



Broadcasting Notice of Consultation CRTC 2010-931

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Ottawa, 10 December 2010

Call for comments on amendments to the *Broadcasting Distribution Regulations*

The Commission calls for comments on proposed amendments to the Broadcasting Distribution Regulations, which will be effective 1 September 2011. These amendments reflect determinations made by the Commission in policy proceedings related to the regulatory frameworks for broadcasting distribution undertakings, community television, and the transition to digital television broadcasting. The deadline for the receipt of comments is 7 February 2011.

Introduction

1. The Commission proposes to amend the *Broadcasting Distribution Regulations* (the Regulations) to implement determinations that it has made in various policy proceedings. The amended Regulations will be effective 1 September 2011. The proposed amendments can be broadly categorized as follows:
 - amendments to implement the regulatory framework for broadcasting distribution undertakings (BDUs) set out in Broadcasting Public Notice 2008-100 and Broadcasting Regulatory Policy 2010-162;
 - amendments to implement the new policy for community television set out in Broadcasting Regulatory Policy 2010-622, amended by Broadcasting Regulatory Policy 2010-622-1; and
 - amendments to implement policies on the transition to digital television broadcasting set out in paragraph 191 of Broadcasting Regulatory Policy 2010-167 as well as those policies set out in Broadcasting Public Notices 2006-23 and 2006-74, which were not superseded by Broadcasting Public Notice 2008-100.
2. The Commission has also redrafted sections 8 and 11 to address concerns related by Parliament's Standing Joint Committee for the Scrutiny of Regulations.
3. Major aspects of the proposed amended Regulations are discussed in the following sections of this notice of consultation.

Organization of the Regulations

4. The proposed amended Regulations recognize two types of BDU licences – terrestrial BDUs and direct-to-home (DTH) BDUs. The proposed amended Regulations are divided into four parts:
 - Part 1 – Regulations of general application
 - Part 2 – Regulations for terrestrial BDUs that distribute programming services on a digital basis
 - Part 3 – Regulations for terrestrial BDUs that distribute programming services on an analog basis
 - Part 4 – Regulations for DTH BDUs

Basic service

5. The requirements setting the programming services that terrestrial BDUs must distribute on the basic service are similar to those in the current Regulations. For example, terrestrial BDUs must distribute on the basic service local and regional television stations and educational television stations originating in the province that the BDU serves.
6. In addition, section 17(1)(g) of the proposed amended Regulations stipulates that the programming services of a programming undertaking that the Commission has required to be distributed under section 9(1)(h) of the *Broadcasting Act* must be distributed as part of the basic service. As well, section 17(5) specifies that a terrestrial BDU's obligation to distribute the programming services of a local television station or a regional television station also includes the obligation to distribute the digital programming service of that television station that is received by direct feed if the programming service of the local television station or regional television station is also received over the air by the licensee in its licensed area.
7. Section 46 sets out the requirements with respect to the services that DTH BDUs must distribute as part of the basic service. The list of services that must be distributed reflect the determinations set out in Broadcasting Public Notices 2008-100 and 2010-162. Generally speaking, the proposed amended regulations require that DTH BDUs carry, on a regional or provincial basis, the programming services of the Canadian Broadcasting Corporation and Société Radio-Canada, educational television programming services, the programming services of one television station from each

of the major ownership groups,¹ and a number of independently owned television stations.²

Access to BDUs by pay and specialty services

8. The sections of the proposed amended Regulations on the distribution of television programming services refer to three categories of pay and specialty services:
 - Category A services include most existing analog pay and specialty services as well as Category 1 services. BDUs are required to distribute Category A services on a digital basis.
 - Category B services include existing Category 2 services. BDUs are not required to distribute Category B services.
 - Category C services are services that provide programming in genres that the Commission has opened up to competition. These services are subject to standard conditions of licences as detailed in Broadcasting Regulatory Policy 2009-562. BDUs are not required to distribute Category C services.
9. BDUs may fulfil their carriage obligations by distributing either a standard definition or a high definition version of a programming service. Under the proposed amended Regulations, a BDU is no longer required to distribute any pay or specialty service on an analog basis.

Distribution of distant Canadian and U.S. signals

10. Sections 21 and 49 of the proposed amended Regulations address the distribution of distant (Canadian) television stations. Under these sections, the BDU must obtain the consent of the operator of the distant television station to distribute its signal, unless the signal is required to be distributed under the Regulations or by condition of licence.
11. Sections 22 and 50 provide that the distribution of a second set of non-Canadian television stations³ may only be distributed if the BDU also distributes the programming of at least one television station from each English-language major ownership group that originates in the same time zone.

¹ The major ownership groups are Shaw Communications Inc., CTVglobemedia Inc., Quebecor Media Inc., Remstar Broadcasting Inc. and Rogers Communications Inc.

² An independently owned television station is a licensed television station not owned by one of the major ownership groups and provides, in one of the official languages, local programming to the community it is licensed to serve.

³ A set of non-Canadian television stations includes four non-Canadian television stations that are affiliated with different networks and one non-commercial non-Canadian television station.

Requirements for community access television programming

12. The proposed amended Regulations set out requirements for the exhibition of and expenditures on community access television programming on community channels where the BDU elects to distribute community programming.
13. With respect to exhibition, section 31(2) establishes the following minimum percentages of programming distributed on the community channel in each broadcast week that must be devoted to community access television programming:
 - 35% for the 2011-2012 broadcast year;
 - 40% for the 2012-2013 broadcast year;
 - 45% for the 2013-2014 broadcast year; and
 - 50% for the 2014-2015 and successive broadcast years.
14. With respect to expenditures, section 32(2) establishes the following minimum levels of programming-related expenses that must be directed to community access television programming:
 - 35% for the 2011-2012 broadcast year;
 - 40% for the 2012-2013 broadcast year;
 - 45% for the 2013-2014 broadcast year; and
 - 50% for the 2014-2015 and successive broadcast years.

Distribution of programming services on an analog basis

15. In Broadcasting Public Notice 2008-100, the Commission indicated that to the extent that BDUs wished to continue providing their subscribers with an analog offering, it would propose rules to cover such offerings when it issued its proposed amended Regulations. Part 3 of the proposed amended Regulations is designed to ensure that digital delivery of programming services has priority over analog delivery while allowing for the continued distribution of services in analog mode. Analog distribution must continue to meet certain minimum requirements with respect to the services that are distributed. Among other things, the proposed amended Regulations in Part 3:
 - prohibit BDUs from distributing a service on an analog basis if such distribution prevents a BDU from fulfilling its obligations with respect to digital service (section 40);
 - require the distribution of local and regional television stations as well as programming services that are required to be distributed under section 9(1)(h) of

- the *Broadcasting Act* as part of the basic service, excluding any programming service that is required to be distributed solely on a digital basis (section 41);
- permit BDUs to continue to distribute all services that they were distributing before 30 October 2008 (section 42); and
 - require BDUs to give notice to the operator of a programming service when they discontinue a service's analog distribution (section 44).

Other amendments

16. Other noteworthy amendments are as follows:

- distribution and linkage rules have been incorporated into the proposed amended Regulations, to the extent that they were not eliminated in Broadcasting Public Notice 2008-100 (sections 23 to 27);
- a conventional television station will have simultaneous substitution rights for its digital programming service provided by direct feed only if it continues to provide an over-the-air signal for that service, either in analog or digital mode (section 38(6));
- BDUs must provide programming undertakings that receive a wholesale rate for their programming services with access to their records so that those programming undertakings can verify the number of subscribers to their services (section 15.1); and
- BDUs must remit a wholesale fee for each dwelling served (section 15.2).

Call for comments

17. The proposed amended Regulations are appended to this notice. The Commission invites comments as to whether the proposed amendments to the Regulations accurately reflect the Commission's frameworks as set out in the various regulatory policies set out above. The Commission will accept comments that it receives on or before **7 February 2011**. The Commission cannot be held responsible for postal delays and will not notify a party whose comment is received after the deadline date. The comment will not be considered by the Commission and will not be part of the public file.

