



Broadcasting Regulatory Policy CRTC 2010-622-1

PDF version

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Community television policy – Correction

Further to Broadcasting Regulatory Policy 2010-622, the Commission hereby corrects the following paragraphs and the appendix. The changes are in bold.

23. In order to provide licensees with adequate time to prepare to meet this minimum requirement, the Commission will implement the new 50% exhibition requirement through amendments to the Regulations **that will require a minimum of 35% access programming in the 2011 broadcast year (1 September 2011 to 31 August 2012), 40% in the 2012 broadcast year (1 September 2012 to 31 August 2013), 45% in the 2013 broadcast year (1 September 2013 to 31 August 2014) and 50% beginning on 1 September 2014.** The existing exhibition requirement that 50% of programming be access programming according to requests will remain in effect. Further, as set out in more detail later in this policy, the Commission will require licensees to file annual reports that provide specific information regarding the broadcast of access programs during the broadcast day and in peak viewing hours. These reports, which the Commission will make public, will provide interested parties with a greater detail regarding the licensees' activities.

30. The Commission recognizes some interveners' concerns that the demand for access may not be sufficient to meet a 50% expenditure requirement immediately. To ease these concerns, the access expenditure requirement will take effect **in increments** under the following conditions:

- During the licence term, the licensee shall expend on access programming, at a minimum, an amount equal to **35%** of community programming-related expenditures **in the 2011 broadcast year, 40% in the 2012 broadcast year, 45% in the 2013 broadcast year and 50% beginning on 1 September 2014.**
- The access expenditure requirement will apply to the programming portion of community expenditures only. As such, technical, sales and promotion and administration and general expenses will not be included.
- Given the importance of volunteer participation and development and community outreach as core elements of community television, the Commission considers expenditures for volunteer training and

development and community outreach to generate access programming as eligible access programming expenditures.

- The Commission will grant up to 5% flexibility per year on required access expenditures, as follows:
 - In each year of the licence term, excluding the final year, a licensee may expend an amount on access programming that is up to 5% less than the minimum required expenditure for that year; in such case, the licensee shall expend in the next year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-spending.

Key dates for new requirements

Annual report on access programming

- Beginning in the 2010 broadcast year (1 September 2010 to 31 August 2011), licensed BDUs that operate community channels shall file an annual report on access programming with their annual returns.

Annual returns

- Beginning in the 2011 broadcast year (1 September 2011 to 31 August 2012), both licensed and exempt BDUs with more than 2,000 subscribers will be required to report the information related to local expression set out in the appendix to this document as part of their annual returns.

Exhibition and expenditure requirements

- The new requirements will take effect on **the dates specified in paragraphs 23 and 30 of this document** through amendments to the Regulations.

Secretary General

Appendix to Broadcasting Regulatory Policy CRTC 2010-622-1

Community television policy

General

This policy replaces that part of *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002, that applies to community television.

Objectives

The Commission has established the following objectives for its community television policy:

- to ensure the creation and exhibition of more locally produced, locally reflective community programming.
- to foster a greater diversity of voices and alternative choices by facilitating new entrants at the local level.

Standards and codes

Where appropriate, licensees will be expected to adhere to the following industry codes as conditions of licence:

- the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission;
- the Canadian Association of Broadcasters' *CAB Violence Code*, as amended from time to time and approved by the Commission;
- the *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission; and
- the *Cable television community channel standards*, Public Notice CRTC 1992-39, 1 June 1992 (Public Notice 1992-39).

BDU-operated community channels

Licensees will be expected to fulfil all the applicable provisions of the policy set out below. The performance of licensees in this regard will be examined at the time of licence renewal.

Role and objectives

The role of the community channel should be primarily of a public service nature, facilitating self-expression through free and open access by members of the community.

The community channel should:

- engender a high level of citizen participation and community involvement in community programming;
- actively promote citizen access to the community channel and provide and promote the availability of related training programs;
- provide feedback mechanisms, such as advisory boards, to encourage viewer response to the range and types of programs aired;
- seek out innovative ideas and alternative views;
- provide a reasonable, balanced opportunity for the expression of differing views on matters of public concern;
- reflect the official languages, ethnic and Aboriginal composition of the community;
- provide coverage of local events; and
- publicize the program schedule.

