



Broadcasting Public Notice CRTC 2007-54

Ottawa, 17 May 2007

A new policy with respect to closed captioning

In this public notice, the Commission sets out a new policy with respect to closed captioning that applies to all television licensees. The document includes the following key determinations:

- *English- and French-language broadcasters will be required to caption 100% of their programs over the broadcast day, with the exception of advertising and promos. This requirement will be subject to exceptions that take into account instances, but not patterns, of equipment/technical malfunctions and human errors that are beyond the broadcaster's control, or circumstances beyond the broadcaster's control where captioning may not be available. However, in light of the specific challenges associated with the captioning of French-language programming, the Commission is prepared to consider requests to tailor the 100% requirement, as necessary. In such cases, the onus will be on broadcasters to demonstrate that it is impossible to meet the 100% captioning requirement.*
- *The Commission is not prepared to impose specific obligations with respect to the captioning of third language programming at this time. However, the Commission encourages broadcasters – particularly those that broadcast in third languages that use the Western alphabet – to work on solutions for making third-language programming more accessible, and to caption third-language programming whenever possible.*
- *The Commission calls on the broadcasting industry to establish working groups for the development and implementation of measures to improve the quality of captioning in Canada, including the development of universal standards in English and in French.*

This document is one of two that the Commission has issued today as a result of the public process initiated in Broadcasting Notice of Public Hearing CRTC 2006-5. The other is Determinations regarding certain aspects of the regulatory framework for over-the-air television, Broadcasting Public Notice CRTC 2007-53, 17 May 2007.

Introduction

1. Captioning is the on-screen textual representation of the audio component of a program. It is presented as a banner, usually at the bottom of the screen, and provides a text rendition of all significant audio content, including on-screen dialog, sound effects and non-speech information such as the identity of speakers and their manner of speaking. It is generally made available in a closed format via line 21 of the vertical blanking

interval. For persons who are deaf or hard-of-hearing, closed captioning provides a critical link to televised news, information and entertainment. It can also benefit individuals who are learning English or French, helping them to improve comprehension and fluency and can help to improve literacy skills in adults and children who are learning to read.

2. In Broadcasting Notice of Public Hearing CRTC 2006-5, (the Notice of public hearing, the television policy review process), the Commission called for comments on the following three key issues related to captioning:
 - the appropriateness of requiring all English- and French-language over-the-air television broadcasters to caption 100% of their television programming (quantity of captioning);
 - the feasibility of captioning in languages other than English or French and the obligations that should be applied to services that broadcast in third languages (captioning of programming in third languages); and
 - proposals to address ongoing concerns about captioning quality (quality of captioning).
3. The Commission received submissions relating to these issues from representatives of persons who are deaf, broadcasters and advertisers, and has carefully considered all submissions in reaching its determinations. The public record of this proceeding is available on the Commission's Web site at www.crtc.gc.ca under "Public Proceedings."
4. In this document, the Commission provides background information on its approach to captioning, including its development to date, then sets out its analysis and determinations on the three key issues set out above. A summary of the new policy with respect to closed captioning is set out in the appendix to this document.

Background

5. The Commission is committed to improving the accessibility of the broadcasting system for persons with disabilities. This objective is prescribed in section 3(1)(p) of the *Broadcasting Act*, which states, as part of the broadcasting policy for Canada, that "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose."
6. The importance of achieving increased accessibility also springs from the fact that television is clearly a key tool for social integration. Television is an essential source of information for Canadians, enabling them to involve themselves knowledgably and effectively as members of Canadian society. As a vehicle for entertainment, television also allows Canadians to participate in a shared culture and shared social values.

