



## Broadcasting Notice of Consultation CRTC 2009-614

Ottawa, 2 October 2009

### Notice of hearing

**7 December 2009**

**Gatineau, Quebec**

**Deadline for submission of comments: 2 November 2009**

### **Call for comments following a request by the Governor in Council to prepare a report on the implications and advisability of implementing a compensation regime for the value of local television signals**

*The Governor in Council has issued an Order in Council requesting that the Commission hold hearings and provide a report on the implications and advisability of implementing a compensation regime for the value of local television signals. To respond to this request, the Commission is seeking submissions from the public and will hold a public hearing commencing on **7 December 2009 at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec**. The deadline for submissions is **2 November 2009**.*

[\[Broadcasting interventions/comments form\]](#)

*Although the hearing will be held in the National Capital Region, parties may participate from the Commission's regional offices via videoconferencing. Parties interested in doing so are asked to indicate the regional office where they wish to appear at the time they file their comments. A list of the Commission's regional offices is included in this notice.*

*To facilitate further dialogue among Canadians, the Commission also intends to conduct an online consultation on the issues outlined in this notice. Comments received as part of the online consultation will form part of the public record of the proceeding and transcripts will be available on the Commission website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" at the conclusion of the online consultation. Further details relating to this online consultation will be provided in a future notice.*

### **Introduction**

1. On 16 September 2009, the Governor in Council issued Order in Council P.C. 2009-1569 (the OIC), a copy of which is appended to this notice. The OIC was issued pursuant to section 15 of the *Broadcasting Act* (the Act), which provides that the Governor in Council may request that the Commission hold hearings or make reports on any matter within the Commission's jurisdiction under the Act.

2. In the OIC, the Governor in Council requests that the Commission hold hearings on the implications and the advisability of implementing a compensation regime for the value of local television signals and issue to the Government, as soon as practicable, a report providing recommendations taking into account:
  - (a) the comments of the general public on the impact of such a measure on consumers, and in particular, its impact on affordable access to a variety of local and regional news, information and public affairs programming; and
  - (b) how the application of such a regime would impact the various components of the communications industry as it adapts to the new digital communications environment, and in particular, the implications for current and emerging business models.
  
3. In the OIC, the Governor in Council states that:
  - subsection 3(1) of the Act provides, among other things, that the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, and that distribution undertakings should provide efficient delivery of programming at affordable rates;
  - subsection 5(2) of the Act provides, among other things, that the Canadian broadcasting system should be regulated and supervised in a flexible manner that is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings;
  - ensuring Canadians have affordable access to a variety of points of view on matters of public concern and that their local and regional television news and information needs are met is of fundamental importance to the achievement of the objectives of the broadcasting policy for Canada set out in the Act;
  - most Canadians receive their television broadcasting services, including Canadian over-the-air (OTA) television services, through distribution undertakings; and
  - subparagraph 3(1)(t)(i) of the Act provides that broadcasting distribution undertakings should give priority to the carriage of Canadian programming services, and in particular to the carriage of local Canadian stations.
  
4. The Governor in Council also states that a fee imposed on distribution undertakings in respect of the distribution of local Canadian OTA television stations may negatively affect affordable access by Canadians to Canadian programming, including local and regional television news and information.

## **Commission observations**

5. The Commission notes that in Broadcasting Notice of Consultation 2009-411, as amended by Broadcasting Notice of Consultation 2009-411-3, it initiated a policy proceeding to develop a new group-based regulatory framework for television services. That proceeding is exploring, among other things, whether to implement a compensation regime for the value of local television signals.
6. The Commission has also initiated a number of other proceedings to consider, among other things, measures to sustain and improve the financial health of the Canadian broadcasting system as a whole, as well as additional sources of financing for broadcasting distribution undertakings (BDUs) – i.e. cable and satellite and other television providers – and broadcasters. Specifically, in the proceeding initiated by Broadcasting Notice of Consultation 2008-101, the Commission is considering a framework for the inclusion of advertising in video-on-demand programming. In the proceeding initiated by Broadcasting Notice of Consultation 2008-102, the Commission is considering the sale of commercial advertising in the local availabilities of non-Canadian services. In addition, the Commission has announced a forthcoming review of its community television policy framework, which will include an examination of the restrictions on advertising for both BDU-operated and independently-operated community television channels. The Commission considers that its recommendations in response to the OIC should be formulated within the broad context of the overall well-being of the Canadian broadcasting system, taking into account these and any other relevant initiatives.

## **Call for comments**

7. To respond to the request set out in the OIC, the Commission hereby seeks comment from interested parties addressing the points set out in the OIC, and in particular, the issues raised by the Commission below.

