



Broadcasting Regulatory Policy CRTC 2011-455

PDF version

Route references: 2011-14 and 2010-931

Ottawa, 29 July 2011

Amendments to the *Broadcasting Distribution Regulations* and other Commission Regulations

The Commission announces that it has made certain amendments to the Broadcasting Distribution Regulations, originally proposed in Broadcasting Notice of Consultation 2010-931, as well as certain amendments to the Radio Regulations, 1986, the Television Broadcasting Regulations, 1987, the Pay Television Regulations, 1990, the Specialty Services Regulations, 1990, and the Broadcasting Information Regulations, 1993, originally proposed in Broadcasting Notice of Consultation 2011-14.

Introduction

1. The Commission hereby announces that it has made, with some changes, the proposed *Regulations Amending the Broadcasting Distribution Regulations* (the BDU Regulations), set out in the appendix to Broadcasting Notice of Consultation 2010-931. These amendments implement determinations that the Commission has made in various policy proceedings. The amendments to the BDU Regulations, set out in Appendix 1 to the present regulatory policy, will be effective 1 September 2011, and 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, as amended by Broadcasting Regulatory Policy 2010-622-1;
 - 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Policy 2010-167, as well as those policies set out in Broadcasting Public Notices 2006-74 and 2006-23, that were not superseded by Broadcasting Public Notice 2008-100; and
 - amendments to address concerns raised by Parliament's Standing Joint Committee for the Scrutiny of Regulations (SJC).

2. The Commission has also made the proposed *Regulations Amending Certain Regulations Made Under the Broadcasting Act*, set out in the appendix to Broadcasting Notice of Consultation 2011-14. These regulations amend the *Radio Regulations, 1986* (the Radio Regulations), the *Television Broadcasting Regulations, 1987* (the Television Broadcasting Regulations), the *Pay Television Regulations, 1990* (the Pay Television Regulations), the *Specialty Services Regulations, 1990* (the Specialty Services Regulations), and the *Broadcasting Information Regulations, 1993* (the Broadcasting Information Regulations).
3. These amendments to these regulations, set out in Appendix 2 to the present regulatory policy, will also be effective 1 September 2011. The amendments seek to address issues set out in Broadcasting Notice of Consultation 2011-14 regarding concerns raised by the SJC as well as the implementation of the Commission's intent, set out Broadcasting Information Bulletin 2010-718, in regard to clarifications to the interpretation of section 8 of the Pay Television Regulations and of section 12 of the Specialty Services Regulations.
4. The amendments were registered on 14 July 2011 and come into force on 1 September 2011. The amendments will be published in the *Canada Gazette*, Part II, Vol. 145, No. 16,¹ on 3 August 2011, and a copy of each set of amendments is appended to the present regulatory policy. Consolidated versions of all of the regulations described in the current regulatory policy and that have been amended will appear soon after 1 September 2011 on the website of the Department of Justice (www.justice.gc.ca).
5. The Commission issued a call for comments on the proposed amendments to the BDU Regulations in Broadcasting Notice of Consultation 2010-931 and issued a call for comments on the proposed amendments to the other Commission Regulations in Broadcasting Notice of Consultation 2011-14. The Commission received comments from a number of parties, including cable and satellite operators, broadcasters, industry associations, and individuals. These comments can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. The Commission has reviewed each of these comments and has made a number of changes to the various regulations to address the concerns raised. It has also made certain changes for internal consistency, to correct errors, and to ensure consistent meaning as between the English-language and the French-language versions. The Commission has also set out in the present regulatory policy its interpretation of certain sections of the BDU Regulations in order to clarify any outstanding ambiguity with respect to certain sections. In all cases, the Commission's concern has been that the various amendments to the various regulations serve to implement the new policy frameworks in a way that is as efficient and as simple as possible.

¹ SOR/2011-147 (*Regulations Amending Certain Regulations Made Under the Broadcasting Act*); SOR/2011-148 (*Regulations Amending the Broadcasting Distribution Regulations*)

Summary of changes arising from Broadcasting Notice of Consultation 2010-931

7. In this section, the Commission focuses on the substantive changes between the proposed regulations appended to Broadcasting Notice of Consultation 2010-931 and the BDU Regulations that have been adopted, as appended to the present regulatory policy. Moreover, the Commission provides explanation and clarifications in regard to certain sections that remain unchanged.

