



Broadcasting Notice of Consultation CRTC 2009-173

Route reference:

Broadcasting Public Notice 2008-100

Ottawa, 1 April 2009

Call for comments on a proposed exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers

*The Commission calls for written comments on an exemption order respecting terrestrial distribution undertakings serving fewer than 20,000 subscribers, as set out in the appendix to this notice. The Commission also requests comments regarding the information that should be provided by exempt undertakings in order to ensure that the Commission has an appreciation of trends and developments in the industry. Finally, the Commission requests proposals as to appropriate criteria for determining what would constitute a “discrete operation” for exemption purposes. The deadline for submitting comments in regard to the above issues is **6 May 2009**. The deadline for submitting replies is **27 May 2009**.*

Introduction

1. In Broadcasting Public Notice 2008-100, the Commission determined that it would exempt, under a single exemption order, all terrestrial broadcasting distribution undertakings (BDUs) serving fewer than 20,000 subscribers, including cable, digital subscriber line and multi-point distribution system undertakings. The Commission stated that its policy for exemption eligibility would be based on the following principles:
 - terrestrial BDUs that serve fewer than 20,000 subscribers in a market would be eligible for exemption;
 - terrestrial BDUs that serve 20,000 or more subscribers or that compete in a market with another BDU that serves 20,000 or more subscribers would continue to have to be licensed;
 - exempt BDUs would not be subject to licensing should a licensed BDU from an adjacent area extend its service area and thereby enter into the smaller market of the exempt BDU in order to compete with that exempt BDU; and
 - BDUs that operate in both small and large markets under a single licence would be permitted to determine whether there would be greater benefits to continuing to operate in all markets as a single undertaking under a single licence, or to conduct their operations in a smaller market in such a way that those operations would constitute a discrete operation that would be eligible for exemption.

2. In Broadcasting Public Notice 2008-100, the Commission stated its intention to issue for comment a proposed revised exemption order that would set out what it considered the minimum necessary terms and conditions for BDUs with fewer than 20,000 subscribers, based on the principles set out above and including a requirement that exempt BDUs filed certain minimal information annually. The Commission also stated that it would seek comment on the specific criteria to be used in determining what would constitute a “discrete operation” for the purposes of the last principle set out above.
3. The Commission’s proposed exemption order is set out in the appendix to this notice of consultation, with the exception of possible provisions to incorporate the “discrete operation” concept. This exemption order would replace the two exemption orders currently applicable to terrestrial BDUs, that is, those set out in the appendices to Broadcasting Public Notices 2007-125 and 2002-74.
4. The proposed exemption order consists of the following sections:
 - an initial section setting out applicable definitions;
 - a section setting out those provisions of the exemption order that would apply to all exempt distribution undertakings under the order; and
 - a section setting out certain provisions applicable to only those exempt undertakings serving more than 2,000 subscribers.
5. In formulating their comments on the proposed exemption order, parties should refer directly to the appended order. However, to assist parties in making their submissions, some of the principle features of the proposed exemption order are discussed in the paragraphs that follow.

Subscriber levels

6. The Commission’s practice with respect to BDU exemption orders has been to provide a margin by which a BDU, once exempt, can exceed the specified number of subscribers. The purpose of this margin is to ensure that BDUs will not be off-side the order, and thus required to seek a licence, for short-term fluctuations in the size of their subscriber base. In its proposed exemption order, in order to deal with such fluctuations, the Commission has incorporated a margin of 1,000 subscribers. Specifically, the order states that, once exempt, the undertaking shall not have more than 21,000 subscribers in any three consecutive quarters (see paragraph 4 of the proposed exemption order).
7. Similarly, in order that BDUs with 2,000 or fewer subscribers not be obliged to adhere temporarily to the terms applicable to larger exempt systems due to fluctuations in the size of the subscriber base, the Commission has retained the 200-subscriber margin for such systems, consistent with the exemption order that currently applies to these systems (see paragraph 1 of the proposed exemption order).

Conventional television stations to be distributed

8. Requirements with respect to the distribution of conventional television stations are set out in paragraphs 5 and 17 of the proposed exemption order. The Commission notes that changes to these requirements and related definitions (for example, the definition of “local television station”), as well as to other related provisions of the proposed order, may be required as a result of proceedings dealing with the digital transition, including that initiated by Broadcasting Notice of Consultation 2009-49. Parties may wish to comment on the revisions they would consider appropriate, taking into account other announced proceedings.

