



## Broadcasting Regulatory Policy CRTC 2011-741-1

PDF Version

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Ottawa, 21 February 2012

### **Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning Working Group**

*The Commission **approves** the French-language Closed Captioning Working Group's (FL-CCWG) proposal for the imposition of mandatory standards regarding monitoring of the accuracy rate of captions. The Commission has added these mandatory standards to the previously established closed captioning mandatory standards. The revised standards are set out in the appendix to this policy.*

*The Commission concludes that applying the mandatory standards for French-language closed captioning as conditions of licence is the most appropriate method of enforcement at this time. However, the Commission notes that if the broadcasting industry were to propose a self-regulatory mechanism that met with Commission approval to administer the standards, it would be prepared to consider applications to suspend the application of these conditions of licence for participating broadcasters.*

*The Commission requests that the FL-CCWG continue its work in the area of French-language closed captioning quality and report to the Commission on its progress when appropriate or upon request by the Commission.*

*Finally, in order to provide the French-language broadcasters with an appropriate amount of time to prepare for the implementation of these mandatory standards, the Commission establishes **1 September 2012** as the date on which the mandatory standards will come into effect.*

#### **Introduction**

1. In Broadcasting Notice of Consultation 2011-489, the Commission called for comments on the quality standards for French-language closed captioning proposed by the French-language Closed Captioning Working Group (FL-CCWG) further to the Commission's direction in Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy).

2. The Commission received comments from a number of parties and one reply. The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
3. In Broadcasting Regulatory Policy 2011-741, the Commission approved the mandatory standards for French-language closed captioning and indicated that it would address at a later date how the mandatory standards will be enforced, how compliance should be monitored and whether the mandate of the FL-CCWG should be extended. Accordingly, the Commission addresses these issues below.

## **How should the mandatory standards be enforced?**

### **Issue**

4. In the Accessibility Policy, the Commission stated its intention to require all television licensees to adhere to the approved closed captioning quality standards through conditions of licence that would be imposed at the time of licence renewal.
5. In Broadcasting Regulatory Policy 2011-741, the Commission found it appropriate to make a distinction between mandatory standards and best practices, as proposed by the FL-CCWG. The Commission expressed the view that mandatory standards should be achievable, measurable and enforceable, while best practices are more qualitative and are more appropriately applied as guidelines. However, the Commission did not address how the mandatory standards it approved would be enforced.

### **Positions of parties**

6. V Interactions Inc. (V Interactions) submitted that captioning standards should be considered best practices and should not be imposed as conditions of licence. It specifically opposed the imposition of the proposed standard concerning accuracy rate as a mandatory standard, arguing that the calculation method was too subjective and was inconsistent with some of the best practices outlined in the FL-CCWG's final report entitled *Normes universelles du sous-titrage code à l'intention des télédiffuseurs canadiens de langue française* (the Universal Standards), dated March 2011.
7. The Aboriginal Peoples Television Network supported the enforcement of closed captioning standards through conditions of licence, submitting that this would allow the Commission to take into account the individual circumstances of licensees, including their size, resources and broadcast mandate, when it assesses compliance.
8. The Centre québécois de la déficience auditive (CQDA) submitted that while it would be appropriate to impose the standards as conditions of licence, it would also be appropriate to allow for some flexibility during the first half of the licence

term in which the conditions apply, after which time full compliance would be required.