Local community television programming

If a licensee elects to distribute community programming services, it shall devote not less than 60% of the programming aired during each broadcast week to the broadcast of local community television programming.

For the purpose of this policy, the Commission considers local community television programming to consist of programs, as defined in the *Broadcasting Act* (the Act), that are reflective of the community and produced by the licensee in the licensed area or by members of the community from the licensed area. Programs produced in another licensed area within the same municipality will also be considered local community television programming.

The licensed areas of terrestrial broadcasting distribution undertakings (BDUs) are set out in the licence in effect as of the date of this policy. Where a terrestrial BDU obtains the Commission's approval for a regional licence, the Commission will generally retain the existing licensed area set out in the terrestrial BDU's current licence and require that local community television programming continue to be reflective of the community within that licensed area.

Class 3 terrestrial licensees¹ may utilize alphanumeric bulletin boards to achieve the 60% requirement for local community television programming, except as otherwise specified by condition of licence.

Community programming

Pursuant to the *Broadcasting Distribution Regulations* (the Regulations), licensees that elect to distribute community programming shall not distribute on the community channel any programming service other than those set out in section 27(1) and 27(2).

Licensees are not permitted to distribute foreign or commercial programs on the community channel.

Licensees are not permitted to receive financial payment in exchange for the distribution of government or public service information material.

Licensees are expected to adhere to the principle that local community television programs be given scheduling priority.

Professional major league sports programming

The broadcast of programs featuring professional major league sports, produced by companies generally engaged in the production of such programs, does not fulfil the objectives of this policy and will generally not be allowed on the community channel.

Community television programming in Toronto, Montréal and Vancouver

Licensees that provide community programming in the greater Toronto, Montréal and Vancouver areas will be expected to set out their plans and commitments at licence renewal as to how they will reflect the various communities within their licensed areas.

Access programming

For the purpose of this policy, access programs are programs produced by members of the community served by the undertaking, either assisted or unassisted by the licensee.

Criteria for access programs

The key criterion for defining access programming is that creative control is in the hands of a community member, i.e. an individual or group residing within the licensed area of a terrestrial BDU. Creative control consists of two elements:

- 1) The idea for an access program must originate from a community member not employed by a BDU; and

¹ Consistent with *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008, the Commission will be amending the *Broadcasting Distribution Regulations* to create a single class of licence for terrestrial BDUs.

- 2) The community member must be involved in the production team either:
 - a. in an on-camera role (e.g., a personality or actor that appears in a predominant portion of the production); and/or
 - b. as a creative member of the production crew (e.g., directing, producing, writing).

When a project meets these criteria, the Commission will consider that creative control is in the hands of a community member and consequently that the project qualifies as access programming.

At any time, the BDU may assist in training and supporting community members in the production and distribution of access programming.

Exhibition

- Licensees shall devote a minimum of 30% of the programming aired during each broadcast week to the broadcasting of access programs **until 31 August 2011, after which licensees shall broadcast the following minimums: 35% in the 2011 broadcast year, 40% in the 2012 broadcast year and 45% in the 2013 broadcast year.**
- Effective 1 September 2014, licensees shall devote a minimum of 50% of the programming aired during each broadcast week to the broadcast of access programs.
- Until 1 September 2014, where requests for access exceed the minimum requirement, licensees shall make available a minimum of 50% of the programming aired during each broadcast week to the broadcast of access programs. The access requests must conform to the terms and conditions for access set out in Public Notice 1992-39.
- Where there is one or more local not-for-profit community television corporations (TVCs) in a given licensed area, up to 20% of the programming aired during each broadcast week by licensees shall be made available for access programs from these TVCs. Where more than one TVC is in operation in a licensed area, each must be guaranteed a minimum of four hours of access programs per broadcast week, upon request. This 20% is considered part of the access program requirements set out above.