Services subject to an order under section 9(1)(h) of the *Broadcasting Act*

9. The Commission has included in the proposed exemption order provisions that would require systems with more than 2,000 subscribers to distribute services subject to an order under section 9(1)(h) of the *Broadcasting Act* (the Act), generally under the same terms and conditions applicable to licensed undertakings subject to the section 9(1)(h) orders themselves (see paragraphs 18 and 19 of the proposed exemption order).
10. The Commission notes that further revisions to these provisions may be required, depending on the outcome of the proceedings dealing with the requests by La Magnétothèque and by Pelmorex Communications Inc. for distribution orders pursuant to section 9(1)(h) of the Act (see Broadcasting Notice of Consultations 2009-56 and 2009-2-2, respectively), and by Avis de Recherche inc. for an amendment to its distribution order (see Broadcasting Public Notice 2008-93).

Distribution of pay and specialty services/Minority-language requirements

11. The exemption order currently applicable to undertakings serving 2,000 to 6,000 subscribers requires BDUs with a nominal capacity of 750 MHz or more to distribute at least one pay television service in each official language, as well as all French-language and English-language specialty services, excluding Category 2 services. With respect to minority-language services, exempt systems serving 2,000 to 6,000 subscribers and with less than 750 MHz are currently subject to a “one-in-ten” rule with respect to minority-language services (i.e., an obligation to distribute one Canadian pay or specialty service in the language of the minority for every ten programming services distributed in the language of the majority), while BDUs with fewer than 2,000 subscribers and with more than 550 MHz of nominal capacity are subject to a similar rule.
12. The Commission proposes to replace these requirements, for all exempt systems, with a requirement stating that a majority of the video and audio channels received by each subscriber be devoted to Canadian programming services (see paragraph 7 of the proposed exemption order). Consistent with the approach adopted in Broadcasting Public Notice 2008-100 for licensed systems, the Commission also proposes that all exempt systems that deliver programming services on a digital basis be required to adhere to a one-in-ten rule with respect to the distribution of minority-language services (see paragraph 8 of the proposed exemption order).

Alteration and deletion of programming services

13. In Broadcasting Public Notice 2008-100, the Commission noted that new forms of digitally based advertising were regarded as a significant new revenue opportunity for all sectors in the Canadian broadcasting system, and that, in most cases, the use of these new forms of advertising would require cooperation between programmers and distributors. The Commission stated that it would amend the *Broadcasting Distribution Regulations* (the Regulations) to permit BDUs and programmers to work cooperatively to manage and exploit the possibilities of new forms of advertising. With respect to the altering and deletion of programming services, the Commission has included a provision to permit exempt BDUs and licensees of Canadian linear programming services to work together to provide targeted advertising (see paragraph 11 of the proposed exemption order). The Commission notes that advertising issues are also being addressed in the proceedings regarding proposed frameworks for video-on-demand undertakings, initiated by Broadcasting Public Notice 2008-101, and for the sale of commercial advertising in the local availabilities of non-Canadian services, initiated by Broadcasting Public Notice 2008-102. Further revisions to this proposed exemption order may be required in order to reflect the outcome of those proceedings.

Dispute Resolution

14. In Broadcasting Public Notice 2008-100, the Commission expressed the view that exempt BDUs should be required to submit to dispute resolution and be eligible to refer disputes to the Commission for resolution. The Commission has included proposed provisions to this end (see paragraph 14 of the proposed exemption order). In doing so, the Commission contemplates that exempt BDUs would be subject to, and be eligible for, the full range of mediation and dispute resolution processes as described in Broadcasting and Telecom Information Bulletin 2009-38.

Simultaneous substitution

15. The Commission proposes that only systems with more than 2,000 subscribers be required to perform simultaneous substitution, and only with respect to local television stations (see paragraph 21 of the proposed exemption order).

Information Requirements

16. At present, pursuant to section 11 of the Regulations, licensed BDUs file annual returns by 30 November of each year. The information provided is shared with Statistics Canada. Exempt BDUs are not subject to information filing requirements established by the Commission. However, exempt undertakings file an annual *Survey of Broadcasting Distribution – Class 2 and 3 systems, Exempted and Non-Exempted* with Statistics Canada. Aggregate information collected on this survey is shared with the Commission.