18. The Commission will not formally acknowledge comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedure for filing comments

19. Interested parties can file their comments to the Secretary General of the Commission in **only one** of the following formats:

by using the
[[Broadcasting interventions/comments form](#)]

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

20. Submissions longer than five pages should include a summary.
21. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Important notice

22. 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, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
23. 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.
24. 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.
25. The information that 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 web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.
26. 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

27. A list of all comments will also 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.
28. 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
Fax: 204-983-6317

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

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

858 Beatty Street
Suite 290
Vancouver, British Columbia
V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010 as amended by Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010
- *Distribution by direct-to-home services of stations from the major ownership groups in the Atlantic provinces and independently owned stations across Canada*, Broadcasting Regulatory Policy CRTC 2010-162, 19 March 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news*, Broadcasting Regulatory Policy CRTC 2009-562, 4 September 2009

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Regulatory framework for the licensing and distribution of high definition pay and specialty services*, Broadcasting Public Notice CRTC 2006-74, 15 June 2006
- *Digital migration framework*, Broadcasting Public Notice CRTC 2006-23, 27 February 2006

Appendix to Broadcasting Notice of Consultation CRTC 2010-931

REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

AMENDMENTS

1. (1) The definitions “available channel”, “basic band”, “basic monthly fee”, “Category 1 service”, “Category 2 service”, “channel”, “Class 1 licensee”, “Class 2 licensee”, “Class 3 licensee”, “DTH eligible satellite service”, “ethnic station”, “House of Commons programming service”, “Part 2 eligible satellite service”, “Part 3 eligible satellite service”, “public affairs programming service”, “restricted channel” and “unserved community” in section 1 of the *Broadcasting Distribution Regulations* are repealed.

(2) The definitions “basic service”, “Canadian production fund”, “Canadian programming service”, “community-based digital undertaking”, “demarcation point”, “digital service area”, “distant television station”, “extra-regional television station”, “inside wire”, “licence”, “local head end”, “local television station”, “official contour”, “programming service”, “regional television station”, “relay distribution undertaking”, “station” and “television pay-per-view service” in section 1 of the Regulations are replaced by the following:

“basic service” means the service distributed in a licensed area by a licensee as a package consisting of the programming services the distribution of which is required under section 17 or 46 or a condition of its licence, and any other services that are included in the package for a single fee. (*service de base*)

“Canadian production fund” means the Canada Media Fund or its successor. (*fonds de production canadien*)

“Canadian programming service” means a programming service

(a) that originates entirely within Canada; or

(b) that is provided by any licensed or exempt programming undertaking. (*service de programmation canadien*)

“community-based digital undertaking” means a programming undertaking that is licensed as a community-based digital undertaking whose programming service is distributed on a digital basis. (*entreprise communautaire numérique*)

“demarcation point”, in respect of the wire that is used by a distribution undertaking for the distribution of programming services to a subscriber, means

(a) if the subscriber’s residence or other premises are a single-unit building,

- (i) 30 cm outside the exterior wall of the subscriber's premises, or
 - (ii) any point to which the licensee and the customer have agreed; and
- (b) if the subscriber's residence or other premises are located in a multiple-unit building,
- (i) the point at which the wire is diverted to the exclusive use and benefit of that subscriber, or
 - (ii) any point to which the licensee and the customer have agreed. (*point de démarcation*)

“digital service area” means a service area for a licensed digital radio station that is identified in the broadcasting certificate that is issued for that station by the Minister of Industry under the authority of paragraph 5(1)(a) of the *Radiocommunication Act*. (*zone de desserte numérique*)

“distant television station” means

(a) in relation to a subscriber of a DTH distribution undertaking, a licensed television station that has a Grade B official contour or noise-limited bounding official contour that does not include the area in which the subscriber's residence or other premises are located; and

(b) in relation to a terrestrial distribution undertaking, a licensed television station other than a local television station, regional television station or extra-regional television station. (*station de télévision éloignée*)

“extra-regional television station”, in relation to a licensed area of a distribution undertaking, means a licensed television station that has

(a) a Grade A or Grade B official contour, digital urban official contour or noise-limited bounding official contour that does not include any part of the licensed area; and

(b) a Grade B official contour or noise-limited bounding official contour that includes any point located 32 km or less from the local head end of the licensed area. (*station de télévision extra-régionale*)

“inside wire” means the wire that is used by a distribution undertaking for the distribution of programming services that is located inside a building or, in the case of an externally wired multiple-unit building, outside the building, and that extends from the demarcation point to one or more terminal devices inside a subscriber's residence or other premises. It includes the outlets, splitters and faceplates that are attached or connected to the wire but does not include a secured enclosure that is used to house the wire and that is attached to the exterior wall of a subscriber's residence or other premises, an amplifier, a channel converter, a decoder or a remote control unit. (*câblage intérieur*)

“licence” means

(a) in the case of a Category A service, Category B service or Category C service, a licence to carry on an analog pay television programming undertaking, an analog specialty programming undertaking, a Category 1 programming undertaking or a Category 2 programming undertaking;

(b) in the case of a television station, the licence to carry on a television station; and

(c) in all other cases, a licence to carry on a distribution undertaking. (*licence*)

“local head end” means

(a) in respect of a radiocommunication distribution undertaking, its transmitter site; and

(b) in respect of any other terrestrial distribution undertaking, the specific location at which it receives the majority of the programming services that it distributes in a licensed area that are provided by local television stations or, if there are no local television stations, by regional television stations. (*tête de ligne locale*)

“local television station”, in relation to a licensed area of a distribution undertaking, means a licensed television station that

(a) has a Grade A official contour or digital urban official contour that includes any part of the licensed area; or

(b) if there is no Grade A official contour or digital urban official contour, has a transmitting antenna that is located within 15 km of the licensed area. (*station de télévision locale*)

“official contour” means a service contour for a licensed television station, licensed AM station or licensed FM station, that is identified in the broadcasting certificate that is issued for that station by the Minister of Industry under the authority of paragraph 5(1)(a) of the *Radiocommunication Act*. (*périmètre de rayonnement officiel*)

“programming service” means a program that is provided by a programming undertaking. (*service de programmation*)

“regional television station”, in relation to a licensed area of a distribution undertaking, means a licensed television station — other than a local television station — that has a Grade B official contour or noise-limited bounding official contour that includes any part of the licensed area. (*station de télévision régionale*)

“relay distribution undertaking” means a distribution undertaking that receives the programming services of programming undertakings and distributes them only to one or more other distribution undertakings. (*entreprise de distribution par relais*)

“station” means a radio or television programming undertaking that is licensed as a radio or television station or that provides its programming service by way of a transmitting antenna, or a radiocommunication distribution undertaking that rebroadcasts, by way of a

signal that is not encrypted, the programming service of a radio or television programming undertaking. (*station*)

“television pay-per-view service” means the pay-per-view service that is provided by a person licensed to carry on a pay-per-view programming undertaking. (*service de télévision à la carte*)

(3) Section 1 of the Regulations is amended by adding the following in alphabetical order:

“affiliate” means

(a) in respect of a distribution undertaking, a person that controls the licensee, or that is controlled by the licensee or by a person that controls the licensee; and

(b) in respect of a television station, one that has an affiliation agreement with another television station. (*affiliée*)

“affiliation agreement” means an agreement between one or more television stations and another television station according to which programs provided by the latter station are broadcast by the one or more stations at a predetermined time. (*contrat d’affiliation*)

“anglophone market”, in a respect of a licensed area, means a market that is not a francophone market. (*marché anglophone*)

“Atlantic provinces” means Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador. (*provinces de l’Atlantique*)

“Category A service” means

(a) a Canadian programming service that is designated as such by the Commission; or

(b) for the remainder of the term of a licence that was issued before the day on which these Regulations come into force,