For the purpose of this policy, TVCs are defined as:

Not-for-profit corporations, incorporated under a provincial or federal charter which provides that the primary activity of the corporation is to produce community television programming and/or operate a community television channel that is reflective of the community they represent. Board members must

be drawn from the local community and the corporation must hold an annual meeting where all members of the corporation are invited to participate and to vote.

In addition, the Commission will consider programming produced by independently operated community-based television services (independent community services) as access programming.

The Regulations shall be amended to implement the access requirements set out above.

Access programming should be scheduled in a reasonable manner throughout the broadcast day, including the peak viewing period (7 p.m. to 11 p.m.), and the ratio of original to repeat programs should generally be the same for access programs as it is for other community programming.

Licensees should consult members of the community to determine the mix, scope and types of programs that best serve the community's needs and interests through advisory boards and/or feedback from volunteers.

Expenditures

At least **35%** of all programming-related expenditures, as reported under the revised reporting requirements set out below, shall be directed to access programming **in the 2011 broadcast year, 40% in the 2012 broadcast year, 45% in the 2013 broadcast year and 50% beginning on 1 September 2014.**

The expenditure requirement on access programming will take effect under the following conditions:

- During the licence term, the licensee shall expend on access programming, at a minimum, an amount equal to **35%** of community programming-related expenditures **in the 2011 broadcast year, 40% in the 2012 broadcast year, 45% in the 2013 broadcast year and 50% beginning on 1 September 2014.**
- The access expenditure requirement will apply to the programming portion of community expenditures only. As such, technical, sales and promotion and administration and general expenses will not be included.
- Expenditures for volunteer training and development and community outreach to generate access programming will be considered as eligible access programming expenditures.
- The Commission will grant up to 5% flexibility per year on required access expenditures, as follows:
 - In each year of the licence term, excluding the final year, a licensee may expend an amount on access programming that is up to 5% less than the minimum required expenditure for that year; in such case, the licensee

shall expend in the next year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-spending.

Funding of community channels

The current level of BDU contributions is sufficient to provide an appropriate level of funding to the community television sector. Further increases to total contributions to local expression are not warranted at this time.

In Call for comments on contributions by broadcasting distribution undertakings to local expression, Broadcasting Notice of Consultation CRTC 2010-623, 26 August 2010, the Commission has set out for public comment detailed questions with respect to the most effective mechanism to maintain the current contribution levels to local expression.

Accountability and reporting

Annual returns

Beginning in the 2011 broadcast year (1 September 2011 to August 2012), licensed and exempt BDUs with more than 2,000 subscribers shall report the following information related to local expression as part of their annual returns:

Exhibition

Total hours broadcast and produced

- Produced by the licensee
- Produced by community members (access programming)
- Produced by TVCs and independent community services (access programming)
- Produced by other licensees (non-access)
- Alphanumeric messages
- Other (to be specified)

Expenditures

1. Programming expenses (direct and indirect)
 - Produced by the licensee
 - Produced by community members (access programming – can include volunteer training and community outreach expenses)
 - Produced by TVCs and independent community services (access programming)

- Produced by other licensees (non-access)
 - Alphanumeric messages
 - Other (to be specified)
2. Technical expenses
 3. Sales and promotion expenses
 4. Administration and general expenses
 5. Depreciation
 6. Total broadcasting-related revenues (basic and non-basic revenues)
 7. Total community television expenditures as a percentage of total broadcasting revenues

Furthermore, the Commission maintains the requirement of a preponderance of direct expenses over indirect expenses.