7. Over time, the Commission has placed increasing emphasis on making television services more accessible to persons who are blind or have impaired vision and those who are deaf or hard of hearing. Improved accessibility for persons who are deaf or hard of hearing is provided through captioning.
8. The Commission set out its original approach to closed captioning in Public Notice 1995-48 (the 1995 policy). The 1995 policy required large English-language over-the-air (OTA) broadcasters (those earning over \$10 million annually) to caption 90% of all programming by the end of the licence term, and 100% of local news by September 1998. It expected medium-sized stations (those earning between \$5 million and \$10 million annually) and encouraged small stations (those earning less than \$5 million annually) to achieve similar levels. With the renewals of the large English-language station groups CTV and Global in 2001, the Commission began to require, by condition of licence, the captioning of 90% of all programming over the broadcast day¹ and 100% of all news. Since that time, the Commission has generally required all English-language broadcasters to caption 90% of all programming and 100% of news, with exceptions granted on the basis of their revenues, whether the licensee is a new entrant to the broadcasting system, and the nature or language of the service in question.
9. The 90% obligation was based on the recognition that requiring the captioning of all programming aired during the broadcast day may not be reasonable or appropriate. Thus, the flexibility of 10% ensured that no breach of a condition of licence occurred as a result of unforeseen circumstances such as late delivery of captions; technical malfunctions; programs acquired outside North America for which captioning is not available; or programming, such as third-language programming, where captioning may not be feasible.
10. Closed captioning requirements for French-language broadcasters have generally been less onerous than for English-language broadcasters because of the more significant challenges of providing captioning in French. These challenges arise in part because the technology used for live captioning was developed for the English language and does not easily accommodate the particularities of the French language. They also relate to the lack of trained captionists for French-language programming. Nevertheless in, Public Notice 1999-97, the Commission stated that it considered that French-language broadcasters should have requirements for closed captioning of programming that are similar to those applicable to English-language broadcasters. Since then, it has explored the implementation of such requirements as part of its consideration of applications for new licences for French-language television stations, or for the renewal of such licences.

¹ "broadcast day" means the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee.

11. Given that the various captioning technologies do not necessarily work for all languages, the Commission has generally required the captioning of English- and/or French-language programming and encouraged the captioning of programming in other languages.
12. Since 1995, the industry has been moving toward the objective of 90% closed captioning. Notwithstanding this important achievement, however, the Commission has heard a number of concerns about the quality, accuracy and reliability of the captioning that is being provided within the Canadian broadcasting system. For example, and particularly with respect to live programming, consumers of captioning have raised concerns about the lack of captions, technical failures of captioning, and inaccuracies in captioning such as garbled captions, misspelled words and other errors. Although the industry has developed certain closed captioning standards in consultation with representatives of the deaf and hard of hearing community, none of these standards specifically address these types of concerns and none of these standards are universally applied. Captioning consumers have also suggested that the current 90% requirement is inappropriate, as it enshrines a level of captioning that does not provide full accessibility to persons who are deaf or hard of hearing. In light of these concerns, the Commission decided that it was appropriate to call for comments on ways to improve the accessibility of television programming for persons who are deaf or hard of hearing as part of the review of its television policy.

Quantity of captioning

13. Captioning has long been a reality in Canada, and the broadcasting industry has taken important strides to make it easier and less expensive through technological improvements and other mechanisms. In fact, many licensees have made a successful business out of selling promotional spots for captioning (“closed captioning of this program is brought to you by...”). The Commission notes that representatives of persons who are deaf, including the Canadian Association of the Deaf (CAD) and Ressources pour la qualité du sous-titrage et des télécommunications adaptées – Conseil-expert inc. (RQST) were strongly in favour of a 100% captioning requirement, submitting that the current 90% requirement effectively makes up to 10% of programming unavailable to them. The Commission also notes that the current 90% level has been in effect for over 10 years. Further, as noted by the CAD, the Canadian Human Rights Commission has dealt with several complaints about captioning levels by Canadian broadcasters. As a result, the Canadian Broadcasting Corporation (CBC) and CanWest MediaWorks Inc. (CanWest) have agreed to caption 100% of the programming on the CBC English-language television service and CanWest’s Global service, and the CBC has agreed to caption 100% of programming on its French-language television service beginning in 2010. This indicates that a 100% level of captioning is an achievable goal.