(i) a pay television service other than a Category 2 service that was designated as such by the Commission before that day and a Category C service, or

(ii) a specialty service, other than a Category 2 service that was designated as such by the Commission before that day and a Category C service. (*service de catégorie A*)

“Category B service”, except as set out in subsection 19(2), means

(a) a Canadian programming service that is designated as such by the Commission; or

(b) for the remainder of the term of a licence that was issued before the day on which these Regulations come into force, a Category 2 service that was designated as such by the Commission before that day, other than a Category C service. (*service de catégorie B*)

“Category C service” means

(a) a Canadian programming service that is designated as such by the Commission; or

(b) a pay television service or a specialty service that is subject to the conditions of licence set out in the appendices to Broadcasting Regulatory Policy CRTC 2009-562, dated September 4, 2009 and entitled *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news*, as amended from time to time. (*service de catégorie C*)

“contribution to local expression” means a contribution made by a licensee toward the creation and distribution of community programming and accounted for in accordance with the allowable expenditures for community channels identified in the Appendix to Broadcasting Regulatory Policy CRTC 2010-622-1, dated September 13, 2010 and entitled *Community television policy — Correction*, including programming-related expenses as defined in subsection 32(1). (*contribution à l’expression locale*)

“control” means, in respect of a programming undertaking, any situation by which *de facto* control is achieved, whether directly through the ownership of securities, or indirectly through a trust, agreement or arrangement, through the ownership of a body corporate or otherwise. (*contrôle*)

“eligible satellite service” means a programming service that is authorized for distribution by the Commission and is included in the Commission’s *Revised lists of eligible satellite services*, as amended from time to time. (*service par satellite admissible*)

“English major ownership group” means a major ownership group that provides its programming primarily in English. (*groupe de propriété principal de langue anglaise*)

“ethnic Category A service” means a programming service that is designated as such by the Commission or referred to in paragraphs 129 and 138 of Broadcasting Public Notice CRTC 2008-100, dated October 30, 2008 and entitled *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*. (*service ethnique de catégorie A*)

“exempt third-language service” means a programming service offered by a programming undertaking that is an exempt programming undertaking under the terms of the order entitled *Exemption order respecting third-language television programming undertakings*, made by the Commission under subsection 9(4) of the Act, that is set out in the Appendix to Broadcasting Public Notice CRTC 2007-33 dated March 30, 2007. (*service en langue tierce exempté*)

“format” means analog, standard definition or high definition. (*format*)

“francophone market”, in respect of a licensed area, means a market in which, according to the most recent population figures published by Statistics Canada, French is used as the mother tongue by more than 50% of the total population of all cities, towns and other

municipalities that are situated in whole or in part within the licensed area. (*marché francophone*)

“high definition” means a television signal that consists of at least 1,280 vertical lines of resolution and 720 horizontal lines of resolution. (*haute définition*)

“high definition service” means a programming service that provides any amount of its programming in high definition and includes a high definition version of a programming service. (*service haute définition*)

“high definition version” means

(a) in respect of a Category A service, Category B service or Category C service, the version of that service that is authorized by a condition of licence and that has the following characteristics:

(i) not less than 95% of the video and audio components are the same as the analog or standard definition version of the programming service, excluding commercial messages and any part of the programming service that is carried on a subsidiary signal, and

(ii) the video and audio components that are different from the analog or standard definition version of the programming service are broadcast in high definition;

(b) in respect of a non-Canadian programming service, the version of an eligible satellite service that has the following characteristics:

(i) not more than 14 hours of the video and audio components are different from the analog or standard definition version of the programming service, excluding commercial messages and any part of the programming service that is carried on a subsidiary signal, and

(ii) the video and audio components that are different from the analog or standard definition version of the programming service are broadcast in high definition; and

(c) in respect of a Canadian television station, the version of that television station that contains any amount of programming in high definition. (*version haute définition*)

“major ownership group” means an ownership group that is set out in the schedule. (*groupe de propriété principale*)

“non-Canadian programming service” means a programming service that is not a Canadian programming service. (*service de programmation non canadien*)

“operator” means

(a) in relation to a licensed programming undertaking, the person that is licensed to carry on the programming undertaking; or

(b) in relation to an exempt programming undertaking, the person that carries on the exempt programming undertaking. (*exploitant*)

“ownership group” means a person that controls one or more persons that carry on one or more licensed or exempt programming undertakings and all persons that carry on those programming undertakings. (*groupe de propriété*)

“related programming undertaking” means a programming undertaking of which a licensee or an affiliate of that licensee, or both, controls more than 10% of the total shares issued and outstanding. (*entreprise de programmation liée*)

“share” means a share in the capital of a corporation and includes a security that is convertible into a share at all times at the option of the holder. (*action*)

“Small Market Local Production Fund” means the independent production fund that has been established to assist small market, independently owned television stations in meeting their commitments to local programming in accordance with the criteria set out in Broadcasting Public Notice CRTC 2003-38, dated July 16, 2003 and entitled *Contributions to Canadian programming by broadcasting distribution undertakings*, or its successor. (*Fonds de production local pour les petits marchés*)

“standard definition” means a television signal that consists of fewer lines of horizontal or vertical resolution than does a high definition television signal. (*définition standard*)

“terrestrial distribution undertaking” means a distribution undertaking — other than a DTH distribution undertaking or a relay distribution undertaking — that is

(a) the holder of a terrestrial distribution licence or terrestrial distribution regional licence issued on or after the day on which these Regulations come into force; or

(b) for the remainder of the term of a licence that was issued before the day on which these Regulations come into force,

(i) the holder of a Class 1 licence or Class 1 regional licence,

(ii) the holder of a Class 2 licence or Class 2 regional licence, or

(iii) the holder of a Class 3 licence or Class 3 regional licence. (*entreprise de distribution terrestre*)

“third-language service” means a programming service that provides at least 90% of its programming over the broadcast week in one or more languages other than English or French, exclusive of secondary audio programming and subtitles. (*service en langue tierce*)

“unrelated programming undertaking” means a programming undertaking that is not a related programming undertaking. (*entreprise de programmation non liée*)

“wholesale rate” means the monthly fee that is payable by a licensee to a programming undertaking to receive a programming service. (*tarif de gros*)

2. Section 6 of the Regulations is replaced by the following:

6. (1) Except as otherwise provided under a condition of its licence, a licensee shall ensure, in respect of each of analog and digital technology, that a majority of each of the video and audio programming services that are received by a subscriber are devoted to the distribution of Canadian programming services, whether they are provided by a licensed or exempt programming undertaking.

(2) For the purposes of subsection (1), each programming service of one of the following types counts as a single video programming service regardless of the number of channels on which that programming service is distributed by a licensee in a licensed area:

- (a) pay television service;
- (b) television pay-per-view service;
- (c) DTH pay-per-view service; and
- (d) video-on-demand service.

(3) For the purposes of subsection (1), each analog service, standard definition service and high definition service of the following types of programming service counts as a single video programming service:

- (a) licensed television station;
- (b) pay television service;
- (c) specialty service;
- (d) eligible satellite service; and
- (e) non-Canadian television station.

3. The portion of section 7 of the Regulations before paragraph (a) is replaced by the following:

7. A licensee shall not alter the content or format of a programming service or delete a programming service in a licensed area in the course of its distribution except

4. (1) Paragraph 8(1)(d) of the Regulations is replaced by the following:

(d) news that the licensee knows is false or misleading and that endangers or is likely to endanger the lives, health or safety of the public.

(2) Subsection 8(2) of the Regulations is replaced by the following:

(2) For the purposes of paragraph (1)(c), material is obscene if a dominant characteristic of the material is the undue exploitation of sex, or if a dominant characteristic is sexual, in combination with any one or more of the following subjects, namely, crime, horror, cruelty and violence.