#### **Commission's analysis and decision**

9. In the past, the Commission has addressed closed captioning issues through conditions of licence and has often stated its intention to impose the quality standards as conditions of licence. The Commission considers that the mandatory standards approved in Broadcasting Regulatory Policy 2011-741 are well suited to being imposed as conditions of licence. Having been developed through consultation involving the industry, the standards are achievable. Further, they clearly set out the Commission's requirements, so that it can assess and enforce compliance where necessary. The Commission considers that its approach to date continues to be appropriate. Accordingly, the Commission will impose the mandatory standards as conditions of licence.
10. With respect to V Interactions' concerns, the Commission considers that an accuracy rate of 85% will allow enough flexibility to take into account any minor inconsistencies between some of the best practices and the mandatory standards found in the Universal Standards. Similarly, the Commission notes that the broadcasting members of the working group did not raise this as an issue and considers that it is therefore unnecessary to provide additional flexibility beyond that already provided by the 85% accuracy rate.
11. It is the Commission's general practice to suspend conditions of licence mandating adherence to codes of conduct administered by the Canadian Broadcast Standards Council (CBSC) for broadcasters who are members in good standing of the CBSC, as a means of reliance on industry self-regulation. Such an approach is consistent with the Commission's objective of streamlining the regulatory process and increasing reliance on a supervisory approach. Similarly, if the broadcasting industry were to propose a comparable self-regulatory mechanism that met with Commission approval to administer the closed captioning standards, the Commission would be prepared to consider applications to suspend the application of the conditions of licence concerning closed captioning quality standards for broadcasters participating in such a mechanism.
12. In the Commission's view, a number of criteria that it considered integral to effective self-regulation in the context of codes of conduct would also apply to the above-noted mechanism. Accordingly, the Commission considers that an effective self-regulatory mechanism would have to at a minimum meet all of the criteria set out below:
  - commitment from the industry to the self-regulatory body and the closed captioning standards;
  - expertise in the area of closed captioning standards;

- membership that reflects the various public, industry, professional, consumer and social interest groups to ensure fair and adequate representation;
- independent and sustainable source of sufficient funding to ensure resources are available for effective self-regulation since no Commission funds are available for this purpose;
- clearly stated mandate to include industry and public awareness activities;
- effective complaints mechanisms to monitor adherence and compliance with the standards and respond to complaints;<sup>1</sup> and
- provision for reporting to the Commission.

### **How should compliance be monitored?**

#### **Issue**

13. While the Commission did not specifically direct the FL-CCWG to address the issue of monitoring, in its report the working group proposed the following two mechanisms for ensuring compliance with the mandatory standard regarding the accuracy rate: [translation]
- On a monthly basis, each broadcaster must calculate the accuracy rate for two programs containing live content.
  - Broadcasters should strive to improve the accuracy rate and are required to provide the Commission every two years with a report describing the steps they have undertaken in this respect, both with respect to efforts made in-house and requests to captioning providers.
14. The FL-CCWG proposed that these two mechanisms be incorporated into the mandatory standards to be implemented as conditions of licence.

#### **Positions of parties**

15. The CQDA submitted that monitoring the accuracy of captioning should be the responsibility of an external party and that the frequency of monitoring activities should be specified in the condition of licence.
16. Regroupement québécois pour le sous-titrage inc. (RQST) requested that funding be put in place to establish a monitoring centre and to develop tools to measure closed captioning quality and quantity.<sup>2</sup> The RQST submitted that it was

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<sup>1</sup> See the Commission's comments in another context in Public Notice 1986-351 regarding factors important to the success of a complaints mechanism.

<sup>2</sup> The RQST estimated that the centre would have a cost of \$400,000. It proposed that the centre would have three main objectives: developing monitoring tools, experimenting with the

imperative that the centre not be supervised by the broadcasters or any association of broadcasters and suggested that it be supervised by the CQDA and RQST.

17. V Interactions proposed that monitoring compliance with the accuracy rate standard should involve a quarterly evaluation of two different pre-recorded programs and two different live programs.
18. The Canadian Union of Public Employees (CUPE) argued that there should be a monitoring system in place, but that broadcasters should not be allowed to regulate themselves. CUPE also suggested that monitoring should be conducted randomly by an independent group and that the evaluations and resulting accuracy rates should be reported on an annual basis instead of every two years as proposed. Finally, CUPE was of the view that the Commission should re-impose the reporting requirement set out in Broadcasting Public Notice 2004-94.<sup>3</sup>
19. SOVO Technologies Inc. (SOVO) proposed that all broadcasters should be required to submit a quarterly report to the Commission demonstrating how they are respecting the quality standards for all their programming and that the reports should be made public on the Commission's website.
20. The Syndicat des communications de Radio-Canada (SCRC) suggested that the Commission should randomly choose the days and programs that will be examined and notify broadcasters of the selected programs only after the programming has been broadcast. The SCRC also submitted that the actual monitoring should be conducted by a group composed of viewers, broadcasters and captioning experts.

