



Broadcasting Public Notice CRTC 2006-5

Ottawa, 19 January 2006

Changes to the distribution of the Cable Public Affairs Channel and the parliamentary programming service in response to a Direction from the Governor in Council

Summary

On 22 March 2005, the Governor in Council issued Direction to the CRTC (Reservation of Channels for the Distribution of CPAC), SOR/2005-60 (the Direction), which instructed the Commission to require all cable broadcasting distribution undertakings that serve more than 2,000 subscribers to distribute both an English-language and a French-language version of the Cable Public Affairs Channel and the parliamentary programming service.

In Call for comments on a revised distribution order for the Cable Public Affairs Channel and the exempt parliamentary programming service and related amendments to the Exemption order for cable BDUs serving 2,000 to 6,000 subscribers, Broadcasting Public Notice CRTC 2005-78, 5 August 2005, the Commission called for comments on its proposed implementation of the Direction.

Three parties submitted comments in response, each requesting that the Commission modify its proposed amendments in a manner that would allow the Commission some flexibility to relieve licensees of the new requirements. This notice sets out the Commission's determination to grant one of these requests, with some changes. The Commission has not granted the other requests because it lacks the discretion, under the terms of the Direction, to do so.

The revised distribution order and exemption order are appended to this notice.

Introduction

1. The Cable Public Affairs Channel (CPAC) is a licensed satellite-to-cable programming service offering public affairs programming. The parliamentary programming service is an exempt broadcasting service pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, appended to Broadcasting Public Notice CRTC 2002-73, 19 November 2002. Its programming consists of coverage of the proceedings of the House of Commons, the Senate, and their various committees. The two services are currently distributed on the same channel on a time-shared basis: the programming of the parliamentary programming service is broadcast mainly during working hours, while the CPAC service provides "wrap-around" programming that precedes and follows that of the parliamentary programming service.

2. The parliamentary programming service is currently referred to in the *Broadcasting Distribution Regulations* (the Regulations) as the “House of Commons programming service”. However, this programming service broadcasts the proceedings of the Senate and its various committees in addition to those of the House of Commons. Accordingly, for the purpose of this notice and the relevant orders, the Commission will refer to the service using the more accurate term “parliamentary programming service” wherever possible.
3. On 22 March 2005, the Governor in Council issued *Direction to the CRTC (Reservation of Channels for the Distribution of CPAC)*, SOR/2005-60 (the Direction), which provides as follows:

DIRECTION

1. The Canadian Radio-television and Telecommunications Commission is hereby directed to require cable broadcasting distribution undertakings who have 2,000 or more subscribers, whether or not they are exempted from licensing by the Commission, to reserve two video channels, one channel for the English-language service and the other for the French-language service, for the distribution of the licensed and exempt programming services provided by the Canadian Public Affairs Channel (CPAC). One of the video channels shall be on the basic service.

COMING INTO FORCE

2. This Order comes into force on the day on which it is registered.
4. The broadcasting distribution undertakings (BDUs) affected by the Direction’s requirements are:
 - licensed Class 1 cable BDUs;
 - licensed Class 2 cable BDUs;
 - licensed Class 3 cable BDUs with more than 2,000 subscribers; and
 - cable BDUs serving 2,000 - 6,000 subscribers and operating pursuant to the exemption order noted below.
5. The existing requirements related to the distribution of CPAC by licensed cable BDUs are found in Distribution Order 2002-1 set out in Appendix 2 to *Licence renewal for CPAC; and issuance of a distribution order*, Broadcasting Decision CRTC 2002-377, 19 November 2002 (the distribution order). The requirements related to the distribution of the parliamentary programming service by licensed cable BDUs are found in the Regulations. In the case of cable BDUs having 2,000 – 6,000 subscribers, but that are

exempted from licensing requirements, their obligations with respect to the distribution of CPAC and of the parliamentary programming service are contained in Appendix A to *Exemption order respecting cable broadcasting distribution undertakings that serve between 2,000 and 6,000 subscribers; and Amendment to the Broadcasting Distribution Regulations*, Broadcasting Public Notice CRTC 2004-39, 14 June 2004 (the exemption order).