5. Subsection 11(2) of the Regulations is replaced by the following:

(2) At the request of the Commission, a licensee shall respond to

(a) any complaint or request for resolution of a dispute filed by any person or any request for information regarding programming originated or distributed by the licensee, its technical operations, subscribership, financial affairs, or ownership; or

(b) any request for information respecting the licensee's adherence to its conditions of licence, the Act, these Regulations, industry standards, practices or codes, or any other self-regulatory mechanism of the industry.

6. Subsections 12(1) and (2) of the Regulations are replaced by the following:

12. (1) If there is a dispute between the licensee of a distribution undertaking and the operator of a licensed programming undertaking or an exempt programming undertaking concerning the carriage or terms of carriage of programming originated by the programming undertaking — including the wholesale rate and the terms of any audit referred to in section 15.1 — one or both of the parties to the dispute may refer the matter to the Commission.

7. The Regulations are amended by adding the following after section 15:

AUDIT ACCESS BY PROGRAMMING SERVICES

15.1 A licensee shall give access to its records to any Canadian programming undertaking that receives a wholesale rate for its programming services to enable the programming undertaking to verify the subscriber numbers for the programming services of the programming undertaking in accordance with the terms prescribed in Broadcasting Public Notice CRTC 2005-34, dated April 18, 2005 and entitled *Auditing of distributor subscriber information by programming services*.

ACCOUNT STACKING

15.2 If a licensee is required to pay a wholesale rate for a Canadian programming service that it provides to a single subscriber at two or more separate dwellings or other premises that are owned or occupied by the same subscriber, the licensee shall remit the wholesale rate to the Canadian programming undertaking for each dwelling or other premises served.

NOTICE OF CHANNEL REALIGNMENT

15.3 A licensee shall not realign the channel number on which a Canadian programming service is distributed unless, at least 60 days before the proposed effective date of the realignment, the licensee sends a written notice indicating the intended date of the realignment and the channel number on which the programming service will be distributed to each of the operators of the programming services whose channel placements will be affected by the channel realignment.

8. Parts 2 to 5 of the Regulations are replaced by the following:

PART 2

TERRESTRIAL DISTRIBUTION UNDERTAKINGS

APPLICATION

16. Except as otherwise provided in these Regulations or under a condition of licence, this Part applies to the digital distribution of programming services by licensees that hold a licence to operate a terrestrial distribution undertaking.

TELEVISION PROGRAMMING SERVICES TO BE DISTRIBUTED AS PART OF
THE BASIC SERVICE

17. (1) Except as otherwise provided in subsections (3) to (5) or under a condition of its licence, a licensee shall distribute the following services in each licensed area as part of its basic service, in the following order of priority:

(a) the programming services of all local television stations that are owned and operated by the Corporation;

(b) if they are provided to the licensee by the programming undertaking, the educational television programming services whose operation is the responsibility of an educational authority designated by the province in which the licensed area of the undertaking is located;

(c) the programming services of all other local television stations that are not being distributed under paragraph (a) or (b);

(d) the programming services of any regional television station that is owned and operated by the Corporation, unless the licensee is distributing, in accordance with paragraph (a), the programming services of a local television station that is owned and operated by the Corporation and that broadcasts in the same official language as the regional television station;

(e) the programming services of all regional television stations that are not being distributed in accordance with paragraph (b) or (d), except to the extent that the licensee is distributing, under paragraph (a), (c) or (d), the programming services of an affiliated television station or one that is a member of the same ownership group;

(f) if they are provided to the licensee by the programming undertaking and are not being distributed in accordance with paragraph (a) or (d), the programming services of at least one television station that broadcasts in English and at least one that broadcasts in French that are owned and operated by, or that are affiliates of, the Corporation; and

(g) the programming services of a programming undertaking that the Commission has required, under paragraph 9(1)(h) of the Act, to be distributed as part of the basic service.

(2) Except as otherwise provided under a condition of its licence, a licensee shall distribute the following services in each licensed area as part of its basic service:

(a) the programming services of the community channel if the licensee elects to distribute community programming under paragraph 20(1)(d), or the programming services of a community programming undertaking if one is licensed in the licensed area; and

(b) a programming service that consists of the proceedings of the legislature of the province in which the licensed area is located if the licensee elects to distribute that programming service, unless the programming undertaking that provides that programming service agrees in writing to its distribution as a discretionary service.

(3) If a licensee receives programming services that are identical, it is required to distribute only one of them under subsection (1).

(4) If the programming services of two or more television stations rank equally in the order of priority set out in subsection (1), a licensee shall, unless the operators of the stations agree otherwise in writing, give priority

(a) if all of the stations have studios that are located in the province in which the licensed area is located or in the National Capital Region as described in the schedule to the *National Capital Act*, to the programming services of those stations in the order of the proximity of their main studios to the local head end of the licensed area; and

(b) if one or more — but not all — of the stations have studios that are located in the same province as the licensed area, to the programming service of any station that has a studio located in the same province as the licensed area.

(5) The licensee's obligation to distribute the programming services of a local television station or a regional television station under subsection (1) also includes the obligation to distribute the digital programming service of that television station that is received by direct feed if the programming service of the local television station or regional television station is also received over the air by the licensee in its licensed area.

ACCESS FOR TELEVISION PROGRAMMING SERVICES

18. (1) In subsection (2), “general interest television pay-per-view service” means a television pay-per-view service whose programming is selected — unrestricted by any

condition of licence — from any of the categories listed in column I of item 6 of Schedule I to the *Pay Television Regulations, 1990*.

(2) Except as otherwise provided in this section, in sections 23 to 27 or under a condition of its licence, a licensee shall distribute

(a) if the licensee is operating in an anglophone market,

(i) each English-language Category A service whose operator is authorized to provide the service to all or part of the licensed area,

(ii) at least one English-language general interest television pay-per-view service, and

(iii) to the extent that such a programming service is available, at least one French-language Category A service, Category B service or Category C service for every 10 English-language programming services that it distributes;

(b) if the licensee is operating in a francophone market,

(i) each French-language Category A service whose operator is authorized to provide the service to all or part of the licensed area,

(ii) at least one French-language general interest television pay-per-view service, and

(iii) to the extent that such a programming service is available, at least one English-language Category A service, Category B service or Category C service for every 10 French-language programming services that it distributes; and

(c) the ethnic Category A service of a programming undertaking that is authorized to provide that programming service to all or any part of the licensed area if

(i) the licensee was distributing the service in the licensed area on October 30, 2008, or

(ii) according to the most recent population figures published by Statistics Canada, 10% or more of the total population of all cities, towns and other municipalities situated in whole or in part within the licensed area is of one or a combination of the ethnic origins to which the service is intended to appeal.

(3) For the purposes of subparagraphs (2)(a)(iii) and (b)(iii),

(a) a Category A service, Category B service or Category C service does not include a programming service that is required under section 17 to be distributed in the licensed area; and

(b) the analog or standard definition programming service and the high definition version of that programming service together count as a single programming service.

(4) Except as otherwise provided under a condition of its licence, a licensee shall distribute

(a) the programming service of a community-based low-power television station to the subscribers of the distribution undertaking whose residence or other premises are located within the service area of that station; and

(b) the programming service of a community-based digital undertaking to the subscribers of the distribution undertaking whose residence or other premises are located within the service area of that undertaking.

(5) Except as otherwise provided under a condition of its licence, a licensee fulfills its obligations under this section and section 19 by distributing either the standard definition programming service or the high definition version of that programming service.

ACCESS FOR UNRELATED PROGRAMMING UNDERTAKINGS

19. (1) The definitions in this subsection apply in this section.

