 11 General entertainment and human interest, as well as programming targeted to children. Conventional television stations that currently have conditions of licence with respect to described video may apply to amend their conditions of licence to take advantage of this flexibility.
109. The Commission will continue to monitor the economic situation faced by television broadcasters. When the situation improves and additional resources are available, the Commission intends to conduct a further proceeding to consider expanding the types of specialty services to which it will apply requirements for described video as well as the minimum amount of described video that licensees must provide. At that time, the Commission will also consider amending its regulations to require all licensees that offer programming in applicable genres to provide described video.
110. For those television licensees that currently have a condition of licence requiring them to distribute four hours per week of programming with described video, this requirement will be maintained.

111. The Commission is also of the view that other means of increasing amounts of described video are available. Accordingly, the Commission recommends that producers and broadcasters work together to incorporate described video into the production process. It further recommends that the Canada Media Fund make the production of described video a criterion for funding television programs and that other production funds do likewise. The Commission reminds broadcasters and producers that the production of described video is eligible for federal and provincial tax credits.
112. The Commission acknowledges the efforts by the National Broadcast Reading Service to provide French-language programming on The Accessible Channel, and encourages it to continue its efforts in this regard.
113. The Commission is placing a list of programming services that are required to offer described video on its website. This list will assist BDUs to ensure that they pass through described video of the applicable services. It will also help individuals and groups representing persons with disabilities to determine the extent to which described video is available in Canada and to assess the success of the initiatives set out in this document.

#### **Access to described video**

114. The Commission is of the view that programming with described video is not available to persons with disabilities, as envisaged by section 3(1)(p) of the *Broadcasting Act*, unless a means to access it is provided. The Commission is further of the view that subscribers who are visually impaired require a simple means to access described programming.
115. The *Broadcasting Distribution Regulations* require that BDUs pass through described video signals. The Commission has, however, relieved most BDUs of the obligation to pass through described video on an analog basis. Exceptions with respect to the requirement for BDUs to pass through described video on a digital basis are set to expire at the end of August 2009.<sup>25</sup>
116. The Commission is of the view that all BDUs possess the means to pass through described video, at least in open format,<sup>26</sup> and considers it essential that BDUs pass through described video signals received from broadcasters to subscribers.

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<sup>25</sup> Broadcasting Public Notice 2007-101

<sup>26</sup> There are two means to pass through described video. One is to embed the audio track containing the descriptions with the television program's video and primary audio track. This approach, which is known as "embedded described video," requires a means to select the audio track that provides the descriptions. A person with a visual impairment turns on the described video to hear the descriptions. Alternatively, the audio track containing described video can be distributed together with the original audio and video on a dedicated channel. This is known as "open format described video." Under this approach, described video is always turned on and can be heard by all tuning into the program.

117. Accordingly, with respect to access to described video, the Commission reminds all Class 1 BDUs, DTH undertakings and SRDUs that they must pass through the described video of all programming services that they distribute no later than **1 September 2009**, in accordance with the *Broadcasting Distribution Regulations* and the Commission's policy set out in Broadcasting Public Notice 2007-101. The Commission directs all licensees of Class 1 BDUs, DTH undertakings and SRDUs to confirm their compliance with this requirement no later than **1 September 2009**. The Commission intends to pursue instances of non-compliance.
118. The Commission intends to require BDUs, by condition of licence to be imposed at the time of licence renewal, to provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity. The Commission, however, encourages licensees to achieve this goal as soon as possible.
119. The Commission further encourages BDUs to promote the availability of complimentary set-top boxes. As indicated in Broadcasting Public Notice 2007-101, complimentary set-top boxes must be provided to subscribers who are blind or have a visual impairment by those Class 1 cable BDUs that have been relieved of the requirement to pass through described video on an analog basis. These set-top boxes enable those subscribers to access described video on a digital basis.
120. With respect to access to television in general, the Commission encourages BDUs to procure and offer at least one set-top box and remote that is accessible to persons with vision and fine motor skill disabilities, where applicable. It further encourages BDUs to continue to work with vendors to develop set-top box software that provides increased font sizes, audio prompts or other audio information.