Volunteer participation and development and community outreach

Expenditures related to the training and development of volunteers, as well as those related to community outreach for the purpose of promoting and generating access programming, should be included within eligible access programming expenditures. For this reason, beginning in the 2011 broadcast year, licensed and exempt BDUs with more than 2,000 subscribers shall report on the following aspects related to volunteer participation and community outreach initiatives:

Volunteer participation and development

- Total volunteers in reporting year (# of individual volunteers)
- Total volunteer hours (hours worked by volunteers)
- Total volunteer training hours (received by volunteer participants)
- Total volunteer training expenses (can be included in applicable access programming expenditures)

Community outreach

- Total expenditures on community outreach (can be included in applicable access programming expenditures)

Report on access programming

Beginning in the 2010 broadcast year (1 September 2010 to 31 August 2011), licensed BDUs that operate community channels shall file an annual report with their annual returns containing the following, based on a reporting year:

- Community outreach initiatives

- Number of meetings with the public
- Communication tools used to promote access opportunities (e.g., billing inserts, website, on-air announcements, participation at community events, visits to schools/colleges/universities, social media)
- Number of training sessions offered to volunteers
- Access programming initiatives
 - Number of hours of access programming broadcast during broadcast day and peak hours
 - Percentage of access programming broadcast
 - Number of requests for access programs by individuals and groups representing official language minority communities
- Access programming available on other platforms
 - Number of hours of access programming available on video-on-demand (VOD), website, etc.

The annual reports will be made available on the Commission's website.

Code of "best practices" on access programming

BDUs shall establish an industry working group to develop a code of "best practices" on access programming.

Specifically, the Commission mandates that the working group:

- include one representative from each of the following: Rogers, Shaw, Cogeco, EastLink, Quebecor and the CCSA;
- develop a code of "best practices" for access programming; and
- submit this code to the Commission for approval no later than 6 months from the date of this policy.

The code shall include guiding principles such as, but not limited to:

- what can be expected from and by an individual, group or community television corporation residing within the licensed area of a terrestrial BDU that is producing access programming; and
- what types of access program proposals are acceptable.

The term “best practices” refers to the means by which licensed BDUs can achieve the overall objective of ensuring that their decision-making with respect to access programming promotes fair and consistent practices at all times and throughout each individual system.

Promotion of access opportunities

Licensees are expected to actively promote citizen access to the community channel and to provide and promote the availability of related training programs. All terrestrial licensees are expected to distribute a billing insert describing the availability of access programming and methods by which proposals can be made. Such billing inserts should be distributed annually. The Commission will review the efforts of licensees in this regard as part of the licence renewal process.

The Commission recognizes that BDUs publicize access programming opportunities in other ways, such as on-air announcements, website, social media, participation to community events and visits to schools/colleges/universities. BDUs are encouraged to use these alternative methods to promote access opportunities.

Video-on-demand and new media

Licensed BDUs are required to report the following as it relates to the use of VOD and new media as platforms for local expression:

Video-on-demand

- Program hours made available through VOD during the reporting year
- Expenditures related to community programs broadcast through video-on-demand (can be included in applicable programming expenditures)

New media

- Program hours broadcast on new media during the reporting year
- Expenditures related to community programs broadcast on new media (can be included in applicable programming expenditures)

Service to persons with disabilities

Closed captioning

The Commission intends to impose conditions of licence requiring licensees to caption at a minimum 100% of original licensee-produced programming by the end of their next licence term. Licensed BDUs will be expected to ensure that 100% of original access programming is captioned by the end of the next licence term.

Audio description

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009 (the Accessibility Policy), the Commission intends to impose conditions of licence requiring licensed BDUs that operate a community channel to provide audio description for all information programs and for news programming (that is, the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen).

Licensees with fewer than 20,000 subscribers

Consistent with the Regulations, licensees with fewer than 20,000 subscribers on 31 August 2009 may allocate the full 5% of their contribution to Canadian programming to local expression for the 2009 broadcast year. For the 2010 and subsequent broadcast years, such licensees may allocate a maximum of 2% of their required 5% contribution to Canadian programming to local expression.

Licensees shall report their levels of community programming expenses and are expected to dedicate the large majority of their expenditures to the direct expense category. Direct expenses are defined 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.

Two community channels in a given market

Licensees that elect to distribute two community channels in a given market, one in each official language, may apply under section 29 of the Regulations for a condition of licence in order to allocate up to 2% of their required contribution to Canadian programming to each of the community channels.

Advertising and sponsorship

Community channels will continue to be limited to sponsorship advertising as prescribed under section 27 of the Regulations.