6. The existing requirements with respect to the distribution of CPAC and the parliamentary programming service vary depending on a number of factors, including the bandwidth capacity of the cable BDU, whether it is licensed or exempt and, if licensed, the type of licence that it has been issued.
7. The Direction requires that all cable BDUs serving 2,000 or more subscribers distribute both the French- and English-language version of CPAC and the parliamentary programming service, and that one of these versions be distributed as part of the basic service.
8. In *Call for comments on a revised distribution order for the Cable Public Affairs Channel and the exempt parliamentary programming service and related amendments to the Exemption order for cable BDUs serving 2,000 to 6,000 subscribers*, Broadcasting Public Notice CRTC 2005-78, 5 August 2005 (Public Notice 2005-78), the Commission requested comments on certain amendments to the distribution order and to the exemption order that it proposed for the purpose of implementing the Direction. In response, the Commission received comments from MTS Allstream Inc., Saskatchewan Telecommunications and TELUS Communications Inc., submitting jointly as the digital subscriber line BDUs (DSL BDUs), the Canadian Cable Telecommunications Association (CCTA) and Quebecor Media Inc. (QMI).

Position of the parties

9. The DSL BDUs noted that the Commission's proposed revisions to the distribution order and the exemption order would continue to require the distribution of a secondary audio in the official language of the minority to accompany the version of CPAC and the parliamentary programming service that must be distributed on basic. They argued that these proposed revisions are not technologically neutral, since they do not take into consideration that secondary audio programming (SAP), an analog technology, cannot be used by DSL or other all-digital BDUs. As an alternative, the DSL BDUs proposed that they be required to distribute both versions of CPAC and the parliamentary programming service (i.e., one in English and one in French) as part of their basic service, just as direct-to-home satellite BDUs are required to do.

10. In its comments, the CCTA noted that smaller systems, particularly those that do not offer digital services, may experience considerable financial and other difficulties in distributing a second version of CPAC and the parliamentary programming service. It requested that the Commission's proposed amendments be altered to provide for "some limited exceptions ... [w]here systems could demonstrate that compliance is unachievable without significant hardship". The CCTA proposed that requests for exceptions to these requirements "could be evaluated on a case-by-case basis".
11. QMI argued that BDUs serving between 2,000 and 6,000 subscribers and those that distribute services exclusively on an analog basis will be most heavily affected by the new requirements. Consequently, QMI requested that BDUs that meet both these criteria be relieved from the requirement to provide a second version of CPAC and the parliamentary programming service.
12. QMI also argued that even BDUs serving 2,000 to 6,000 subscribers that either offer or intend to offer digital services may be adversely affected by the new requirements set out in the Direction. QMI noted that it planned to introduce digital services on all of its BDUs that serve between 2,000 and 6,000 subscribers by the end of 2007. To minimize the impact on these smaller BDUs, QMI proposed that the new requirements be implemented on a graduated basis beginning with systems that have more than 6,000 subscribers, followed by those that have 5,000 to 6,000 subscribers and ending with those that serve 2,000 to 3,000 subscribers and are not interconnected with other BDUs.

Commission's analysis and determinations

Auxiliary audio channel

13. With respect to the DSL BDUs' concerns about the inability of all-digital BDUs to make use of SAP technology, the Commission notes that, under the current distribution order and the exemption order, BDUs are required to distribute an "auxiliary audio channel", which all-digital BDUs are capable of doing using technology other than SAP.
14. Nevertheless, the Commission considers that the alternative proposed by the DSL BDUs, i.e., that they distribute both the French- and the English-language version of CPAC and the parliamentary programming service as part of the basic service, would be consistent with the intent of the Direction and would likely provide subscribers with better access to CPAC and the parliamentary programming service than they would enjoy by receiving an auxiliary audio channel. In the circumstances, the Commission considers that it would be appropriate to permit any BDU that chooses to provide both the French- and the English-language version of CPAC and the parliamentary programming service as part of the basic service to be relieved of the obligation to provide auxiliary audio channels.
15. To give effect to this determination, the Commission has added the following text as a new section (b)(v) of the distribution order, and as a new section 6(5) of the exemption order, as revised and set out, respectively, in Appendix I and Appendix II to this notice:

where the undertaking elects to distribute, as part of its basic service, both an English-language and a French-language version of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, it is relieved of the requirement to distribute an auxiliary audio channel for any of these services.

16. The Commission will entertain applications to be relieved of the requirement to distribute an auxiliary audio channel in those limited circumstances where the applicant demonstrates that it would face extraordinary difficulties in implementing this requirement.

Second version of CPAC and the parliamentary programming service

17. With respect to the requests by the CCTA and QMI for exemption from the proposed new requirements to offer a second version of CPAC and the parliamentary programming service, the Direction does not give the Commission any discretion to grant such exemptions. The Commission has therefore removed the phrase “[e]xcept as otherwise provided under a condition of licence” from sections (b)(iii) and (b)(iv) of the revised distribution order.