“related exempt programming undertaking” means an exempt programming undertaking that is not an unrelated exempt programming undertaking. (*entreprise de programmation exemptée liée*)

“unrelated exempt programming undertaking” means

(a) an exempt programming undertaking of which the licensee or an affiliate, or both, controls 10% or less of the total shares issued and outstanding; or

(b) an exempt programming undertaking of which the licensee or an affiliate, or both, controls more than 10% but less than 15% of the total shares issued and outstanding and whose programming services the licensee was distributing on October 30, 2008. (*entreprise de programmation exemptée non liée*)

(2) For the purposes of subsection (3), a Category B service includes

(a) a video-on-demand service;

(b) a pay-per-view service distribution of which began on or after February 1, 2001; and

(c) a DTH pay-per-view service distribution of which began on or after February 1, 2001.

(3) Except as otherwise provided under a condition of its licence, a licensee shall, for each Category B service and each exempt third-language service of a related programming undertaking that it distributes in a licensed area, distribute in that area at least three Category B services or at least three exempt third-language services — or any combination of at least three of those services — of any unrelated programming undertakings.

(4) If the Category B service of the related programming undertaking referred to in subsection (3) is a French-language Category B service, at least two of the three programming services of the unrelated programming undertakings that are to be distributed under subsection (3) shall, to the extent that they are available, be French-language programming services.

(5) A licensee that distributes one or more programming services of related exempt programming undertakings in a licensed area shall also distribute an equal number of programming services of unrelated exempt programming undertakings in the licensed area.

TELEVISION PROGRAMMING SERVICES THAT MAY BE DISTRIBUTED

20. (1) Except as otherwise provided under a condition of its licence, a licensee may, once it is distributing all the programming services that it is required to distribute in a licensed area under sections 17 to 19, distribute in that licensed area

(a) the programming service of any regional television station or extra-regional television station that is not distributed by the licensee in the licensed area under section 17;

(b) any video-on-demand service and any television pay-per-view service, the operator of which is authorized to provide the service to all or part of the licensed area, that is not distributed by the licensee in the licensed area under section 18 or 19;

(c) any Category A service, Category B service or Category C service that is not distributed by the licensee in the licensed area under section 18 or 19;

(d) subject to section 30, community programming;

(e) the programming service of any non-Canadian television station that is received over the air at the local head end, other than

(i) a programming service consisting of programming that has predominantly religious content, and

(ii) the programming service of a non-Canadian television station that began operation after January 1, 1985;

(f) subject to section 22, any eligible satellite service, including any package that consists of the programming services of the following stations:

(i) four non-Canadian television stations that are each affiliated with a different commercial network, and

(ii) one non-commercial non-Canadian television station;

(g) subject to section 21, the programming service of any distant television station;

- (h) the programming service of any licensed television station that provides its programming services by direct feed and that is not distributed by the licensee in the licensed area under section 17 or otherwise under this section;
 - (i) subject to subsection 19(5), the programming service of any exempt programming undertaking;
 - (j) any programming service that promotes a programming service distributed by the licensee and that meets the criteria set out in paragraph 27 of Broadcasting Public Notice CRTC 2007-74, dated July 5, 2007 and entitled *Previews and promotional channels*;
 - (k) subject to section 21, an educational television programming service whose operation is the responsibility of an educational authority designated by a province other than the province in which the licensed area is located; and
 - (l) any programming service that is authorized under a condition of its licence.
- (2) A licensee that distributes a programming service under subsection (1) may also distribute the high definition version of that programming service.

DISTRIBUTION OF DISTANT TELEVISION STATIONS

- 21.** (1) Except as otherwise provided in a condition of its licence, which condition takes effect on or after September 1, 2011, a licensee shall obtain the consent of the operator of a distant television station to distribute its signal before the licensee makes the signal available to its subscribers.
- (2) The licensee is not required to obtain the consent of the operator of the distant television station if the signal is required to be distributed as part of the licensee's basic service under section 17 or under a condition of its licence.

DISTRIBUTION OF NON-CANADIAN TELEVISION STATIONS

- 22.** Except as otherwise provided in a condition of its licence, which condition takes effect on or after September 1, 2011, a licensee shall not distribute the programming services of the television stations referred to in subparagraphs 20(1)(f)(i) and (ii) if those programming services originate outside the time zone in which the licensee's local head end is located, unless the licensee also distributes the programming services of at least one television station from each English major ownership group that originate in the same time zone.

DISTRIBUTION AND LINKAGE

- 23.** (1) Except as otherwise provided under a condition of its licence, a licensee that distributes a Category A service in a licensed area as part of a package of programming services may also distribute the service in the licensed area on a stand-alone basis.

(2) If the licensee is operating in a francophone market, it shall distribute, in that market in a single package of programming services, all the French-language Category A services that it does not otherwise distribute in that market under paragraph 17(1)(g), before it distributes any of those services in other packages of programming services or on a stand-alone basis.

24. Except as otherwise provided under a condition of its licence, a licensee shall not distribute eligible satellite services that are not Canadian programming services, unless it distributes them on a discretionary basis.

25. (1) Except as otherwise provided under a condition of its licence, a licensee shall not distribute Category B services or exempt third-language services that are adult programming services unless they are packaged in such a way that subscribers are not obligated to subscribe to any of those programming services in order to obtain any other programming service.

(2) A licensee that distributes Category B services or exempt third-language services that are adult programming services shall fully block the reception of both the audio and video portions of those services to subscribers who request that they not receive the services in either unscrambled or scrambled mode.

26. (1) Except as otherwise provided in subsection (3) or under a condition of its licence, a licensee may distribute a single point-of-view religious pay television service, a limited point-of-view religious pay television service, a religious specialty service or a non-Canadian religious eligible satellite service on a stand-alone basis.

(2) Except as otherwise provided in subsection (3) or under a condition of its licence, a licensee shall not distribute single point-of-view religious pay television services, limited point-of-view religious pay television services, religious specialty services or non-Canadian religious eligible satellite services in a package of programming services unless the other services in the package are one or more of those types of services.

(3) The licensee may only distribute the services referred to in subsections (1) and (2) as discretionary services.

27. (1) In subsection (2), “principal language” means a language in which 40% or more of the programming of a programming service is provided over the course of a broadcast week.

(2) Except as otherwise provided under a condition of its licence, a licensee shall, for every three non-Canadian third-language services that it distributes to subscribers, distribute — to the extent that they are available in the same principal language — at least one Canadian third-language service.

AUDIO PROGRAMMING SERVICES THAT MAY BE DISTRIBUTED

28. (1) Except as otherwise provided under a condition of its licence, a licensee may distribute in any licensed area

(a) any audio Canadian programming service of a licensed programming undertaking or exempt programming undertaking;

(b) any audio non-Canadian programming service that is received over the air at the local head end;

(c) any international radio service that is operated or funded by a national government or its agent; and

(d) any audio programming service that is authorized under a condition of its licence.

(2) Except as otherwise provided under a condition of its licence, a licensee shall, for each specialty audio service of a related programming undertaking that it distributes in a licensed area, distribute the lesser of

(a) five specialty audio services of any unrelated programming undertakings, and

(b) the number of specialty audio services of any unrelated programming undertakings that are available for distribution in the licensed area.

ACCESS BY PAY AUDIO PROGRAMMING UNDERTAKINGS

29. (1) In this section, “unrelated pay audio programming undertaking” means

(a) a pay audio programming undertaking of which the licensee or an affiliate, or both, controls 10% or less of the total shares issued and outstanding; or

(b) a pay audio programming undertaking of which the licensee or an affiliate, or both, controls more than 10% but less than 30% of the total shares issued and outstanding and whose programming services the licensee was distributing on October 30, 2008.

(2) Subject to subsection (3), if a licensee distributes in a licensed area the programming service of a pay audio programming undertaking other than an unrelated pay audio programming undertaking, the licensee shall distribute in the licensed area the programming service of at least one unrelated pay audio programming undertaking.

(3) A licensee is not required to distribute in a licensed area the programming service of an unrelated pay audio programming undertaking that is delivered to the licensee in a format that is technically incompatible with the licensee’s method of signal distribution.