17. As indicated above, in Broadcasting Public Notice 2008-100, the Commission stated that it would introduce a requirement for exempt BDUs to provide it with certain minimal information annually. In paragraph 15 of the proposed exemption order, the Commission sets out the following information to be provided annually by all exempt BDUs, including those serving 2,000 and fewer subscribers:
 - (a) the name and contact information of the operator of the undertaking;
 - (b) the location of the undertaking and the communities served by the undertaking;
 - (c) the total number of basic subscribers served by the undertaking as of 31 August of that year; and
 - (d) whether any programming services are provided on a digital basis.
18. The Commission anticipates that it may be appropriate for exempt undertakings with 2,000 and fewer subscribers to provide the required information by way of any association to which they may belong, such as the Canadian Cable Systems Alliance. Accordingly, the relevant provision specifies that the information may be provided by the exempt undertaking itself or by its representative.
19. The Commission also proposes to include in the proposed exemption order a provision requiring exempt BDUs to provide it, on a case-by-case basis, with any information requested by the Commission in order to ascertain the undertaking's compliance with the terms of this order (see paragraph 16 of the proposed exemption order).
20. With respect to exempt BDUs serving more than 2,000 subscribers, the Commission proposes to include a provision requiring the filing of a simplified version of the annual return currently filed by licensed BDUs, to be developed in collaboration with Statistics Canada (see paragraph 23 of the proposed exemption).
21. In Broadcasting Public Notice 2008-97, the Commission indicated that it would maintain the policy of granting confidentiality to the financial data of individual licensed undertakings for smaller BDUs and multi-system operators. Consistent with this policy, the Commission anticipates that any financial information pertaining to individual exempt undertakings would be filed in confidence.

Criteria to be used in determining what constitutes a “discrete operation”

22. In Broadcasting Public Notice 2003-48, the Commission considered that, under a regional licensing approach, licensees could apply to remove from their regional licences those service areas served by undertakings that would qualify under an existing or future exemption order.

23. In Broadcasting Public Notice 2008-100, the Commission determined that BDUs operating under regional licences may apply to remove certain service areas from their licences so that they may operate in those areas as exempt undertakings. To be eligible for such a “carve-out,” two conditions must apply: (1) all or part of the service area removed from the regional licence must already be served by a competing exempt BDU; and (2) the regionally licensed BDU must be operating as a discrete operation in that service area. As indicated above, the Commission also stated that it would seek comment on the specific criteria to be used to determine what would constitute a “discrete operation” for these purposes.
24. The Commission requests proposals as to appropriate criteria for determining what would constitute a “discrete operation” for exemption purposes. In addition, the Commission requests comment on whether any of the following factors would be of assistance to this end, depending on the particular circumstances of the BDU and its underlying technology:
- the existence of a separate business office and/or a distinct customer service operation in the specific service area;
 - whether the system offers unique priority (local and/or regional) signals or separate community channel programming;
 - the existence of a separate head end or independent signal-processing capability;
 - whether and to what extent the BDU is interconnected to another BDU.

Call for comments

25. The Commission invites comments that address the following:
- (a) the proposed exemption order appended to this notice;
 - (b) the minimum necessary information that should be provided by exempt undertakings serving more than 2,000 subscribers in order to ensure that the Commission has an appreciation of trends and developments in the industry; and
 - (c) the criteria that would be used to determine whether a particular service area would be considered a discrete operation for exemption purposes, possibly including, but not limited to, the criteria noted above.
26. Parties arguing in support of changes to the proposed exemption order, or suggesting additional provisions, are asked to provide specific language, as well as their rationale for the proposed changes.
27. The deadline for filing comments is **6 May 2009**. Parties may file replies to any of the comments submitted during the first stage by **27 May 2009**.

Procedures for filing comments

28. Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
Broadcasting Intervention/Comments Form

OR

- **by mail to**
CRTC, Ottawa, Ontario K1A 0N2

OR

- **by fax at**
819-994-0218

29. Submissions longer than five pages should include a summary.

30. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

31. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
32. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
33. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

34. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.
35. The Commission encourages interested parties to monitor the public examination file and the Commission's website for additional information that they may find useful when preparing their comments.