#### **Awareness of described programming**

121. During this proceeding, some parties submitted that subscribers need to know what programs include described video, and when those programs will be aired. The Commission considers that this information should be provided, and that this could be accomplished through various means such as audio announcements and logos to identify described programming, and promotion of described programs in program listings.
122. Accordingly, the Commission expects:
  - broadcasters to display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program. The Commission encourages broadcasters to repeat the announcement and logo following each commercial break;
  - broadcasters to make information available regarding the described programs that they will broadcast; and
  - licensees of BDUs to develop one or more means of identifying programming with described video in their electronic program guides. This could include an audio tone, a visual indicator, or the offer of an audio electronic program guide.

123. The Commission considers that it would be useful to create a working group to develop solutions to issues related to subscriber access to described video and facilitate the development and rollout of initiatives to increase the awareness of described video.
124. Accordingly, the Commission will form a working group with representatives from the distribution and broadcasting sectors. The group will have a 12-month mandate to develop recommendations for improving the accessibility and promotion of described programming.
125. The working group will be tasked to develop common practices and other solutions that will improve the accessibility of described programming including:
  - facilitating the pass-through of described programming in embedded format;
  - providing one or more simple means for viewers to access embedded described video;
  - resolving any instances of audio loss associated with embedded described video; and
  - ensuring that information regarding described programming is made available in print and online programming listings and electronic programming guides.

#### **Audio description**

126. Television broadcasters are currently expected to provide audio description. However, the record of the proceeding indicates that audio description is not being provided in all cases, or in many instances is inadequate. The Commission considers that this is particularly unacceptable in the case of news broadcasts and is of the view that this must be rectified immediately. The Commission considers that some of the problems could be addressed by replacing the music background with a voiceover for weather reports, stock market updates, and sports scores. Measures to improve and increase the amount of audio description could include the training of staff to increase awareness, updating production manuals and policies and assigning responsibility for audio description to appropriate staff.
127. The Commission considers that solutions to the problems of the provision and quality of audio description do not require significant resources and intends to require television licensees to implement audio description by conditions of licence at the time of their next licence renewal. The Commission notes that, as indicated in Broadcasting Decision 2009-279, the next licence term for the television stations operated by CTV Television Inc., Canwest Television Limited Partnership and Sun TV Company, as well the Citytv stations operated by Rogers Broadcasting Limited will expire in 2010, and the licences for the stations operated by TVA Group Inc. will expire in 2011. For the OMNI television stations operated by Rogers Broadcasting Limited, as well as those operated by RNC MEDIA Inc. and Télé Inter-Rives ltée, which will be renewed for six and seven year terms, the Commission intends to impose conditions of licence related to audio description in five years pursuant to section 9(1)(c) of the *Broadcasting Act*.
128. The Commission requires licensees to identify, at the time of licence renewal, the measures they will put in place to effectively implement audio description.

## **Pass-through of closed captioning and described video broadcast in new media**

129. The Commission encourages broadcasters to pass through closed captioning and described video when their programming is broadcast in new media.

## **Conclusion**

130. The Commission wishes to thank all who participated in this proceeding. It appreciates the effort and research reflected in the written submissions and presentations as well as the spirit of cooperation exhibited by participants.

Secretary General

## **Related documents**

- *Follow-up to Telecom Decision 2008-105 – Retail quality of service regime in non-forborne markets for ILECs with over 25,000 NAS*, Telecom Regulatory Policy CRTC 2009-304, 25 May 2009
- *Renewal of the broadcasting licences for private conventional television stations considered at the 27 April 2009 Gatineau public hearing – Initial decisions and scope of subsequent policy proceeding*, Broadcasting Decision CRTC 2009-279, 15 May 2009
- *Revised regulatory requirements to provide information to customers*, Telecom Regulatory Policy CRTC 2009-156, 24 March 2009
- *Unresolved issues related to the accessibility of telecommunications and broadcasting services to persons with disabilities – Notice of consultation*, Broadcasting Notice of Public Hearing CRTC 2008-8/Telecom Public Notice CRTC 2008-8, 10 June 2008
- *Call for comments on priorities regarding the review of social and other non-economic regulatory measures – Notice of consultation*, Telecom Public Notice CRTC 2008-1, 22 January 2008
- *Distribution of video description by Class 1 cable broadcasting distribution undertakings (BDU), direct-to-home BDUS and satellite relay distribution undertakings*, Broadcasting Public Notice CRTC 2007-101, 12 September 2007
- *New digital specialty described video programming undertaking; Licence amendments; Issuance of various mandatory distribution orders*, Broadcasting Decision CRTC2007-246, 24 July 2007
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007