14. In this context, and based on the record of this proceeding, the Commission is of the view that it is now appropriate to move toward the full captioning of all television programming.
15. At the same time, the Commission acknowledges the view expressed by broadcasters that there are situations in which 100% captioning may not be feasible due to unforeseen circumstances and/or technical or human errors that are beyond the broadcaster's control. For example, it is clear that technical and human errors do occur, especially in the captioning of live programming. For live (real-time) captioning, in particular, there is often a long and complicated distribution chain between the broadcast signal, the captionist, the broadcaster, the broadcasting distribution undertaking, and the television set in the viewer's home. This can result in technical malfunctions that may cause captioning to be garbled or to disappear altogether. The Commission is also aware that the encoding process for live programming typically results in a slight delay and is highly susceptible to human errors and technical (translation) errors, despite the best efforts of broadcasters. Nevertheless, as discussed later in the document, the Commission expects broadcasters to make concerted efforts to improve the quality of the captioning they deliver.
16. The Commission further recognizes the unique challenges that apply to the captioning of advertising and promos. As indicated by CanWest and Corus Entertainment Inc., advertising material is generally supplied to broadcasters rather than being produced in-house. Therefore, primary responsibility for the captioning of advertising spots best lies with the producer of the spot, rather than with individual broadcasters. The Commission is also aware that promos are often produced at the last moment and have an extremely short shelf-life. Accordingly, the Commission has determined that advertising and promotional material will not be included in the general captioning requirement. Nevertheless, the Commission expects broadcasters to make their best efforts to caption all of their programming, including promos, and to work with their advertising clients to ensure that advertising is captioned to the fullest extent possible.
17. Therefore, under the Commission's new closed captioning policy, English- and French-language broadcasters will be required to caption 100% of their programs (as defined in the *Television Broadcasting Regulations, 1987*) over the broadcast day, with the exception of advertising and promos. This requirement will be subject to exceptions that take into account instances, but not patterns, of equipment/technical malfunctions and human errors that are beyond the broadcaster's control, or circumstances beyond the broadcaster's control where captioning may not be available. In the case of any complaint, the onus will be on the broadcaster to demonstrate that the situation falls within this limited set of exceptions. The Commission notes that programs must be captioned in their entirety to qualify as captioned for the purposes of this obligation.

18. Although the television policy review process focused on the obligations of OTA broadcasters and contemplated a 100% captioning requirement only for them, the Commission is of the view that the underlying rationale for this new policy applies equally to all broadcasters, including educational broadcasters and specialty, pay, pay-per-view (PPV) and video-on-demand (VOD) services. The Commission, therefore, intends to discuss the application of the policy to such undertakings as part of their licence renewals or at the time of initial licensing.
19. Both the CBC and Quebecor Media Inc. raised concerns about the special challenges related to the captioning of French-language programming. They noted the lack of trained captionists and submitted that it was difficult for the pool of available captionists to meet increased demands for captioning, particularly for live programming. Both parties also argued that the particularities of the French language present special difficulties in the development of captioning systems and methodologies. In light of these challenges, the Commission is prepared to consider requests to tailor the 100% requirement as necessary. The Commission is similarly of the view that new entrants should also be permitted to request that the obligation be tailored to their specific circumstances, for example, that their captioning obligation should ramp up to 100% over time. The Commission advises parties that any requests for exceptions to the general policy will require the broadcaster to demonstrate, with specific and detailed supporting evidence, including financial information, at licence renewal or initial licensing, that it is impossible for it to meet the 100% captioning requirement and that a tailoring of the requirement is necessary.
20. The Commission intends to implement its new policy by imposing appropriate conditions of licence at the time of licence renewal or when licences are first issued.

Captioning of programming in third languages

21. The Notice of public hearing asked parties to comment on the feasibility of captioning in languages other than English or French and the obligations that should be applied to services that broadcast in third languages.
22. While some representatives of the deaf community submitted that captioning in languages using the Western alphabet is feasible, there was a consensus on the record on the part of both broadcasters and advocacy groups that it is too soon for the Commission to decide on appropriate requirements for the captioning of third-language programming since captioning in languages not using the Western alphabet raises major technical and financial challenges.