Delayed implementation

18. As for QMI’s request for a graduated implementation of the new requirements, the Commission notes that, as specified in section 2 of the Direction, it came into force “on the day on which it is registered”, i.e., 22 March 2005. This means that the Commission has no flexibility with respect to the timing for implementation of the new requirements set out in the Direction, and cannot grant QMI’s request.

Secretary General

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Appendix I to Broadcasting Public Notice CRTC 2006-5

Distribution Order 2006-1

Distribution of the public affairs programming service of Cable Public Affairs Channel Inc. known as CPAC by persons licensed to carry on certain types of broadcasting distribution undertakings

This distribution order replaces *Distribution of the public affairs programming service of Cable Public Affairs Channel Inc. known as CPAC by persons licensed to carry on certain types of broadcasting distribution undertakings*, Distribution Order 2002-1, set out in Appendix 2 to Broadcasting Decision CRTC 2002-377, 19 November 2002.

The Commission hereby orders, pursuant to section 9(1)(h) of the *Broadcasting Act*, persons licensed to carry on broadcasting distribution undertakings of the types identified in paragraph (a) below to distribute the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order* appended to Broadcasting Public Notice CRTC 2002-73, 19 November 2002, as may be amended from time to time, in the manner specified in paragraph (b) below, effective 20 February 2006, on the following terms and conditions:

- a) This Order applies to Class 1 and Class 2 licensees, including multipoint distribution system undertakings, direct-to-home (DTH) distribution undertaking licensees, Class 3 licensees that have 2,000 subscribers or more, Class 3 licensees that have a nominal capacity of at least 550 MHz and that deliver any programming services on a digital basis, and Class 3 licensees whose distribution systems are totally interconnected with other systems. These licensees are collectively referred to in this Order as distribution licensees.
- b) Distribution licensees shall distribute the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, in the manner specified as follows:
 - i) Subject to paragraph v) and except as otherwise provided under a condition of its licence, any Class 1 licensee, Class 2 licensee, or any Class 3 licensee serving 2,000 subscribers or more, shall distribute, as part of its basic service, the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language and an auxiliary audio channel of those services in the English language, if the licensee is operating in a francophone market within the meaning of paragraph 18(4)(a) of the *Broadcasting Distribution Regulations*.

ii) Subject to paragraph v) and except as otherwise provided under a condition of its licence, any Class 1 licensee, Class 2 licensee, or any Class 3 licensee serving 2,000 subscribers or more, shall distribute, as part of its basic service, the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language and an auxiliary audio channel of those services in the French language, if the licensee is operating in an anglophone market within the meaning of paragraph 18(4)(b) of the *Broadcasting Distribution Regulations*.

iii) Any Class 1 licensee, Class 2 licensee, or any Class 3 licensee serving 2,000 subscribers or more, shall distribute the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language, if the licensee is operating in a francophone market within the meaning of paragraph 18(4)(a) of the *Broadcasting Distribution Regulations*.

iv) Any Class 1 licensee, Class 2 licensee, or any Class 3 licensee serving 2,000 subscribers or more, shall distribute the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language, if the licensee is operating in an anglophone market within the meaning of paragraph 18(4)(b) of the *Broadcasting Distribution Regulations*.

v) where the undertaking elects to distribute, as part of its basic service, both an English-language and a French-language version of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, it is relieved of the requirement to distribute an auxiliary audio channel for any of these services.

vi) The requirements of subsections iii) and iv) above do not apply to multipoint distribution system licensees.

vii) Any Class 3 licensee serving fewer than 2,000 subscribers whose distribution system has a nominal capacity of at least 550 MHz and that delivers any programming service on a digital basis shall distribute the English- and French-language versions of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time.

viii) Any Class 3 licensee whose distribution system is totally interconnected with another system shall distribute the English- and French-language versions of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, with the same distribution status as the system with which it is interconnected, unless the licensee does not have the technology to do so.

ix) Except as otherwise provided under a condition of its licence, a DTH licensee shall distribute as part of its basic service the English- and French-language versions of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time.