Definitions

8. In response to the comments received, the Commission has made minor changes to the definitions of the following: “Canadian programming service,” “distant television station,” “local head end,” “Category A service,” “format,” “high definition version,” “independent ownership group,” “programming-related expense,” “related programming undertaking” and “unrelated pay audio programming undertaking.” It has also corrected the French-language version of the definition of the term “licence,” and has removed the definition of “eligible satellite service,” replacing it with the term “authorized non-Canadian programming service.” Finally, the Commission has added a definition of “4+1 package of programming services.”

Conversion of programming services

9. Section 7 of the previous BDU Regulations prohibited a licensee from altering or deleting a programming service in a licensed area in the course of its distribution. In Broadcasting Notice of Consultation 2010-931, the Commission proposed to amend section 7 of the BDU Regulations in order to prohibit a licensee from altering *the content or format of* a programming service or deleting a programming service in a licensed area in the course of its distribution.
10. Bell Aliant Regional Communications, Limited Partnership and Bell Canada (Bell), Independent Broadcast Group (IBG), Pelmorex Communications Inc., Quebecor Media Inc., Rogers Communications Inc. (Rogers) and Shaw Communications Inc. (Shaw) all commented on this proposed amendment. Many parties commented that it was unclear whether the amendment to section 7 would prohibit the conversion of programming services. In order to clarify this ambiguity, they suggested adding a specific exception to section 7 that would allow a licensee to convert programming services.
11. The Commission notes that there are currently a number of exceptions to the prohibition set out in section 7, including subsection 7(a), which provides for an exception “as required or authorized under a condition of its licence.” Pursuant to Broadcasting Regulatory Policy 2009-547, all licensees have a condition of licence that authorizes them to undertake any activity authorized in Broadcasting Regulatory Policy 2009-546, as amended from time to time, under the terms and conditions set out in that regulatory policy. In that regulatory policy, the Commission has authorized the distribution of down-converted digital-only television signals since 2009.

12. The Commission further notes that it has since issued Broadcasting Notice of Consultation 2011-187, in which it called for comments on its proposal to extend the general authorization for BDUs to down-convert digital-only television signals beyond the digital transition date of 1 September 2011. The Commission intends to issue determinations on this proceeding shortly.
13. As a result, the Commission finds that it is unnecessary to add a specific exception to section 7 at this time.

Extra-regional television stations

14. In paragraph 43 of Broadcasting Public Notice 2008-100, the Commission determined that terrestrial BDUs would be required to distribute local and regional television stations as part of the basic package. It notes, however, that extra-regional stations are no longer required to be distributed as part of the basic package. This policy determination is reflected in section 20(1)(a) of the BDU Regulations, which now allows a terrestrial BDU to distribute the programming service of any extra-regional television station.
15. Rogers commented that there are terrestrial BDUs that distribute extra-regional television stations as part of the basic service pursuant to the obligations established in sections 17(1)(g) and (h) of the previous BDU Regulations. It suggested that if the obligations to distribute extra-regional television stations are removed from the BDU Regulations, BDUs would then have to obtain the consent of the extra-regional television station pursuant to section 21 of the BDU Regulations. Rogers contended that even if consent were obtained, BDUs would be forced to remove the extra-regional television stations from the basic service and offer them solely on a discretionary basis in order to provide their customers with the same level of service that they are receiving today.
16. The Commission does not agree with Rogers' position on this matter. The Commission notes that section 21 of the BDU Regulations requires that a licensee obtain the consent of the operator of a distant television station prior to the distribution of its signal. Extra-regional television stations continue to be excluded from the definition of a "distant television station." As such, no consent would be required to distribute such signals pursuant to section 21. Moreover, the Commission considers that a licensee can choose to distribute any programming service as part of its basic service provided that there is no specific restriction that such a service be carried exclusively on a discretionary basis. Extra-regional stations are not subject to such a restriction. As a result, a licensee can continue to distribute extra-regional television stations as part of its basic service if it so chooses.