In accordance with *Sponsorship messages on the community channel*, Circular No. 348, 27 July 1988, words promoting goods or services are not acceptable and descriptions that promote a favourable image of the sponsor will be examined on a case-by-case basis to determine if they depart from what is permitted in the Regulations.

Licensees must not deny, restrict or reduce access opportunities if a member of the community is unable or unwilling to attract a sponsor.

Under no circumstances should a licensee charge a fee for providing access programs, or insist that access programs have sponsorship.

All revenues generated by sponsorship advertising must be reinvested in the operation of the community channel. Licensees must identify these revenues and associated

expenditures separately when reporting their community programming expenses to the Commission.

Revenues associated with the rental of production facilities for external commercial and industrial productions should also be reinvested in the community channel, thus avoiding the requirement for cost separation procedures.

Promotional messages

Consistent with the Regulations, except as otherwise provided in subsections 27(2) and 27(3) or under a condition of its licence, a licensee must limit the broadcast of promotional messages on the community channel to two minutes per hour.

Further, the Regulations require that the time allocated for promotional messages be divided as follows:

- At least 75% of promotional time during each broadcast week must be made available for use by non-related Canadian programming undertakings for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements.
- A maximum of 25% of promotional time during each broadcast week may be made available for the promotion of related programming undertakings, discretionary programming services and programming packages, customer service information, channel realignments, cable FM service and additional cable outlets.

For the purpose of this policy, a related programming undertaking is defined as one in which a BDU licensee or an affiliate, or both, controls more than 10% of the total shares issued and outstanding.

Independently-operated community-based television services (independent community services)

Community programming undertakings

Terrestrial BDUs have the option of distributing a community channel as part of their distribution licences. In situations where the terrestrial BDU does not provide a community channel or does not operate a community channel in accordance with the provisions of this policy, community groups may apply for a community programming undertaking licence.

In order to obtain a community programming undertaking licence, applicants will have to demonstrate that the proposed undertaking would be operated in accordance with this policy, the relevant provisions of the Regulations and Public Notice 1992-39.

Community programming undertakings will be not-for-profit organizations, the structure of which provides for membership, management, operation and programming primarily by members of the community.

Pursuant to the Regulations, community programming undertakings are accorded mandatory carriage as part of the basic service where a terrestrial BDU does not elect to distribute a community channel or does not operate a community channel in accordance with the provisions of this policy. The Regulations also specify the applicable percentage of the terrestrial BDU's gross revenues to be allocated to the community programming undertaking.

Community-based television programming undertakings: Low-power and digital services

The licensing framework for community-based television programming undertakings includes two sub-categories:

- community-based low-power television undertakings and
- community-based digital services.

Objectives

Community-based television programming undertakings will provide a high level of locally-produced, locally-reflective programming that complements the programming provided by conventional television and community channels. Such services should enrich the variety of local and community programming available to the public, as well as provide opportunities for new voices to participate in the Canadian broadcasting system.

Community-based television programming undertakings should not replicate the programming offered by existing television services.

Licensing criteria

In its assessment of applications for community-based television programming undertakings, the Commission will take into consideration the number of community-based services already licensed in the proposed service area, the availability of over-the-air channels and/or the available capacity of the affected BDUs and the impact on local radio and television licensees operating in small markets.

Ownership

The Commission will consider applications by both for-profit and not-for-profit applicants to operate community-based television programming undertakings.

The Commission does not intend to grant this class of licence to established licensees to extend their reach or to provide additional types of service. In assessing applications for community-based television programming undertakings, the Commission will give preference to locally-based new entrants.

Canadian content

Licensees of community-based television programming undertakings shall devote not less than 80% of the broadcast year to the broadcast of Canadian programs.

Local programming

Licensees of community-based television programming undertakings shall devote not less than 60% of the broadcast year to the broadcast of local programming.

For the purpose of this policy, local programming means station productions or programming produced by community-based independent producers that reflects the particular needs and interests of residents of the area that the community-based television programming undertaking is licensed to serve.