- c) Class 1, Class 2 and Class 3 licensees shall not distribute the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, on a restricted channel unless CPAC consents in writing to its distribution on such a channel.
- d) Commencing 1 September 2004 and for the remainder of CPAC's current licence term, distribution licensees distributing the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, shall pay to CPAC the fee it charges, up to the maximum fee of \$0.11 per subscriber per month as authorized under the terms of CPAC's licence. For this period, distribution licensees are authorized to increase the basic monthly fee to be paid by their subscribers by no more than \$0.08, in accordance with the terms of CPAC's licence.
- e) Distribution licensees who remove a service in order to comply with this Order may only remove a service carried on an available channel.
- f) Notwithstanding the foregoing, distribution licensees shall not be required to distribute the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, unless CPAC or a third party pays for the satellite uplink and transponder costs with respect to the transmission of these programming services.
- g) Notwithstanding the foregoing, distribution licensees shall not be required to distribute the licensed public affairs programming service of CPAC if CPAC ceases to provide the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time.

- h) This Distribution Order shall remain in effect until such time as the Commission amends or rescinds it.

For the purposes of this Distribution Order, “available channel,” “basic service,” “Class 1 licensee,” “Class 2 licensee,” “Class 3 licensee,” “DTH distribution undertaking,” “licensed,” “programming service” and “restricted channel” carry the meanings assigned to them in the *Broadcasting Distribution Regulations*, as may be amended from time to time.

Appendix II to Broadcasting Public Notice CRTC 2006-5

Exemption order respecting cable broadcasting distribution undertakings that serve between 2,000 and 6,000 subscribers

This order replaces *Exemption order respecting cable broadcasting distribution undertakings that serve between 2,000 and 6,000 subscribers*, set out in Appendix A to Broadcasting Public Notice CRTC 2004-39, 14 June 2004.

Pursuant to section 9(4) of the *Broadcasting Act* (the Act), the Commission, by this order, exempts from the requirements of Part II of the Act and any regulations made thereunder, those persons carrying on broadcasting distribution undertakings of the class defined by the criteria outlined below.

Purpose

The purpose of these broadcasting distribution undertakings is to serve small and rural communities, and serve between 2,000 and 6,000 subscribers.

Description

1. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
2. In total, the number of subscribers served by the individual undertaking is 2,000 or more, but not more than 6,000. The undertaking operates its own head end. The undertaking did not, as of 19 May 1995, serve all or part of the same service area as that of a cable undertaking that is a Class 1 licensee, as defined in the *Broadcasting Distribution Regulations*, or did not otherwise, at the time the undertaking first qualified for exemption, serve all or part of the same service area as that of a cable undertaking that is a Class 1 licensee. Once exempt, the undertaking shall at no time have more than 6,600 subscribers.
3. The undertaking meets all the technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by the Department.
4. For the purpose of this order,

(1) the definitions of “basic band,” “basic service,” “Canadian production fund,” “Category 1 service,” “Category 2 service,” “community channel,” “community programming,” “comparable,” “contribution to local expression,” “Corporation,” “educational television programming service,” “extra-regional television station,” “independent production fund,” “licensed,” “local television station,” “official contour,” “pay television service,” “privately owned local television station,” “programming

service,” “related programming undertaking,” “regional television station,” “specialty service” and “station” have the same meaning as in the *Broadcasting Distribution Regulations*; and “service area” shall mean the area in which an exempt undertaking carries on a broadcasting distribution undertaking; and

(2) a licensee is operating in an “anglophone market” or in a “francophone market” within the meaning in section 18(4) of the *Broadcasting Distribution Regulations*.

5. (1) All services of Canadian local television stations, regional television stations, educational television programming services designated by the province in which the undertaking is located, and extra-regional television stations other than affiliates or members of a network of which a local television station is an affiliate or member, are distributed over the undertaking. If not otherwise included in the list above, the undertaking must distribute the programming service of at least one television station owned and operated by the Corporation, in each of the official languages.

(2) In each case, the programming services referred to in 5(1) must be distributed with no degradation of the received signal. In addition, the undertaking shall distribute these services as part of its basic service on channels beginning with the basic band.

(3) If the undertaking receives programming services that are identical, the undertaking is required to distribute only one of them under 5(1).

(4) If the programming services of two or more regional television stations that are affiliates or members of the same network are received at the local head end, the undertaking is required to distribute only one of them.

(5) If the undertaking was not required to distribute a programming service described in 5(1), including an educational programming service, as part of its basic service at the time it first qualified for exemption, the undertaking is not required to distribute that service under 5(1), but may distribute it as part of the basic service.