23. Given the record of the proceeding, the Commission is not prepared to impose specific obligations with respect to the captioning of third-language programming at this time. However, the Commission encourages broadcasters – particularly those that broadcast in third languages that use the Western alphabet – to work on solutions for making third-language programming more accessible, and to caption third-language programming whenever possible. The Commission will determine appropriate conditions of licence with respect to third-language programming on a case-by-case basis at individual licence renewals.
24. The Commission is further of the view that the policy set out above for English- and French-language programming should apply to any English- or French-language programming offered by third-language broadcasters. Like French-language broadcasters and new entrants, third-language broadcasters may request exceptions to the general policy, but will have to demonstrate, with specific and detailed supporting evidence (including financial information) at initial licensing or licence renewal, that the obligation should be tailored to their specific circumstances.

Quality of captioning

25. Until recently, the Commission has focused its attention primarily on increasing the quantity of captioning available within the broadcast system. Notwithstanding the important achievements over the last twenty years, however, the quality of captioning is a growing concern, particularly with respect to live captioning. Captioning users consistently raise concerns about the lack of captions or blocked captions, technical malfunctions (where captioning disappears or cuts in and out, particularly around commercials), errors and inaccuracies (such as garbled captions, misspelled words, poor synchronization/lag time, etc.). There is also concern about the lack of unified standards that address such matters as consistent placement, font size, colour, speed of delivery, etc. and the appropriate style of captioning to be used for different kinds of programming. Users have also emphasized that poorly captioned programming is the same as un-captioned programming – when captioning cannot be comprehended, the programming it accompanies becomes inaccessible.
26. In the Notice of public hearing, the Commission noted concerns with respect to the quality, accuracy and reliability of captioning, and called on parties to make concrete and specific proposals to address these concerns, including the appropriateness of an industry standard “error rate” and the possibility of adopting a self-regulatory approach with a third-party body like the Canadian Broadcast Standards Council to adjudicate complaints about captioning and captioning quality.
27. Parties put forward varied proposals for improving the quality of captioning, though there was little consensus on such matters as third-party complaints adjudication, the concept of an error rate, or the appropriate way to pursue improved quality. However, at the hearing, there appeared to be a general consensus on the value and appropriateness of working together to resolve quality concerns.

28. The Commission is of the view that a first and very important step in improving the quality of captioning in Canada is the development and implementation of universal standards. Although there are already some closed captioning standards in use, these are entirely voluntary and vary across the industry. Universal standards will, at a minimum, ensure consistency of approach across the entire broadcasting system, to the benefit of captioning consumers. They will also provide a baseline from which to judge quality in the future (including, for example, the question of the most appropriate type of captioning for different types of programs). To that end, the Commission has decided to call upon the industry to establish working groups on captioning in each of the English-language and the French-language markets for this purpose.
29. As the representative of the vast majority of private television broadcasters in Canada, the Commission is of the view that the Canadian Association of Broadcasters (CAB) is best positioned to take the initial steps in the creation of the working groups. Therefore, the Commission hereby calls on the CAB to coordinate the establishment of working groups on captioning for each of the French-language and English-language markets. These working groups should be composed of representatives of private and public television broadcasters, including representatives from the CBC, educational, over-the-air, specialty, pay, PPV and VOD sectors. The working groups should also include representatives from consumer and advocacy groups representing persons who are deaf or hard of hearing, as well as captioning providers. A Commission representative will also be involved as an observer, on an as-needed basis.
30. The Commission notes that the RQST has already taken steps to bring parties together in the French-language market to examine and discuss the future development of captioning in that market, including issues related to captioning quality. The Commission urges the CAB to coordinate its efforts with such groups.
31. The objectives of the working groups will be to develop universal standards that would, at a minimum, address quality concerns, including those raised in the public process, namely consistency and style issues, and the matters specifically raised in the intervention by the CAD, along with any other concerns deemed appropriate to be addressed by the working groups themselves. The working groups should also develop concrete, workable solutions with respect to other aspects of captioning quality, including reducing errors and technical problems, such as dropped or garbled captioning, or captioning that is cut off by commercials, and similar concerns. In addressing these matters, the working groups should take into consideration the differing technological approaches employed by various broadcasters. The Commission considers that a possible resource for the working groups is the experience of broadcasters in other countries. For example, the French-language group could draw on the experience of broadcasters in France, where captioning is also required.