In the case of a community-based low-power television programming undertaking, this area will be defined by the Grade B contour of the antenna. In the case of a community-based digital service, the Commission will require a detailed description of the geographic area to be served, which will form part of a condition of licence on the nature of service.

Service to persons with disabilities

Closed captioning

The Commission encourages independent community services to caption as much programming as possible. However, in the case of TéléMag inc., licensee of the low-power community television station in Québec, the Commission expects the licensee to caption 100% of its programming by the end of the next licence term.

Audio description

Consistent with the Accessibility Policy, the Commission intends to impose conditions of licence requiring independent community services to provide audio description for all information programs and for news programming (that is, the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen).

Citizen participation

Licensees of community-based television programming undertakings are encouraged to:

- facilitate citizen access to the production of programming; and
- provide training to those within the community wishing to participate in the production of programming.

Advertising and financing

Licensees of community-based television programming undertakings shall not broadcast more than 12 minutes of local advertising material in any clock hour in a broadcast day.

Policies specific to community-based low-power television undertakings

Definition of low-power television

The Department of Industry (the Department) defines low-power analog television stations in Part IV of its *Broadcasting Procedures and Rules* as those stations operating with a transmitter power of 50 watts or less on the VHF band or 500 watts or less on the UHF band. Due to their limited effective radiated power, their Grade B service contour does not exceed 12 kilometres in any direction from the antenna site. The coverage that they provide is therefore much more limited than that of regular class television stations.

The Department defines low-power digital television stations in Part X of its *Broadcasting Procedures and Rules* as those stations with service not extending beyond a distance of 20 kilometres in any direction from the antenna site.

The Department considers low-power television stations as secondary assignments and establishes them on an unprotected basis with respect to the frequency band that they occupy. This means that they have no protection from interference by primary assignments (e.g. regular class stations). However, in the event that a secondary assignment causes interference to a primary assignment, the secondary assignment station could be required to change its assigned channel or to cease operation if no replacement channel can be found. Secondary assignment stations are, however, entitled to protection from other secondary assignment stations that are established at a later date.

Carriage by broadcasting distribution undertakings

Consistent with the Regulations, BDUs are required to carry licensed community-based television programming undertakings on the digital band throughout the area reached by the over-the-air signals or the service area authorized by the Commission.

Under the Regulations, local television stations must be distributed on an analog channel as part of the basic service. However, where capacity is limited, the Commission considers that the mandatory analog distribution of community-based low-power television stations by terrestrial BDUs may not be appropriate. Accordingly, in such circumstances, the Commission will be prepared to allow relief from these carriage requirements upon application for a condition of licence by terrestrial BDUs.

However, terrestrial BDUs that are granted relief from this requirement and distribute digital services will be required to distribute community-based low-power television undertakings on a digital basis within the area served by the over-the-air signals of those stations.

Policy for remote stations

The provisions of this policy apply to both urban and remote community-based low-power television undertakings.

However, the Commission will be prepared to allow relief from the logging requirements set out in section 10 of the *Television Broadcasting Regulations, 1987*, the Canadian

content and local programming requirements set out in this policy and the requirement to operate at a low power upon application from licensees of community-based television undertakings serving remote areas, to the extent that their operation is consistent with the Commission's policies regarding the transition to digital television.

The Commission will expect terrestrial BDUs operating in remote areas to carry any remote community-based television programming undertaking licensed to serve that area on their analog basic service.

For the purpose of this policy, a remote community-based television station is defined as a community-based television programming undertaking serving a community that has no competing regional or local television service or local community cable operating on a regular basis.

Policies specific to community-based digital services

Carriage by broadcast distribution undertakings

Community-based digital services will not be accorded mandatory analog distribution by terrestrial BDUs.

A terrestrial BDU that distributes services on a digital basis will be required to distribute community-based digital services on the digital band throughout the service area authorized by the Commission.

Nature of service and proposed service area

In order to clearly define the proposed community or communities to be served, applications for a community-based digital service licence must include a detailed description of the nature of the proposed service and the geographic area to be served.