#### **Commission's analysis and decision**

21. In the view of the Commission, the importance of monitoring to the user communities and broadcasters is demonstrated by the fact that the FL-CCWG developed a mandatory standard for monitoring accuracy despite not being directed by the Commission to do so, as well as by the number of interveners who commented on the importance of ensuring that a monitoring system is put in place.
22. The Commission is of the view that there must be a balance between the creation of a transparent accountability mechanism that will ensure compliance with

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tools and validating the findings within the community of persons who are deaf or hard of hearing and experimenting with the operability of the monitoring system by persons who are deaf or hard of hearing.

<sup>3</sup> In Broadcasting Public Notice 2004-94, the Commission required the Canadian Broadcasting Corporation, TVA and TQS (now V Interactions) to report annually to the Commission on the progress made toward improving the quality and increasing the quantity of closed captioning originating with their networks. In Broadcasting Public Notice 2007-54, the Commission suspended those reporting requirements for as long as the three licensees were active members of the FL-CCWG.

regulatory obligations and the administrative burden and costs on all parties associated with monitoring.

23. The Commission considers that the two types of monitoring activities proposed by the FL-CCWG are required: one to ensure compliance with existing standards and one to ensure techniques and technologies associated with the quality of closed captioning continue to evolve. The Commission is also of the view that the monitoring mechanisms proposed by the FL-CCWG achieve the balance referred to above and represent effective mechanisms for ensuring that licensees adhere to the accuracy rate mandatory standard and demonstrate to the Commission that they are keeping current with technological advances in this area.
24. Accordingly, the Commission **approves** the FL-CCWG's proposal for the imposition of mandatory standards requiring broadcasters to:
  - calculate the accuracy rate for two programs containing live content every month; and
  - provide the Commission every two years with a report describing their efforts made in-house and requests to captioning providers in order to improve the accuracy rate.
25. The Commission has added the above-noted mandatory standards to the previously established closed captioning mandatory standards. The revised standards are set out in the appendix to this policy.
26. The Commission will request that a broadcaster submit its monthly accuracy calculations when the Commission deems it appropriate, such as in the event the Commission becomes aware of compliance issues. The Commission will address any alleged non-compliance by individual broadcasters on a complaints basis, as it does in the case of programming-related complaints. The Commission will consider the imposition of further monitoring requirements if it appears that there is repeated non-compliance.

## **What should be the future mandate of the French-language Closed Captioning Working Group?**

### **Issue**

27. In Broadcasting Notice of Consultation 2011-489, the Commission sought comments on the appropriateness of the follow-up actions proposed by the FL-CCWG, as well as whether further action was required for a number of outstanding issues related to the quality of captioning.
28. The FL-CCWG suggested that a number of areas be reviewed in the future and proposed target dates for each area:

- how to include grammar and spelling errors in the accuracy rate calculation – before January 2014;
  - the best practice related to the format and speed of captioning for children and youth programming – by January 2014;
  - maintaining verbatim transcription during children and youth programming – by January 2014; and
  - captioning speed for viewers 55 years old and over – by early 2016.
29. In addition, the FL-CCWG proposed to meet again in January 2017 to conduct an overall review of the mandatory standards and best practices.

#### **Positions of parties**

30. Astral Media inc. and Quebecor Media Inc. (on behalf of itself, TVA Group Inc. and Videotron G.P.), Bell Canada, the Canadian Broadcasting Corporation, the CQDA, Pelmorex Media Inc. (Pelmorex), SOVO, the SCRC and V Interactions supported a future mandate for the FL-CCWG that would include a review of various related areas.
31. Pelmorex and SOVO specifically suggested that any future closed captioning working group should allow for the inclusion of all broadcasters, distributors, providers, user associations and manufacturers of captioning equipment who wish to participate.
32. CUPE submitted that having operated for four years the FL-CCWG should now be dissolved and the focus should shift to implementing and monitoring the closed captioning quality standards.

#### **Commission's analysis and decision**

33. The Commission notes that while the FL-CCWG has made significant progress in developing industry standards in the area of closed captioning quality, this area continues to develop. Accordingly, the Commission considers that extending the mandate of the FL-CCWG would ensure the continued appropriateness of the standards and would allow industry representatives and users to continue to work together in a cooperative environment to identify problems and find solutions.
34. Accordingly, the Commission requests that the FL-CCWG continue its work and report to the Commission on its progress when appropriate or upon request by the Commission. Further, the Commission may request that the FL-CCWG review or develop measures or solutions on particular issues of closed captioning quality if the Commission considers it appropriate as a result of technological advances or its monitoring activities.