Distribution of a second set of U.S. 4+1 signals

17. The term "U.S. 4+1 signals" is used by the Commission to describe signals of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and of the U.S. non-commercial network (PBS). In Broadcasting Public Notice 2008-100, the Commission determined that it would authorize BDUs to make a second set of U.S. 4+1 signals available to the subscriber only when that subscriber also receives at least one signal, originating from the same time zone as the U.S. signals, of each large multi-station Canadian broadcasting

group. This requirement was reflected in the proposed sections 20(1)(f) and 22 of the BDU Regulations for terrestrial BDUs, and in the proposed sections 48(1)(c)(i), 48(1)(c)(ii) and 50 of the BDU Regulations for direct-to-home (DTH) BDUs, as appears in the appendix to Broadcasting Notice of Consultation 2010-931.

18. The Coalition of Small Market Independent Television Stations (SMITS) referred to the proposed section 48(1)(b) of the BDU Regulations, which authorized a DTH BDU to distribute “any eligible satellite service.” SMITS noted that there are a number of U.S. signals enumerated on the eligible satellite list and therefore argued that section 48(1)(b) as drafted would authorize a DTH distributor to provide a subscriber with a package of U.S. 4+1 signals from a different time zone without any corresponding obligation to also distribute Canadian television stations from the same time zone. According to SMITS, this would defeat the purpose of the Commission’s policy regarding the distribution of a second set of U.S. 4+1 signals from a different time zone. It therefore recommended that the authorization set out in section 48(1)(b) to distribute any eligible satellite service be subject to the provisions of section 50 to ensure the Commission’s policy respecting such distribution of U.S. 4+1 signals is applied to DTH distributors.
19. Shaw expressed its concern that the references to sections 22 and 50 in the proposed sections 20(1)(f) and 48(1)(c), respectively, of the BDU Regulations could create some confusion as to whether the Commission is proposing to make the distribution of the first set of U.S. 4+1 signals subject to the requirement that the licensee distribute to its subscribers the programming services of at least one television station from each major English-language ownership group.
20. The Commission agrees that further clarity to sections 20 and 48 of the BDU Regulations is necessary in order to properly reflect the Commission’s determinations on the distribution of a second set of U.S. 4+1 signals, as set out in Broadcasting Public Notice 2008-100.
21. Accordingly, the Commission has amended sections 20 and 48 of the BDU Regulations so that they now specifically authorize the distribution of a package of U.S. 4+1 programming services through sections 20(1)(f) and 20(1)(l) for terrestrial BDUs, and through sections 48(1)(b) and 48(1)(e) for DTH undertakings. In order to make it clear that the distribution of out of market U.S. 4+1 packages is subject to the obligation to distribute Canadian television stations from the same time zone, the Commission has made all of these authorizations subject to sections 22 and 50 of the BDU Regulations, as the case may be.
22. The Commission has further clarified, in sections 20(1)(l) and 48(1)(e), that a “further 4+1 package of programming services” is subject to the requirement set out in sections 22 and 50, respectively. As such, if the first set of U.S. 4+1 signals is distributed by a BDU pursuant to a condition of the BDU’s licence, and that first set originates outside the BDU’s time zone, that first set is not subject to the requirement set out in sections 22 and 50, as it does not constitute a *further* set.

Non-simultaneous program deletion

23. In Broadcasting Public Notice 2008-100, the Commission put in place new requirements regarding the distribution of Canadian distant signals and U.S. 4+1 signals by BDUs. Under the proposed BDU Regulations, a BDU is authorized to distribute a distant Canadian signal provided it secures the consent of the provider of the distant signal. With respect to the second set of U.S. 4+1 signals, a BDU has the authority to distribute such a package to a subscriber provided that the subscriber also receives at least one signal, originating from the same time zone as the U.S. signals, of each large multi-station Canadian broadcasting group.
24. Under the previous regime, both distant Canadian signals and the second set of U.S. 4+1 signals were typically distributed by a BDU by way of a condition of licence, which, in turn, subjected the BDU to program deletion requirements. The program deletion requirements were generally suspended as a result of payment of compensation to broadcasters, and/or other measures.
25. In Broadcasting Notice of Consultation 2010-931, the Commission proposed provisions in the BDU Regulations that implemented the new regulatory regime regarding the distribution of both distant Canadian signals and U.S. 4+1 signals, all the while maintaining the non-simultaneous program deletion requirements set out in section 52 of the proposed BDU regulations.
26. Moreover, Bell asserted in its comments that while the proposed BDU Regulations included a requirement that DTH operators implement non-simultaneous deletion, there was no similar requirement in the proposed regulations for terrestrial distributors.
27. The Commission considers that the regime for the distribution of distant Canadian signals and U.S. 4+1 signals as set out in paragraphs 302 to 319 of Broadcasting Public Notice 2008-100 was meant to replace the prior regime and existing conditions of licence regarding the distribution of these signals. This includes the previous requirement that BDUs implement non-simultaneous program deletion of out of market signals. As such, the Commission has removed the proposed section 52 from the BDU Regulations and has renumbered all subsequent sections. In the future, any exception to these requirements would require a condition of licence that comes into effect on or after 1 September 2011.