6. The undertaking must distribute, as part of the basic service,

(1) the Aboriginal Peoples Television Network programming service;

(2) the programming service of TVA Group Inc. (CFTM-TV Montréal or the programming service of one of its affiliates);

(3) subject to subsection 6(5), if the undertaking is operating in a francophone market, the licensed public affairs programming service of the Cable Public Affairs Channel Inc. (CPAC) and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language and an auxiliary audio channel of those services in the English language;

(4) subject to subsection 6(5), if the undertaking is operating in an anglophone market, the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language and an auxiliary audio channel of those services in the French language;

(5) where the undertaking elects to distribute, as part of its basic service, both an English-language and a French-language version of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, it is relieved of the requirement to distribute an auxiliary audio channel for any of these services; and

(6) if the undertaking is operating in an anglophone market and distributes the Corporation's Newsworld programming service, the programming service of the National Broadcast Reading Service (VoicePrint) as the secondary audio program of the former service.

7. The undertaking must distribute,

(1) if the undertaking is operating in a francophone market, the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language; and

(2) if the undertaking is operating in an anglophone market, the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language.

8. An undertaking that has a nominal capacity of 750 MHz or more and that delivers any programming service on a digital basis shall also distribute:

(1) at least one pay television service in each official language; and

(2) all French-language and English-language Canadian specialty services, other than Category 2 services.

9. An undertaking that has a nominal capacity of less than 750 MHz and that delivers any programming service on a digital basis shall distribute:

(1) at least one French-language Canadian specialty service, excluding the services that the undertaking may be required to distribute under 5 or 6 above, for every ten English-language programming services distributed by the undertaking, if the undertaking is operating in an anglophone market;

(2) at least one English-language Canadian specialty service, excluding the services that the undertaking may be required to distribute under 5 or 6 above, for every ten French-language programming services distributed by the undertaking, if the undertaking is operating in a francophone market;

(3) if the undertaking is operating in an anglophone market, each English-language Category 1 service that the operator of which is authorized to provide to all or part of the service area of the undertaking; and

(4) if the undertaking is operating in a francophone market, each French-language Category 1 service that the operator of which is authorized to provide to all or part of the service area of the undertaking.

10. An undertaking operating in an anglophone market shall distribute on an analog basis at least the same number of French-language Canadian programming services as it distributed on an analog basis on 10 March 2000.

11. The undertaking must not provide a subscriber with any programming services, other than those licensed to carry on pay-per-view services, video-on-demand services or exempt programming services, without also providing the basic service described in 5.

12. The undertaking must not alter or delete a programming service in the course of its distribution except:

(1) for the purpose of complying with section 329 of the *Canada Elections Act*;

(2) for the purpose of deleting a programming service to comply with an order of a court prohibiting the distribution of the service to any part of the service area;

(3) for the purpose of altering a programming service to insert an emergency alert message in accordance with an agreement entered into with the operator of the service or the network responsible for the service;

(4) for the purpose of preventing the breach of programming or underlying rights of a third party, in accordance with an agreement entered into with the operator of the service or the network responsible for the service; or

(5) for the purpose of deleting a subsidiary signal, unless the signal is, itself, a programming service or is related to the service being distributed.

13. (1) The undertaking shall delete the programming service of a television station and substitute the programming service of a Canadian privately owned local television station or, with the agreement of the broadcaster operating the privately owned local television station, shall have that broadcaster carry out the deletion and substitution, if
 - (a) the main studio of the privately owned local television station
 - (i) is located within the service area of the undertaking, and
 - (ii) is used to produce locally originated programming;
 - (b) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast;
 - (c) the privately owned local television station has a higher priority under 5; and
 - (d) in a case where the broadcaster operating the privately owned local television station is not to carry out the deletion and substitution under an agreement with the undertaking, the undertaking has, at least four days before the date on which the programming service is broadcast, received from the broadcaster operating the privately owned local television station a written request for the deletion and substitution.
- (2) If a substitution is requested by more than one broadcaster, the undertaking shall give preference to the programming service of the television station that has the highest priority under 5.
- (3) An undertaking may discontinue a deletion and substitution if the programming services in respect of which the deletion and substitution are made are not, or are no longer, comparable and broadcast simultaneously.
14. (1) The undertaking must not distribute a programming service that the undertaking originates and that contains:
 - (a) anything that contravenes any law;
 - (b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;
 - (c) any obscene or profane language or pictorial representation; or
 - (d) any false or misleading news.