COMMUNITY CHANNEL

30. (1) Except as otherwise provided in subsections (2) and (3) or under a condition of its licence, if a licensee elects to distribute community programming under paragraph

20(1)(d) in a licensed area, the licensee shall not distribute, on the community channel in the licensed area, any programming service other than the following:

- (a) community programming;
- (b) a maximum of two minutes during each clock hour of announcements promoting broadcasting services that the licensee is authorized to provide;
- (c) a public service announcement;
- (d) an information program funded by and produced for a federal, provincial or municipal government or agency or a public service organization;
- (e) the question period of the legislature of the province in which the licensed area is located;
- (f) an announcement providing information about the programming that is to be distributed on the community channel;
- (g) a commercial message that mentions or displays the name of a person who sponsored a community event or the goods, services or activities sold or promoted by the person, if the mention or display is in the course of, and incidental to the production of, community programming relating to the event;
- (h) an oral or written acknowledgement, that may include a moving visual presentation of no more than 15 seconds per message, contained in community programming that mentions no more than the name of a person, a description of the goods, services or activities that are being sold or promoted by the person, and their address and telephone number, if the person provided direct financial assistance for the community programming in which the acknowledgement is contained;
- (i) an oral or a written acknowledgement contained in community programming that mentions no more than the name of a person, the goods or services provided by the person and their address and telephone number, if the person provided the goods or services free of charge to the licensee for use in connection with the production of the community programming in which the acknowledgement is contained;
- (j) a still image programming service as described in Public Notice CRTC 1993-51, dated April 30, 1993 and entitled *Exemption order respecting still image programming service undertakings*, if the service is produced by the licensee or by members of the community served by the licensee and does not contain commercial messages, other than commercial messages that are contained within the programming service of a licensed radio station; and
- (k) the programming of a community programming undertaking.

(2) At least 75% of the time for promotional announcements broadcast in each broadcast week under paragraph (1)(b) shall be made available for the promotion of the community

channel and for the promotion, by Canadian programming undertakings other than related programming undertakings, of their respective services.

(3) A maximum of 25% of the time for promotional announcements broadcast in each broadcast week under paragraph (1)(b) may be made available for the promotion of the services of related programming undertakings, discretionary services, packages of programming services, FM services and additional outlets and for the distribution of information on customer services and channel realignments.

(4) Whenever a licensee is not distributing community programming on the community channel in a licensed area, or is distributing on that channel community programming that has no audio component, the licensee may distribute on that channel the programming service of a local radio station, other than an educational radio programming service whose operation is the responsibility of an educational authority.

(5) If a licensee provides time on the community channel in a licensed area during an election period for the distribution of programming of a partisan political character, the licensee shall allocate that time on an equitable basis among all accredited political parties and rival candidates.

31. (1) Except as otherwise provided under a condition of its licence, a licensee shall devote not less than 60% of the programming distributed on the community channel in the licensed area in each broadcast week to the distribution of local community television programming.

(2) Except as otherwise provided under a condition of its licence, a licensee

(a) shall devote at least the following percentages of the programming distributed on the community channel in each broadcast week to community access television programming:

(i) 35% for the broadcast year beginning on September 1, 2011 and ending on August 31, 2012,

(ii) 40% for the broadcast year beginning on September 1, 2012 and ending on August 31, 2013,

(iii) 45% for the broadcast year beginning on September 1, 2013 and ending on August 31, 2014, and

(iv) 50% for each successive broadcast year beginning on September 1, 2014;

(b) shall, on or before August 31, 2014, devote a further percentage up to a total of 50% of the programming distributed on the community channel in each broadcast week to community access television programming, according to requests;

(c) shall, if one or more community television corporations are in operation in a licensed area, make available to them up to 20% of the programming distributed on the

community channel in each broadcast week for community access television programming; and

(d) shall, if one or more community television corporations are in operation in a licensed area, make available to each of them, on request, not less than four hours of community access television programming in each broadcast week.

(3) The time allocated to the distribution of alphanumeric message services is excluded from the calculation of the programming requirement under this section.

32. (1) In this section, “programming-related expense” means an expenditure for the creation of programming, including expenditures on volunteer training and development and community outreach, but excluding expenditures related to technology, sales, promotion and administration as well as general expenses.

(2) Except as otherwise provided under a condition of its licence, a licensee shall direct to community access programming at least the following percentages of its programming-related expenses:

(a) 35% for the broadcast year beginning on September 1, 2011 and ending on August 31, 2012;

(b) 40% for the broadcast year beginning on September 1, 2012 and ending on August 31, 2013;

(c) 45% for the broadcast year beginning on September 1, 2013 and ending on August 31, 2014; and

(d) 50% for each successive broadcast year beginning on September 1, 2014.

(3) Except in the final year of the term of its licence, a licensee may defer up to 5% of the amount of programming-related expenses required to be directed in respect of a given broadcast year under subsection (2) to the following broadcast year.

33. (1) Except as otherwise provided under a condition of its licence, a licensee shall

(a) keep a program log or a machine-readable record of programs distributed on the community channel in each licensed area and retain it for a period of one year after distribution of the programs; and

(b) enter into the program log or machine-readable record of programs each day the following information for each program:

(i) the title of the program,

(ii) its date of distribution, time of commencement and completion, and duration, including the announcements and commercial messages referred to in paragraphs 30(1)(b) and (g),

- (iii) a brief description of the program, including a statement as to whether it is local community television programming,
 - (iv) the name of the distribution undertaking for which the program was produced and the name of the producer,
 - (v) a statement as to whether the program constitutes community access television programming and identifying the party that has been provided with access, and
 - (vi) the time of commencement of the announcements and commercial messages referred to in paragraphs 30(1)(b) and (g), the duration and, in the case of each commercial message, the name of the person selling or promoting goods, services or activities.
- (2) A licensee shall retain a clear and intelligible audiovisual recording of each program distributed on the community channel in each licensed area for a period of
- (a) four weeks after the date of distribution of the program; or
 - (b) eight weeks after the date of distribution of the program, if the Commission receives a complaint from a person regarding the program or, for any other reason, decides to investigate, and so notifies the licensee before the end of the period referred to in paragraph (a).
- (3) If, before the end of the relevant period referred to in paragraph (1)(a) or in subsection (2), the Commission requests from a licensee a program log, machine-readable record or clear and intelligible audio or audiovisual recording of a program, the licensee shall immediately furnish the log, record or recording to the Commission.

CONTRIBUTION TO LOCAL EXPRESSION, CANADIAN PROGRAMMING AND COMMUNITY TELEVISION

- 34.** (1) If a licensee is required under this section to make a contribution to Canadian programming, it shall contribute
- (a) to the Canadian production fund at least 80% of its total required contribution; and
 - (b) to one or more independent production funds, the remainder of its total required contribution.
- (2) Except as otherwise provided under a condition of its licence, if a licensee does not distribute its own community programming on the community channel and if a community programming undertaking is licensed in the licensed area, the licensee shall make, for each broadcast year, a contribution of 3% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming and a contribution of 2% of its gross revenues derived from broadcasting activities in the broadcast year to the community programming undertaking.

(3) Except as otherwise provided under a condition of its licence, if a licensee does not distribute its own community programming on the community channel and if no community programming undertaking is licensed in the licensed area, the licensee shall make, for each broadcast year, a contribution of 5% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming.

(4) Except as otherwise provided under a condition of its licence, if a licensee distributes its own community programming on the community channel, the licensee shall make, for each broadcast year, a contribution to Canadian programming that is equal to the greater of

(a) 5% of its gross revenues derived from broadcasting activities in the broadcast year, less any contribution to local expression made by the licensee in that broadcast year; and

(b) 3% of its gross revenues derived from broadcasting activities in that broadcast year.

35. Except as otherwise provided under a condition of its licence, a licensee shall make, for each broadcast year, a contribution of 1.5% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming. The contribution shall be made to the Local Programming Improvement Fund.

36. (1) The licensee shall separately calculate the contributions required under sections 34 and 35 on the basis of its gross revenues derived from broadcasting activities in the previous broadcast year.