32. The Commission calls upon the CAB to file, within six months of the publishing of the present public notice, an action plan for each working group that identifies the composition of the working group, the steps to be taken to meet its objectives, and associated timelines, for the Commission's approval. The Commission expects that, when the standards are developed and submitted, evidence will be provided that demonstrates that the standards are acceptable to the users of captioning. Once satisfactory standards and other solutions have been developed and submitted to the Commission for its approval, the Commission will be in a position to determine the most appropriate means of implementation and monitoring.
33. In the meantime, the Commission expects all broadcasters to take the necessary steps and to be more vigilant in the monitoring of the quality of the captioning that they broadcast and to demonstrate even greater responsiveness in responding to complaints from viewers.
34. The Commission notes that, as set out in Public Notice 2004-94, the CBC, TVA and TQS are currently required to file regular reports with the Commission on progress made toward improving the quality and increasing the quantity of closed captioning originating with the networks. The Commission hereby suspends those reporting requirements, for as long as the three licensees are active members of the French-language working group.

Secretary General

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 to Broadcasting Public Notice CRTC 2007-54

Summary of the Commission's new policy with respect to closed captioning

English- and French-language programming

English- and French-language broadcasters will be required to caption 100% of their programs (as defined in the *Television Broadcasting Regulations, 1987*) over the broadcast day,² with the exception of advertising and promos. This requirement will be subject to exceptions that take into account instances, but not patterns, of equipment/technical malfunctions and human errors that are beyond the broadcaster's control, or circumstances beyond the broadcaster's control where captioning may not be available. In the case of any complaint, the onus will be on the broadcaster to demonstrate that the situation falls within this limited set of exceptions. The Commission notes that programs must be captioned in their entirety to qualify as captioned for the purposes of this obligation.

The Commission is of the view that the underlying rationale of a 100% captioning requirement applies equally to all broadcasters, including educational broadcasters and specialty, pay, pay-per-view (PPV) and video-on-demand (VOD) services. The Commission, therefore, intends to discuss the application of the policy to such undertakings as part of their licence renewals or at the time of initial licensing.

In light of the specific challenges associated with the captioning of French-language programming, the Commission is prepared to consider requests to tailor the 100% requirement, as necessary. The Commission is similarly of the view that new entrants should also be permitted to request that the obligation be tailored to their specific circumstances, for example, that their captioning obligation should ramp up to 100% over time. The Commission advises parties that any requests for exceptions to the general policy will require the broadcaster to demonstrate, with specific and detailed supporting evidence, including financial information, at licence renewal or initial licensing, that it is impossible for it to meet the 100% captioning requirement and that a tailoring of the requirement is necessary.

Third-language programming

The Commission is not prepared to impose specific obligations with respect to the captioning of third-language programming at this time. However, the Commission encourages broadcasters – particularly those that broadcast in third languages that use the Western alphabet – to work on solutions for making third-language programming more

² "broadcast day" means the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee.

accessible, and to caption third-language programming whenever possible. The Commission will determine appropriate conditions of licence with respect to third-language programming on a case-by-case basis at individual licence renewals.

The policy set out above for English- and French-language programming will apply to any English- or French-language programming offered by third-language broadcasters. Like French-language broadcasters and new entrants, where necessary, third-language broadcasters may request exceptions to the general policy, but must demonstrate, with specific and detailed supporting evidence (including financial information) at initial licensing or licence renewal, that the obligation should be tailored to their specific circumstances.

Quality of captioning

The Commission expects all broadcasters to take the necessary steps to ensure the quality, accuracy and reliability of their captioning. Specifically, it expects broadcasters to be more vigilant in the monitoring of the quality of the captioning that they broadcast and to demonstrate even greater responsiveness in responding to complaints from viewers.

The Commission calls on the broadcasting industry to establish working groups for the development and implementation of measures to improve the quality of captioning in Canada, including the development of universal standards in English and in French.