Examination of public comments and related documents at the following Commission offices during normal business hours

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec K1A 0N2
Tel.: 819-997-2429
Fax: 819-994-0218

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West
Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East
Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Kensington Building
275 Portage Avenue
Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306
TDD: 204-983-8274
Fax: 204-983-6317

Cornwall Professional Building
2125 - 11th Avenue
Room 103
Regina, Saskatchewan S4P 3X3
Tel.: 306-780-3422

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
Tel.: 604-666-2111
TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

Related documents

- Notice of hearing – Broadcasting Notice of Consultation CRTC 2009-2-2, 12 February 2009
- Broadcasting Notice of Consultation CRTC 2009-56, 6 February 2009
- *Call for comments on the transition to digital broadcasting – distribution of U.S. 4+1 signals and related short-term issues*, Broadcasting Notice of Consultation CRTC 2009-49, 4 February 2009
- *Practices and procedures for staff-assisted mediation, final offer arbitration, and expedited hearings*, Broadcasting and Telecom Information Bulletin CRTC 2009-38, 29 January 2009
- *Call for comments on a proposed framework for the sale of commercial advertising in the local availabilities of non-Canadian services*, Broadcasting Public Notice CRTC 2008-102, 30 October 2008

- *Call for comments on a proposed regulatory framework for video-on-demand undertakings*, Broadcasting Public Notice CRTC 2008-101, 30 October 2008
- *Regulatory frameworks for broadcasting distribution undertakings and for discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Disclosure of aggregate financial data for large broadcasting distribution undertakings and over-the-air television and radio ownership groups* – Regulatory policy, Broadcasting Public Notice CRTC 2008-97, 21 October 2008
- Notice of consultation – Broadcasting Public Notice CRTC 2008-93, 17 October 2008
- *Amendments to Exemption Order respecting cable broadcasting distribution undertakings that serve between 2,000 and 6,000 subscribers, with respect to the Commission's community channel policy*, Broadcasting Public Notice CRTC 2007-125, 14 November 2007
- *A regional approach to licensing cable distribution undertakings – Adoption of related amendments to the Broadcasting Distribution Regulations*, Broadcasting Public Notice CRTC 2003-48, 17 September 2003
- *Amendments to the Exemption order for small cable undertakings*, Broadcasting Public Notice CRTC 2002-74, 19 November 2002

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 Notice of Consultation CRTC 2009-173

Exemption order respecting terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers

The purpose of these broadcasting distribution undertakings is to provide programming services to fewer than 20,000 subscribers, using co-axial, digital subscriber line or multi-point distribution system technology.

Description

A. Definition of terms

1. For the purpose of this order, the terms “affiliate,” “anglophone market,” “Canadian programming service,” “community channel,” “comparable,” “Corporation,” “educational television programming service,” “francophone market,” “licensed,” “licensed area,” “local television station,” “pay television service,” “programming service,” “regional television station,” “radiocommunication distribution undertaking,” “relay distribution undertaking,” “specialty service,” “station” and “subscriber” have the same meaning as that set out in the *Broadcasting Distribution Regulations*; “basic service” means the package of programming services provided to all subscribers for a single fee; “service area” means the area in which an exempt undertaking carries on a broadcasting distribution undertaking; “gross revenues derived from broadcasting activities” has the same meaning as that set out in *Guidelines respecting financial contributions by the licensees of broadcasting distribution undertakings to the creation and presentation of Canadian programming*, Circular No. 426, 22 December 1997; “local head end” means (a) in respect of an undertaking other than a radio communication distribution undertaking, the specific location at which the undertaking receives the majority of the programming services that are transmitted by local television stations or, if there are no such stations, by regional television stations, and that are distributed by the exempt undertaking in the service area, and (b) in respect of a radiocommunication distribution undertaking, the undertaking’s transmitter site; and an undertaking that “serves more than 2,000 subscribers” means an undertaking whose subscriber base totals at least 2,200 subscribers for three consecutive quarters.

B. Provisions applicable to all distribution undertakings

General provisions

2. 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.
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. In total, the number of subscribers served by the individual undertaking is fewer than 20,000, and the undertaking either (a) does not serve all or part of the licensed area of a licensed terrestrial broadcasting distribution undertaking (BDU) that serves 20,000 or more subscribers within that licensed area, or (b) serves all or part of the licensed area of a licensed terrestrial BDU that serves 20,000 or more subscribers only by virtue of the fact that the licensed BDU has expanded to operate within the service area of the undertaking. Once exempt, the undertaking does not have more than 21,000 subscribers in any three consecutive quarters.