Ethnic/third-language services

28. In Broadcasting Public Notice 2008-100, the Commission sought to simplify the distribution and packaging of ethnic/third-language services. In paragraph 138 of that public notice, the Commission set out the amended rules for ethnic/third-language services as follows:
 - All BDUs distributing any of the following ethnic services – Telelatino, Odyssey, Talentvision, Fairchild and Asian TV Network [ethnic Category A services] – on 30 October 2008 would be required to continue distributing them.

- Terrestrial BDUs would be required to distribute the appropriate ethnic Category A service(s) when 10% of the population in the service area of the terrestrial BDU is of the ethnic origin targeted by the service(s).
 - Non-Canadian third-language services could only be offered in a package with Canadian ethnic/third-language services in the same language(s) if one exists, in a ratio of one (1) Canadian service to up to three (3) non-Canadian services.
29. These three determinations were reflected in sections 18(c)(i), 18(c)(ii) and 27 of the proposed BDU Regulations.
30. In Broadcasting Public Notice 2008-100, the Commission made specific findings with respect to the ongoing distribution of ethnic specialty Category A services. However, the Commission did not make any specific finding suggesting that the existing linkage requirements, in particular the buy-through requirement, would not continue to apply to these services. The buy-through requirement, as set out in the Commission's most recent distribution and linkage rules,² generally establishes that where a subscriber wishes to subscribe to a third-language general interest programming service in a principal language served by one of the ethnic specialty Category A services, the subscriber must also subscribe to that ethnic specialty Category A service.
31. While many parties were in favour of the simplified rules, certain parties, such as Asian Television Network International Limited, Fairchild Television Ltd. (Fairchild) and Stornoway Communications (Stornoway), all commented on the absence of the buy-through requirement for ethnic specialty Category A services in the proposed BDU Regulations. Both Fairchild and Stornoway noted that ethnic specialty Category A services have greater regulatory obligations, including greater Canadian content obligations, than other third-language services. They argued that the buy-through requirement is necessary in order to allow these services to remain viable and therefore continue to make a meaningful contribution to Canadian broadcasting policy objectives.
32. The Commission considers that the buy-through requirement remains an important regulatory measure aimed at supporting ethnic specialty Category A services in satisfying their regulatory obligations. As such, the Commission has incorporated the buy-through requirement in section 27(4) of the BDU Regulations.

Analog distribution

33. The Commission proposed a new Part 3 to the BDU Regulations, which detailed the obligations of licensees relating to the analog distribution of programming services. As indicated in Broadcasting Notice of Consultation 2010-931, this part of the BDU 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.

² See Broadcasting Regulatory Policy 2010-312.

34. To this effect, section 40 of the proposed BDU Regulations, entitled “Precondition to analog distribution,” established that “[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.”
35. IBG commented that the section, as drafted, seemed to provide that a BDU must fulfill all of its obligations relating to digital distribution (as set out in Part 2 of the BDU Regulations) before it can distribute any service on an analog basis. It expressed the concern that not all BDUs would, in fact, be prepared to effect the full scale implementation of all carriage requirements on a digital basis by 1 September 2011.
36. The Commission has clarified section 40 in order to provide for greater flexibility in this regard. Moreover, the Commission has amended section 42 of the BDU Regulations by advancing the grandfathering date to 10 December 2010, thereby allowing BDUs to distribute any programming service that they were distributing on an analog basis prior to that date.