(2) For the purpose of 14(1)(b), sexual orientation does not include the orientation towards a sexual act or activity that would constitute an offence under the Criminal Code.

15. No service received over-the-air or by satellite or microwave or by optical fibre transmission is distributed over the undertaking, other than a service that the Commission, by regulation or otherwise, has authorized.
16. In respect of each of analog and digital technology, the undertaking shall ensure that a majority of the video and audio channels received by a subscriber are devoted to the distribution of Canadian programming services. Each pay television service, television pay-per-view service, and video-on-demand service shall be counted as a single video channel.
17. If an undertaking that operates in a francophone market distributes the service of ARTV, that undertaking must distribute that service as part of the discretionary package of services that is received by the highest number of subscribers. The fee payable to the service provider shall be \$0.55 per subscriber per month.
18. The undertaking may only distribute non-Canadian-originated services received by satellite in a package with Canadian pay television and/or Canadian specialty services, and such a package must be distributed on a discretionary basis, subject to the following requirements:
 - (1) a Canadian pay television service may be linked in a given discretionary package of services with no more than five channels containing non-Canadian programming services. In no case can an undertaking distribute more than five channels of non-Canadian-originated services received by satellite linked with Canadian pay television services, regardless of the number of Canadian pay television services distributed by the undertaking;
 - (2) (a) each Canadian specialty service may be linked in a given discretionary package of services with no more than one channel containing non-Canadian-originated services;
(b) an undertaking may designate one U.S. superstation and distribute the signal of that superstation within a given discretionary package of services that may include one or more Canadian specialty and/or pay television services, provided that the superstation is included in a package of services that is distributed on a digital basis only;
 - (c) an undertaking is not permitted to link non-Canadian-originated services received by satellite with a Canadian specialty service distributed on the basic service;
 - (3) any Canadian programming service may be linked with a second set of U.S. network signals offered on a digital basis as part of a discretionary package of services; and
 - (4) an undertaking is not permitted to offer a tier containing only non-Canadian services.

19. (1) Where an undertaking distributes a Category 1 service, the undertaking will not be permitted to distribute that service on a stand-alone basis unless the Category 1 service is also distributed as part of a package.

(2) An undertaking is not permitted to package an Adult Category 2 programming service in such a way that subscribers are obligated to purchase the service in order to purchase any other programming service. Undertakings are required to take measures to fully block the reception of both the audio and video portions of any Adult Category 2 programming service to subscribers who request that it not be receivable in their home (in either unscrambled or scrambled mode).
20. The undertaking may only distribute a single or limited point of view religious pay or specialty service in a package with other Canadian single or limited point of view religious pay or specialty services, and with any non-Canadian-originated religious services, and all such services must be distributed on a discretionary basis, subject to the following requirements:

(1) each Canadian single or limited point of view religious pay service may be linked in a single discretionary package of services with no more than five channels containing non-Canadian-originated religious services, but in no case can a single discretionary package of services, whose Canadian component consists only of single or limited point of view religious pay services, contain more than five channels containing non-Canadian religious satellite services, regardless of the number of Canadian single or limited point of view religious pay services included in that package of services; and

(2) each Canadian single or limited point of view religious specialty service may be linked, within a discretionary package of services that may include one or more Canadian single or limited point of view religious services, with no more than one channel containing non-Canadian-originated religious services.
21. The undertaking must make a contribution to Canadian programming in each broadcast year of an amount not less than 5% of that undertaking's gross revenues derived from broadcasting activities in the year, less any contribution to local expression made by the undertaking in that year. Contributions to Canadian programming shall consist of:

(1) a contribution to the Canadian production fund of at least 80% of the undertaking's total required contribution; and

(2) to one or more independent production funds, the remainder of its total required contribution.
22. Where an undertaking elects to offer a community channel as part of its contribution to local expression, the community channel must offer community programming that meets the following requirements:

(1) the programming offered must consist of at least:

- (a) 60% local community television programs that are reflective of the community and produced in the undertaking's service area by the undertaking or by other members of the community served by the undertaking;
- (b) 30% access programming consisting of programs produced by members of the community served by the undertaking;

(2) the programming includes no more than two minutes per hour of promotional messages and at least 75% of this promotional time is made available for the promotion of the community channel, non-related Canadian programming undertakings and for unpaid Canadian public service announcements; and

(3) the programming offered adheres to:

- (a) the *Cable television community channel standards*, as amended; and
- (b) the Canadian Association of Broadcasters' *Voluntary code regarding violence in television programming*, as amended.