(2) Each contribution shall be made separately by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month.

(3) Despite subsections (1) and (2), if the licensee's gross revenues derived from broadcasting activities in the previous broadcast year are not known when an instalment is to be made, that instalment shall be equal to an amount that is 1/12 of the contribution to be made, calculated on the basis of an estimate of those gross revenues.

37. If, as a result of the calculations performed under subsection 36(1) the contribution made by a licensee for a broadcast year is greater than the amount required under section 34 or 35, the licensee may deduct the excess from the amount of that contribution that is required for the subsequent broadcast year; however, if it is less than the amount required, the licensee shall make the balance of the contribution by December 31 of the subsequent broadcast year.

PROGRAMMING SERVICE DELETION AND SUBSTITUTION

38. (1) The definitions in this subsection apply in this section.

“broadcaster” includes an educational authority responsible for an educational television programming service. (*radiodiffuseur*)

“local television station”, in addition to the meaning assigned by section 1, includes the station “A” Atlantic and an educational authority responsible for an educational television programming service. (*station de télévision locale*)

“privately owned local television station” means a local television station that is not owned by the Corporation. (*station de télévision locale privée*)

(2) Except as otherwise provided in subsections (4) and (6) or under a condition of its licence, a licensee

(a) shall, in a licensed area, delete the programming service of a television station and substitute the programming service of a local television station or a regional television station or, with the agreement of the broadcaster operating the local television station or regional television station, have that broadcaster carry out the deletion and substitution, if

(i) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast,

(ii) the local television station or regional television station has a higher priority under section 17, and

(iii) in the case where the broadcaster operating the local television station or regional television station is not required to carry out the deletion and substitution under an agreement with the licensee, the licensee has, at least four days before the date on which the programming service is to be broadcast, received from the broadcaster operating the local television station or regional television station a written request for the deletion and substitution;

(b) may delete and substitute a programming service under paragraph (a) even if the licensee has received a written request from the broadcaster operating the local television station or regional television station less than four days before the date on which the programming service is to be broadcast; and

(c) may, in a licensed area, delete the programming service of a television station and substitute the programming service of a specialty service if

(i) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast, and

(ii) the operator of the specialty service has submitted to the licensee a written request for the deletion and substitution.

(3) If a substitution is requested by more than one broadcaster under paragraph (2)(a), the licensee shall give preference to the programming service of the television station that has the highest priority under section 17.

(4) A licensee shall not delete the programming service of a television station under subsection (2) if the Commission notifies the licensee that the deletion is not in the public interest because

(a) undue financial hardship would result for the operator of the television station; or

(b) the programming service to be deleted contains subsidiary signals designed to inform or entertain and the programming service to be substituted does not contain similar signals.

(5) For the purposes of this section, the programming service to be substituted shall be of the same format as, or of higher format than, the programming service to be deleted.

(6) If a programming service is provided by direct feed to a licensee in its licensed area, the licensee is required to delete and substitute in accordance with subsection (2) only if the programming service is also receivable over the air by the licensee in its licensed area.

(7) A licensee may discontinue a deletion and substitution made under subsection (2) if the programming services in question are not, or are no longer, comparable and broadcast simultaneously.

PART 3

DISTRIBUTION OF PROGRAMMING SERVICES ON AN ANALOG BASIS

APPLICATION

39. Except as otherwise provided under a condition of licence, this Part and sections 19, 23 to 26, 28 and 30 to 38 apply to terrestrial distribution undertakings that elect to distribute programming services on an analog basis.

PRECONDITION TO ANALOG DISTRIBUTION

40. A licensee shall not distribute a programming service on an analog basis in a licensed area if the distribution of the service prevents it from fulfilling its obligations under Part 2 in that licensed area.

TELEVISION PROGRAMMING SERVICES TO BE DISTRIBUTED AS PART OF THE BASIC SERVICE

41. (1) Except as otherwise provided in subsections 17(3) and (4) or under a condition of its licence, a licensee that distributes programming services on an analog basis in a licensed area shall distribute the following as part of the analog version of its basic service in the licensed area in the following order of priority:

(a) the programming services referred to in paragraphs 17(1)(a) to (f), in the order of priority in which those paragraphs are set out; and

(b) the programming services of a programming undertaking that the Commission has required, under paragraph 9(1)(h) of the Act, to be distributed as part of the basic service, but excluding any programming service of a programming undertaking that is required to be distributed solely on a digital basis.

(2) When the operator of a Canadian programming undertaking provides a programming service solely on a digital basis, the licensee shall obtain the operator's consent in writing before distributing the programming service on an analog basis.

(3) Despite subsection (1), if the consent referred to in subsection (2) cannot be obtained, the licensee is not required to distribute the programming service in question.

TELEVISION PROGRAMMING SERVICES THAT MAY BE DISTRIBUTED

42. Except as otherwise provided under a condition of its licence, a licensee may, once it is distributing all the programming services that it is required to distribute in a licensed area under section 41, distribute in that licensed area any programming service that it was distributing on an analog basis in that licensed area before October 30, 2008.

CESSATION OF ANALOG DISTRIBUTION

43. A licensee shall not cease distributing any of the programming services that it distributes in accordance with section 41 until it has first ceased distribution of the programming services that it distributes in accordance with section 42.

44. A licensee shall not cease the analog distribution of a programming service unless, at least 60 days before the proposed cessation date, the licensee sends a written notice indicating that proposed cessation date to the operator of the programming undertaking whose programming service is the subject of the proposed cessation.

PART 4

DTH DISTRIBUTION UNDERTAKINGS

APPLICATION

45. Except as otherwise provided under a condition of licence, this Part and sections 19 and 21 to 27, subsection 28(2) and section 29 apply to licensees that hold a licence to operate a DTH distribution undertaking.

TELEVISION PROGRAMMING SERVICES TO BE DISTRIBUTED AS PART OF THE BASIC SERVICE

46. (1) The definitions in this subsection apply in this section.

“independent ownership group” means an ownership group — other than the Corporation or a major ownership group — that owns and operates an independently-owned television station. (*groupe de propriété indépendante*)

“independently-owned television station” means a licensed television station that is not owned by one of the major ownership groups and that provides, in one of the official languages, local programming to the community it is licensed to serve. (*station de télévision de propriété indépendante*)

(2) Except as otherwise provided under a condition of its licence, a licensee shall distribute, as part of its basic service, to the extent that they are available, the programming services of two independently-owned television stations from each independent ownership group to subscribers whose residence or other premises are located within the Grade B official contour or noise-limited bounding official contour.

(3) Except as otherwise provided under a condition of its licence, a licensee shall distribute as part of its basic service,

(a) the educational television programming services, to the extent they are available, whose operation is the responsibility of an educational authority designated by the province in which the subscriber’s residence or other premises are located; and

(b) the programming services of a programming undertaking that the Commission has required, under paragraph 9(1)(h) of the Act, to be distributed as part of the basic service.

(4) Except as otherwise provided under a condition of its licence, a licensee shall distribute as part of its basic service to a subscriber whose residence or other premises are located in Ontario, Quebec, Manitoba, British Columbia, Saskatchewan or Alberta,

(a) the programming service, to the extent that it is available, of one of each of the Corporation’s English-language and French-language network television stations that originate in the province in which the subscriber’s residence or other premises are located;

(b) the programming service, to the extent that it is available, of one television station from each major ownership group that originates in the province in which the subscriber’s residence or other premises are located; and

(c) the programming service, to the extent that it is available, of one independently-owned television station that originates in the province in which the subscriber’s residence or other premises are located.

(5) Except as otherwise provided under a condition of its licence, a licensee shall distribute as part of its basic service to subscribers whose residence or other premises are located in the Atlantic provinces

(a) the programming services, to the extent they are available, of two of each of the Corporation’s English-language and French-language network television stations that originate in the Atlantic provinces;

(b) the programming services, to the extent they are available, of two television stations that originate in the Atlantic provinces, from each major ownership group; and

(c) the programming service, to the extent it is available, of one independently-owned television station that originates in the Atlantic provinces.