Distribution of the basic service

5. The undertaking does not provide a subscriber with any programming services, other than licensed pay-per-view services, licensed video-on-demand services or the programming services of exempt programming undertakings, without also providing the basic service.

Distribution of conventional television stations

6. In regard to the provision of a “basic service”:
 - (a) the undertaking distributes as part of its basic service all services of local television stations, with no degradation of the signal received;
 - (b) if not otherwise distributed as a local or regional television station, the undertaking distributes at least one television station owned and operated by the Corporation, in each of the official languages, where the Corporation makes its signals available and pays the costs associated with the transport and reception of its signals to the undertaking’s local head end or other comparable facility; and
 - (c) if the undertaking receives television stations that are identical, the undertaking is required to distribute only one of them under this section.

Majority of Canadian programming services

7. A majority of each of the video and audio channels received by each subscriber are devoted to the distribution of Canadian programming services. For the purposes of this section, each pay television service, television pay-per-view service, and video-on-demand service are counted as a single video channel.

Programming services in the language of the minority

8. If the undertaking delivers any programming service on a digital basis, it distributes:
 - (a) at least one French-language Canadian pay or specialty service, excluding the services that the undertaking may be required to distribute under paragraphs 18 to 23, below, for every ten English-language programming services distributed by the undertaking, if the undertaking is operating in an anglophone market; and

(b) at least one English-language Canadian pay or specialty service, excluding the services that the undertaking may be required to distribute under paragraphs 18 to 23, below, for every ten French-language programming services distributed by the undertaking, if the undertaking is operating in a francophone market.

Distribution of adult programming services

9. The undertaking does not package an adult programming service in such a way that subscribers are obliged to purchase the service in order to purchase any other programming service. The undertaking takes measures to fully block the reception of both the audio and video portions of any adult programming service to subscribers who request that it not be receivable in their home (in either unscrambled or scrambled mode).

Distribution of single point-of-view religious services

10. The undertaking distributes a single or limited point-of-view religious pay or specialty service only in a package with other single or limited point-of-view religious services, and all such services are distributed on a discretionary basis.

Alteration or deletion of a programming service

11. The undertaking does not alter or delete a programming service in the course of its distribution except:
- (a) for the purpose of complying with section 329 of the *Canada Elections Act*;
 - (b) 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 licensed area;
 - (c) 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;
 - (d) 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;
 - (e) for the purpose of deleting a subsidiary signal, unless the signal is, itself, a programming service or is related to the service being distributed; or
 - (f) for the purpose of inserting a commercial message, if the insertion is in accordance with an agreement between the licensee and the operator of the service or the network responsible for the service and that agreement provides for commercial messages that are directed to a target market of consumers.

Prohibited programming content

12. The undertaking does 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.

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

Only authorized services to be distributed

13. No service received over-the-air or by any other means is distributed over the undertaking, other than a service that the Commission, by regulation or otherwise, has authorized. If the Commission has authorized a service for distribution subject to terms and conditions intended to address the concerns addressed in paragraph 12, above, the undertaking distributes the service subject to those terms and conditions.

Dispute resolution

14. In regard to the resolution of disputes:
- (a) If a dispute concerning the terms and conditions under which programming services are distributed arises between the exempt undertaking and a programming undertaking, whether operating by licence or by exemption order, the undertaking submits to such mediation and/or dispute resolution process or processes as may be required by the Commission and to any decision that may ultimately result therefrom.
 - (b) If a dispute concerning the terms and conditions under which programming services are provided to the undertaking arises between the undertaking and a relay distribution undertaking, whether operating by licence or by exemption order, the undertaking submits to such mediation and/or dispute resolution process or processes as may be required by the Commission and to any decision that may ultimately result therefrom.

Information requirements

15. The undertaking or its representative submits the following information to the Commission (in a form to be specified) by 30 November of each year:
- (a) the name and contact information of the operator of the undertaking;
 - (b) the location of the undertaking and the communities served by the undertaking;
 - (c) the total number of basic subscribers served by the undertaking as of 31 August of that year; and
 - (d) whether any programming services are provided on a digital basis.
16. The undertaking submits any information requested by the Commission in order to ascertain the undertaking's compliance with the terms of this order.