### **A) Affordability**

8. The Commission notes that in addition to the concerns relating to affordability set out in the OIC, it has received comments from some members of the public as part of the above-mentioned proceedings expressing a desire for further choices as it relates to the programming service offerings available from television providers and expressing concern over the potential loss of local television stations in their communities.
9. Given the scope of the hearing and the comments already received from the public in other processes, the Commission considers that other issues closely linked to affordability will be raised. This includes such issues as consumer choice, the availability of low-cost basic television service, smaller packages of pay and specialty services, the ability to select pay and specialty services on a stand-alone basis and transparency in billing.

10. Accordingly, the Commission seeks comments in response the following questions:
- What would be the impact on consumers, in terms of affordability, should the Commission adopt a compensation regime for the value of local signals?
  - What would be the impact, if any, on the availability of local television services should the Commission adopt such a regime?
  - How can the Commission balance the objectives of affordability and ensuring the provision of local news and Canadian programming?
  - Within the context of affordability, should specific measures be implemented to address the issues identified in paragraph 9 to ensure that consumers have sufficient choice and the ability to make informed choices with respect to the types of programming service offerings available from cable and satellite television providers?

**B) Impact on various components of the industry**

11. As requested in the OIC, interested parties are also asked to comment on how:
- the implementation of a compensation regime for the value of local signals would impact the various components of the communications industry as it adapts to the new digital communications environment, and in particular, the implications for current and emerging business models.
12. The Commission is also interested in comments that address the following question:
- Should the Commission adopt any mechanisms to address the issue of affordability, as discussed above, what would be the impact on the various components of the communications industry?
13. Comments should include empirical evidence regarding the impact that a compensation regime for the value of local television signals, if implemented, might have on the various components of the communications industry and any mechanisms proposed to mitigate that impact.

*Digital transition*

14. OTA [digital transition](#)<sup>1</sup> is a key issue in the adaptation to the new digital communications environment. As noted in Broadcasting Notice of Consultation 2009-411, due to the cost of implementing OTA digital television transmitters, the current economic climate, and high BDU penetration in most markets, most broadcasters have indicated that they do not intend to convert all analog OTA transmitters to digital. As a result, Canadians likely face a hybrid solution, whereby larger markets will

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<sup>1</sup> As set out in Broadcasting Public Notice 2007-53, television licensees will be authorized to broadcast only digital over-the-air (OTA) signals after 31 August 2011, although exceptions may be made in northern and remote communities where analog transmissions will not cause interference. Communities that lose some or all of their conventional OTA choices will continue to be served by other means.

continue to be served by digital OTA signals and smaller markets will receive conventional signals via cable and satellite and other television service providers.

15. In this respect, parties are asked to respond to the following questions:

- Should a system be adopted in which cable and satellite and other television providers have to negotiate compensation for the value of carrying OTA signals with broadcasters:
  - what, if any, support or incentives do the various components of the industry require to implement a hybrid model of OTA coverage in major centres and other means of delivery<sup>2</sup> in rural areas? If so, what type of support or incentives?
  - what impact would the adoption of a hybrid model have on consumers?

### **C) Other matters**

16. While the Commission has identified a number of issues, parties may raise other issues and concerns. The Commission, however, reminds parties that their comments should be limited to matters falling within the Commission's jurisdiction and powers under the Act. Further, parties should discuss such matters in the context of the OIC.

### **Public proceeding**

17. The Commission will hold a public hearing commencing on **7 December 2009 at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec** to address the matters set out in this notice. Additionally, to facilitate further dialogue among Canadians, the Commission also intends to conduct an online consultation on the issues outlined in this notice. Comments received as part of the online consultation will form part of the public record of this proceeding and transcripts will be available on the Commission website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" at the conclusion of the online consultation. Further details relating to this online consultation will be provided in a future notice.

18. The Commission invites written comments that address the issues and questions set out above. The deadline for filing written comments is **2 November 2009**.

19. The Commission will only accept submissions that it receives on or before the prescribed date noted above.

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<sup>2</sup> As noted in Broadcasting Notice of Consultation 2009-411, at the 27 April 2009 public hearing relating to the renewal of the licences for private conventional television stations, Bell Canada proposed to make available local and regionally relevant television stations to all Canadians via satellite distribution at no monthly charge. The number of local stations distributed via satellite would increase under the proposal, all of which would be available to other BDUs free of charge for distribution on equivalent terms and conditions. The Commission has consolidated information related to the proposal. These documents are available through the following [link for the 27 April 2009 public hearing](#).