35. The Commission expects the FL-CCWG to make its best efforts to include in its deliberations all broadcasters, distributors, providers, user associations and manufacturers of captioning equipment who wish to participate in the working group.

## **Implementation**

36. In order to provide the French-language broadcasters with an appropriate amount of time to prepare for the implementation of the mandatory standards, the Commission establishes **1 September 2012** as the date on which the mandatory standards set out in the appendix to this policy will come into effect. Consequently, the first reports regarding efforts to improve the accuracy of captioning will be due on **31 August 2014**.

## **Conclusion**

37. The Commission commends the FL-CCWG for the progress it has made with respect to establishing standards for closed captioning quality that will help ensure that Francophone Canadians who are deaf or hard of hearing are able to access and appreciate French-language programming.
38. The Commission looks forward to the FL-CCWG's work as it continues to be a catalyst for positive change and advancement in the field of closed captioning quality standards.

Secretary General

## **Related documents**

- *Quality standards for French-language closed captioning*, Broadcasting Regulatory Policy CRTC 2011-741, 1 December 2011
- *Call for comments on proposed French-language Closed Captioning Quality Standards*, Broadcasting Notice of Consultation CRTC 2011-489, 15 August 2011
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Introduction to Broadcasting Decisions CRTC 2004-530 to 2004-540 renewing the licences of 21 French-language television stations*, Broadcasting Public Notice CRTC 2004-94, 3 December 2004
- *Policy on Sex-Role Stereotyping in the Broadcast Media*, Public Notice CRTC 1986-351, 22 December 1986

# **Appendix to Broadcasting Regulatory Policy 2011-741-1**

## **French-language Closed Captioning Mandatory Quality Standards**

### **1) Lag time**

For live programming, the lag time between the audio and the captions must not exceed five seconds, averaged over the program.

### **2) Accuracy rate for pre-recorded programming**

Captioning for pre-recorded programs must target an accuracy rate of 100%, including spelling.

### **3) Accuracy rate for live programming**

Broadcasters must reach an accuracy rate of at least 85% averaged over the program, as measured by the following calculation method:

$$\% \text{ of accuracy} = \frac{N - \text{Sup} - \text{Sub} - I}{N} \times 100$$

N: number of words in the audio.

Sup: number of suppressed words (words present in the audio but absent from the captions).

Sub: number of substituted words (words in the audio replaced with others words in the captions).

I: number of inserted words (words present in the captions but absent from the audio).

### **4) Monitoring of accuracy rate**

Every month each broadcaster must calculate the accuracy rate for two programs containing live content.

Every two years broadcasters must provide the Commission with a report describing their efforts made in-house and requests to captioning providers in order to improve the accuracy rate.

### **5) Rebroadcast of programs initially aired live**

When a broadcaster rebroadcasts a program that was initially aired live, it must correct errors in the captioning if:

- the content is rebroadcast as is, i.e. subsequent broadcasts are recordings of the original broadcast;
- in the case of Category 1 (News) or Category 3 (Reporting and Actualities) programs, the time between the end of the original broadcast and the rebroadcast is equal to at least two times the total duration of the program; and

- in the case of all other live programs, the program is rebroadcast more than 24 hours after the end of the original broadcast.

## **6) On-screen information**

**Positioning:** For both live and pre-recorded captioning, captions must be positioned to avoid covering action, visual elements or any information required to understand the message.

**Conflict between captions and on-screen information:** If despite the broadcaster's efforts, it is impossible to present captions without obstructing other graphic elements on screen (e.g. sports scores, weather data, breaking news), captions take precedence.

## **7) Speed**

Captions must be verbatim representations of the audio, regardless of the age of the target audience.

Speech must only be edited as a last resort, when technical limitations or time and space restrictions will not accommodate all of the spoken words at an appropriate presentation rate.

## **8) Closed captioning of emergency alerts**

With the exception of emergency alerts issued by the National Alert Aggregation and Dissemination system, in the event of a community emergency, broadcasters are required to provide all relevant information in both vocal and written formats and must insert the captions in their programming as soon as possible, using the method described in the Universal Standards.

## **9) Hyphens / Chevrons**

Systematically use hyphens or chevrons to indicate that a different person is speaking, even when the captions are positioned.