C. Provisions applicable to distribution undertakings serving more than 2,000 subscribers*Distribution of conventional television stations*

17. In regard to the provision of a "basic service":
- (a) If the undertaking serves more than 2,000 subscribers, it distributes as part of its basic service all services of regional television stations, other than affiliates or members of the same network of which a local television station distributed pursuant to paragraph 5(a), above, is also an affiliate or member. These stations are distributed with no degradation of the signal received. If the programming services of the two or more regional television stations that are affiliates or members of the same network are received at the local head end, the undertaking must distribute only one of them.
 - (b) If the undertaking serves more than 2,000 subscribers, it distributes as part of its basic service, and with no degradation of the signal received, educational television programming services the operation of which is the responsibility of an educational authority designated by the province in which the service area of the undertaking is located.

Distribution of services subject to orders under section 9(1)(h) of the Broadcasting Act

18. If the undertaking serves more than 2,000 subscribers, it distributes, as part of the basic service,
- (a) the Aboriginal Peoples Television Network programming service;
 - (b) the programming service of TVA Group Inc. (CFTM-TV Montréal or the programming service of one of its affiliates);

(c) 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 federal parliamentary 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;

(d) if the undertaking is operating in an anglophone market, the licensed public affairs programming service of CPAC and the federal parliamentary 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;

(e) 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;

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

(g) if the undertaking does not distribute the Corporation's Newsworld programming service on an analog basis, the programming service of the National Broadcast Reading Service (VoicePrint) on an audio channel.

19. If the undertaking serves more than 2,000 subscribers and delivers any programming service on a digital basis, it distributes to all digital subscribers:
- The Accessible Channel;
 - if it operates in a francophone market, CBC Newsworld;
 - if it operates in an anglophone market, le Réseau de l'information; and
 - if it operates in the province of Quebec, Avis de Recherche.
20. An exempt undertaking is not required to distribute any of the programming services noted in paragraphs 18 and 19, above, with the exception of VoicePrint, unless the licensee of the programming service or a third party pays for the satellite uplink and transponder costs associated with the delivery of its programming services to the exempt undertaking.

Programming service substitution

21. If the undertaking serves more than 2,000 subscribers, the undertaking deletes the programming service of a television station and substitutes the programming service of a local television station or, with the agreement of the broadcaster operating the local television station, has that broadcaster carry out the deletion and substitution, if
- (a) the main studio of the 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) in a case where the broadcaster operating the 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 local television station a written request for the deletion and substitution; and
 - (d) if a substitution is requested by more than one broadcaster, the undertaking gives priority, in the following order, to (i) the programming service of a local television station owned and operated by the Corporation; (ii) if the studios of the local stations are located in the same province as the service area of the undertaking or in the National Capital Region, as described in the schedule to the *National Capital Act*, the programming service of the local television station whose main studio is closest to the local head end of the service area; (iii) in any other case, the programming service of a local television station that has a studio located in the same province as the service area.

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.

Community channel

22. If the undertaking serves more than 2,000 subscribers and elects to offer a community channel, the community channel offers programming that meets the following requirements:
- (a) the programming offered consists of at least:
 - (i) 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;

- (ii) 30% access programming consisting of programs produced by members of the community served by the undertaking;
- (b) alternatively,
- (i) where an undertaking is an affiliate of a licensed cable undertaking, and the Commission has prescribed specific conditions of licence governing the offering of a community channel by that licensed undertaking, the undertaking may offer its community channel on the same basis as that approved for the licensed undertaking;
 - (ii) where an undertaking is not an affiliate of a licensed cable undertaking, it may offer a community channel on the same basis as approved by condition of licence for any licensed undertaking that has a licensed area that includes any part of the same province or territory in which the undertaking operates;
- (c) 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
- (d) the programming offered adheres to:
- (i) the *Cable television community channel standards*, as amended from time to time; and
 - (ii) the Canadian Association of Broadcasters' *Code Regarding Violence in Television Programming*, as amended from time to time.

Information requirements

23. If the exempt undertaking serves more than 2,000 subscribers, until such time as the Commission develops a simplified annual return with Statistics Canada, the undertaking submits the Annual Return of Broadcasting Distribution Licensee to the Commission by 30 November of each year.