20. Following the oral public hearing, interested parties may have an opportunity to file brief final written comments.
21. Parties wishing to appear at the public hearing, either in person or by video conference from one of the Commission's regional offices, must state their request on the first page of their written submissions. Parties requesting appearance must provide clear reasons, on the first page of their submissions, as to why the written submission is not sufficient and why an appearance is necessary. The Commission will subsequently inform parties whether their request to appear has been granted. While submissions will not otherwise be acknowledged, they will be considered by the Commission and will form part of the public record of the proceeding, provided the procedures set out herein have been followed.

### **Procedures for filing comments**

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

**by using the**

[\[Broadcasting interventions/comments form\]](#)

**by mail to**

CRTC, Ottawa, Ontario K1A 0N2

or

**by fax at**

819-994-0218

23. Submissions longer than five pages should include a summary.
24. 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**

25. Note that all information that parties 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](http://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 parties provide.

26. The personal information that parties 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.
27. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, 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.
28. Please note that the information parties 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.
29. 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 documents**

30. A list of all comments will be available on the Commission's website. An electronic version of all comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.
31. The public may examine public comments and related documents at the following Commission offices during normal business hours.

### **Location of Commission offices**

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

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

Les Terrasses de la Chaudière  
Central Building  
1 Promenade du Portage, Room 206  
Gatineau, Quebec  
J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

***Regional offices***

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

2220 – 12<sup>th</sup> Avenue  
Suite 620  
Regina, Saskatchewan  
S4P 0M8  
Tel.: 306-780-3422

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



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

Secretary General

#### **Related documents**

- *Clarification on the scope of the proceeding – negotiated fair value for local conventional television signals*, Broadcasting Notice of Consultation CRTC 2009-411-3, 11 August 2009
- *Policy proceeding on a group-based approach to the licensing of television services and on certain issues relating to conventional television*, Broadcasting Notice of Consultation CRTC 2009-411, 29 September 2009
- *Policy proceeding on a group-based approach to the licensing of television services and on certain issues related to conventional television*, Broadcasting Notice of Consultation 2009-411, 6 July 2009
- *Call for comments on a proposed framework for the sale of commercial advertising in the local availabilities of non-Canadian services – Notice of consultation*, Broadcasting Public Notice CRTC 2008-102, 30 October 2008
- *Call for comments on a proposed regulatory framework for video-on-demand undertakings – Notice of consultation*, Broadcasting Public Notice CRTC 2008-101, 30 October 2008
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007

*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 2009-602**

### **Order in Council P.C. 2009-1569, 16 September 2009**

Whereas the Canadian Radio-television and Telecommunications Commission (hereinafter referred to as “the Commission”) is responsible for regulating and supervising all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy for Canada set out in subsection 3(1) of the *Broadcasting Act* (“the Act”), while having regard to the regulatory policy set out in subsection 5(2) of the Act;

Whereas subsection 3(1) of the Act provides, among other things, that the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, and that distribution undertakings should provide efficient delivery of programming at affordable rates;

Whereas subsection 5(2) of the Act provides, among other things, that the Canadian broadcasting system should be regulated and supervised in a flexible manner that is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings;

Whereas ensuring Canadians have affordable access to a variety of points of view on matters of public concern, and that their local and regional television news and information needs are met, is of fundamental importance to the achievement of the objectives of the broadcasting policy for Canada set out in the Act;

Whereas most Canadians receive their television broadcasting services, including Canadian over-the-air television services, through distribution undertakings;

Whereas subparagraph 3(1)(t)(i) of the Act provides that broadcasting distribution undertakings should give priority to the carriage of Canadian programming services, and in particular to the carriage of local Canadian stations;

Whereas a fee imposed on distribution undertakings in respect of the distribution of local Canadian over-the-air television stations may negatively affect affordable access by Canadians to Canadian programming, including local and regional television news, and information;

Whereas section 15 of the Act provides that the Commission shall, on the request of the Governor in Council, hold hearings or make reports on any matter within the jurisdiction of the Commission under the Act;

And whereas, in accordance with subsection 15(2) of the Act, the Minister of Canadian Heritage has consulted with the Commission with regard to this request;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Canadian Heritage, pursuant to section 15 of the *Broadcasting Act*, hereby requests the Canadian Radio-television and Telecommunications Commission to hold hearings on the implications and the advisability of implementing a compensation for the value of the local television signal regime and to issue to the Government, as soon as practicable, a report providing recommendations taking into account:

- (a) the comments of the general public on the impact of such a measure on consumers, and in particular, the impact on affordable access to a variety of local and regional news, information and public affairs programming; and
- (b) how the application of such a regime would impact the various components of the communications industry as it adapts to the new digital communications environment, and in particular, the implications on current and emerging business models.