- *Access to certain telecommunications services by persons who are blind*, Telecom Decision CRTC 2007-20, 30 March 2007
- *Amendment to the Exemption order respecting closed circuit video programming undertakings*, Broadcasting Public Notice CRTC 2006-132, 16 October 2006
- *Follow-up to Emergency service obligations for local VoIP service providers*, Decision 2005-21 – *Customer notification requirements*, Telecom Decision CRTC 2005-61, 20 October 2005
- *Aliant Telecom Inc. – Application to increase the capital cost of its service improvement plan and related matters*, Telecom Decision CRTC 2004-74, 16 November 2004
- *Access to pay telephone service*, Telecom Decision CRTC 2004-47, 15 July 2004
- *Introduction to Broadcasting Decisions CRTC 2004-6 to 2004-27 renewing the licences of 22 specialty services*, Broadcasting Public Notice 2004-2, 21 January 2004
- *Call-Net Part VII Application – Promotion of local residential competition*, Telecom Decision CRTC 2004-4, 27 January 2004
- *Central office floor space information changes*, Telecom Order CRTC 2003-514, 18 December 2003
- *Amendment to web site addresses*, Telecom Order CRTC 2003-353, 2 September 2003
- *Provision of telecommunications services to customers in multi-dwelling units*, Telecom Decision 2003-45, 30 June 2003
- *Extending the availability of alternative formats to consumers who are blind*, Telecom Decision CRTC 2002-13, 8 March 2002
- *The Coalition for Better Co-location – Part VII application for general relief with respect to the co-location regime*, Order CRTC 2001-780, 26 October 2001
- *Alternative formats for a person who is blind*, Order CRTC 2001-690, 31 August 2001
- *Access to Bell Canada's SimplyOne by persons who are blind*, Order CRTC 2001-164, 26 February 2001
- *Access to Microcell's Fido-related service by persons who are blind*, Order CRTC 2001-163, 26 February 2001
- *Bell Canada's replacement for tariff subscription service approved for Internet delivery*, Order CRTC 2000-552, 16 June 2000
- Telecom Order CRTC 98-626, 26 June 1998
- *Local Competition*, Telecom Decision CRTC 97-8, 1 May 1997

- Telecom Order CRTC 96-1191, 29 October 1996
- *Review of the general regulations of the federally regulated terrestrial telecommunications common carriers*, Telecom Decision CRTC 86-7, 26 March 1986

*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>.*

## **Appendix 1 to Broadcasting and Telecom Regulatory Policy 2009-430**

### **Relay services**

Message relay services are operator services that provide persons with hearing or speech disabilities with the technical means to communicate via telephone call with persons without such disabilities. All relay calls require three parties: the caller, the intended recipient of the call and the relay operator. The person with a hearing or speech disability may be the caller or the intended recipient of the relay call. The operator translates information between the caller and the intended recipient of the call. Several forms of relay services are available internationally. This proceeding addressed three of these: Teletypewriter Relay Service (TTY Relay), Internet Protocol Relay Service (IP Relay), and Video Relay Service (Video Relay).

TTY Relay, also called “message relay service,” is a text-based relay service. In a TTY Relay call, the relay operator communicates with the person with a hearing or speech disability via a teletypewriter (TTY) and with the person without a hearing or speech disability via voice. The person with a disability accesses the service by using a TTY connected to wireline telephone service. The person without a disability dials a toll free number to reach the relay operator using any telephone service. While a TTY is required for the person with a disability to access the relay service, the TTY itself is not part of the relay service offering.

IP Relay is also a text-based service. In an IP Relay call, the relay operator communicates with the person with a hearing or speech disability via text and the person without a hearing or speech disability via voice. The person with a disability accesses the service by using any device capable of Internet access to reach the relay provider’s website and/or text messaging application to reach the relay operator. The person without a disability dials a toll free number to reach the relay operator using any telephone service. While access to the Internet and a device capable of Internet access are necessary for the person with a disability to communicate with the IP Relay operator, these two items are not part of the relay service offering.

Video Relay is a sign language-based relay service. In a Video Relay call, the relay operator communicates with the person with a disability via sign language and the person without a disability via voice. The person with a disability accesses the service by using any device capable of both high-speed (broadband) Internet access and video conferencing to reach the relay provider’s website and/or video conferencing application to reach the relay operator. The person without a disability dials a toll free number to reach the relay operator using any telephone service. While access to a high-speed Internet connection and an Internet Protocol (IP) video camera enabled device capable of high-speed Internet access are necessary for the person with a disability to communicate with the Video Relay operator, these items are not part of the relay service offering.