(6) If two or more programming services from the Corporation or two or more programming services from the same ownership group are available to be distributed by a licensee in accordance with paragraph (5)(a) or (b), the licensee is required to distribute only one of those programming services from the Corporation or one of those programming services from the ownership group, as the case may be, if the operator of the programming undertaking that provides the programming services has not committed to providing local programming as part of its licence issuance or most recent licence renewal or amendment.

(7) Except as otherwise provided under a condition of its licence, a licensee shall distribute as part of its basic service to a subscriber whose residence or other premises are located in Yukon, the Northwest Territories or Nunavut

(a) the programming services of at least one of the Corporation's Northern Television Services; and

(b) the programming services referred to in subsections (2) to (4) that are distributed in another province.

ACCESS FOR SPECIALTY, PAY TELEVISION AND DTH PAY-PER-VIEW SERVICES

47. (1) In this section, "general interest DTH pay-per-view service" means a DTH pay-per-view service whose programming is selected — unrestricted by any condition of licence — from any of the categories listed in column I of item 6 of Schedule I to the *Pay Television Regulations, 1990*.

(2) Except as otherwise provided under a condition of its licence, a licensee shall distribute

(a) each Category A service;

(b) at least one English-language general interest DTH pay-per-view service; and

(c) at least one French-language general interest DTH pay-per-view service.

(3) Except as otherwise provided under a condition of its licence, a licensee fulfils its obligations under subsection (2) by distributing either the standard definition service or high definition service of a programming service.

PROGRAMMING SERVICES THAT MAY BE DISTRIBUTED

48. (1) Except as otherwise provided in section 49 or under a condition of its licence, a licensee may distribute the following programming services:

(a) the programming service of any licensed programming undertaking, excluding a television pay-per-view service;

(b) any eligible satellite service;

(c) subject to section 50, any package that consists of the programming services of the following stations:

(i) four non-Canadian television stations that are each affiliated with a different commercial network, and

(ii) one non-commercial non-Canadian television station;

(d) subject to section 29, the programming service of any exempt programming undertaking;

(e) any programming service that promotes a programming service distributed by the licensee and that meets the criteria set out in paragraph 27 of Broadcasting Public Notice CRTC 2007-74, dated July 5, 2007 and entitled *Previews and promotional channels*; and

(f) any programming service that is authorized by a condition of its licence.

(2) A licensee that distributes a programming service under subsection (1) may also distribute the high definition version of that programming service.

49. (1) Except as otherwise provided in a condition of its licence, which condition takes effect on or after September 1, 2011, a licensee shall obtain the consent of the operator of a distant television station to distribute its signal before the licensee makes the signal available to its subscribers.

(2) The licensee is not obliged to obtain the consent of the operator of the distant television station if

(a) the signal must be distributed as part of the licensee's basic service

(i) because the Commission has required it under paragraph 9(1)(h) of the Act, or

(ii) because it is required under section 46; or

(b) the signal originates in the Atlantic provinces and is distributed under section 46 by the licensee to a subscriber whose residence or other premises are located in the Atlantic provinces.

50. Except as otherwise provided in a condition of its licence, which condition takes effect on or after September 1, 2011, a licensee shall not distribute the programming

services of those television stations set out in subparagraphs 48(1)(c)(i) and (ii) if those programming services originate outside the time zone in which the subscriber's residence or other premises are located unless the licensee also offers to the subscribers the programming services of at least one television station from each English major ownership group that originate in the same time zone.

SIMULTANEOUS PROGRAM SUBSTITUTION AND DELETION

51. (1) Except as otherwise provided under a condition of its licence, if a licensee receives, at least four days before the date on which the programming service is to be broadcast, a written request for substitution or deletion from the operator of a licensed Canadian television programming undertaking, the licensee shall

(a) delete a non-Canadian programming service and substitute the comparable and simultaneously broadcast programming service of the Canadian television programming undertaking whose signal is distributed by the licensee; and

(b) delete, in respect of subscribers located within the Grade B official contour or noise-limited bounding official contour of the Canadian television programming undertaking, a programming service that is comparable to that of the Canadian television programming undertaking and that would otherwise be received simultaneously by those subscribers.

(2) A licensee may delete and substitute a programming service under subsection (1) even if the licensee receives the request from the operator less than four days before the date on which the programming service is to be broadcast.

(3) A licensee shall not delete a programming service if the Commission notifies the licensee that the deletion is not in the public interest because the programming service to be deleted contains subsidiary signals that are designed to inform or entertain and the simultaneously broadcast programming service does not contain similar signals.

(4) A licensee may discontinue a deletion — and substitution, if any — if the programming services in question are not, or are no longer, comparable and broadcast simultaneously.

(5) For the purposes of this section, the programming service to be substituted shall be of the same format as, or higher format than, the programming service to be deleted.

NON-SIMULTANEOUS PROGRAM DELETION

52. (1) Except as otherwise provided under a condition of its licence, if a licensee receives, at least four days before the date on which the programming service is to be broadcast, a written request for deletion from the operator of a licensed Canadian television programming undertaking, the licensee shall delete, in respect of subscribers located within the Grade B official contour or noise-limited bounding official contour of the Canadian television programming undertaking, a programming service that is comparable to that of the Canadian television programming undertaking and that would

otherwise be received by those subscribers on a non-simultaneous basis within the same broadcast week.

(2) A licensee shall not delete the programming service if the Commission notifies the licensee that the deletion is not in the public interest because the programming service to be deleted contains subsidiary signals that are designed to inform or entertain and the non-simultaneously broadcast programming service does not contain similar signals.

(3) A licensee may discontinue a deletion if the programming services in question are not, or are no longer, comparable and broadcast on a non-simultaneous basis within the same broadcast week.

(4) For the purposes of this section, the operator of a licensed Canadian television programming undertaking that makes the deletion request shall provide a programming service of the same format as, or higher format than, the programming service to be deleted.

CONTRIBUTION TO CANADIAN PROGRAMMING

53. A licensee shall make, for each broadcast year, the following contributions to Canadian programming based on its gross revenues derived from broadcasting activities in that year:

(a) to the Canadian production fund, a contribution of 4% of gross revenues;

(b) to one or more independent production funds, a contribution of 1% of gross revenues, of which 0.4% of gross revenues shall be made to the Small Market Local Production Fund; and

(c) to the Local Programming Improvement Fund, a contribution of 1.5% of gross revenues.

54. (1) The licensee shall separately calculate the contributions required under section 53 on the basis of its gross revenues derived from broadcasting activities in the previous broadcast year.

(2) Each contribution shall be made separately by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month.

(3) Despite subsections (1) and (2), if the licensee's gross revenues derived from broadcasting activities in the previous broadcast year are not known when an instalment is to be made, that instalment shall be equal to an amount that is 1/12 of the contribution to be made, calculated on the basis of an estimate of those gross revenues.

55. If, as a result of the calculations performed under subsection 54(1), a contribution made by a licensee for a broadcast year is greater than the amount required under section 53, the licensee may deduct the excess from the amount of that contribution that is

required for the subsequent broadcast year; however, if it is less than the amount required, the licensee shall make the balance of the contribution by December 31 of the subsequent broadcast year.

9. Schedules 1 to 3 to the Regulations are replaced by the schedule set out in the schedule to these Regulations.

COMING INTO FORCE

10. These Regulations come into force on September 1, 2011.

¹ SOR/97-555

SCHEDULE

(Section 1)

MAJOR OWNERSHIP GROUPS

Column 1	Column 2
Item	Group
1.	Shaw Communications Inc.
2.	CTVglobemedia Inc.
3.	Quebecor Media Inc.
4.	Remstar Broadcasting Inc.
5.	Rogers Communications Inc.