Other changes

37. Without addressing in detail the substance of the comments received, the Commission wishes to highlight that the following sections have been changed as a result of comments received:
 - All of the references to an “eligible satellite service” have been changed to “an authorized non-Canadian programming service.”
 - Section 6(1) has been amended to remove the reference to “whether they are provided by a licensed or exempt programming undertaking.”
 - Section 8(2) as it read in the previous BDU Regulations had been inadvertently deleted in the proposed BDU Regulations. It has now been reintroduced into the BDU Regulations.
 - Section 11(3) was inadvertently maintained in the proposed BDU Regulations. It has now been deleted from the BDU Regulations.
 - Section 17(1)(b) has been clarified to refer to educational television programming services received “over the air or by some other method.”
 - Section 20(1)(a) has been corrected to read “the programming service of any regional television station that is not distributed by the licensee in the licensed area under section 17 or of any extra-regional television station.”
 - Section 24 has been amended and simplified as a result of the Commission’s determination in Broadcasting Regulatory Policy 2011-399, which removed all the references to Canadian programming services.

- Section 45 has been corrected to remove certain sections that were incorrectly incorporated by reference.
 - Section 53 (now section 52) has been amended to add the following term at the beginning of the section: “Except as otherwise provided under a condition of its licence”.
 - The schedule has been changed to reflect the new corporate entities that are considered a “major ownership group” for the purposes of the BDU Regulations.
38. Finally, as determined by the Commission in Broadcasting Regulatory Policy 2011-308, section 4 of the amending regulations proposed to amend paragraph 8(1)(d) to read “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.” This amendment has been deleted such that section 8(1)(d) of the BDU Regulations is unchanged from the version contained in the previous BDU Regulations.

Summary of changes arising from Broadcasting Notice of Consultation 2011-14

39. As noted above, the Commission announced in Broadcasting Regulatory Policy 2011-308 that it would not amend the false or misleading news provisions set out in various Commission regulations. As a result, section 3(d) of the Radio Regulations; section 5(1)(d) of the Television Broadcasting Regulations; section 3(2)(c) of the Pay Television Regulations; and section 3(d) of the Specialty Services Regulations, remain unchanged.
40. Other than certain changes made for internal consistency, to correct errors, and to ensure consistent meaning as between the English-language and the French-language versions, all other proposed amendments have been adopted as proposed in Broadcasting Notice of Consultation 2011-14.

Conclusion

41. The Commission wishes to thank all those who participated in these proceedings. It appreciates the effort reflected in the written submissions, which contributed greatly to the successful implementation of these regulations.

Secretary General

Related documents

- *List of non-Canadian programming services authorized for distribution*, Broadcasting Regulatory Policy CRTC 2011-399, 30 June 2011
- *Proposed amendments to the Commission’s false or misleading news provisions*, Broadcasting Regulatory Policy CRTC 2011-308, 11 May 2011

- *Call for comments on an extension to the general authorization to down-convert digital-only television signals*, Broadcasting Notice of Consultation CRTC 2011-187, 15 March 2011
- *Call for comments on amendments to the Radio Regulations, 1986, Television Broadcasting Regulations, 1987, Pay Television Regulations, 1990, Specialty Services Regulations, 1990, and the Broadcasting Information Regulations, 1993*, Broadcasting Notice of Consultation CRTC 2011-14, 10 January 2011
- *Call for comments on amendments to the Broadcasting Distribution Regulations*, Broadcasting Notice of Consultation CRTC 2010-931, 10 December 2010
- *Clarifications regarding the interpretation of section 8 of the Pay Television Regulations, 1990 and section 12 of the Specialty Services Regulations, 1990, as they relate to the transmission of Category A services from their production facilities to broadcasting distribution undertakings' head ends and uplink centres*, Broadcasting Information Bulletin CRTC 2010-718, 28 September 2010
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010, as corrected by *Community television policy – Correction*, Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010
- *Distribution and linkage requirements for Class 1 and Class 2 licensees and Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Regulatory Policy CRTC 2010-312, 27 May 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 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
- *General conditions of licence for terrestrial (cable, digital subscriber line, multipoint distribution system) and direct-to-home (DTH) satellite broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-547, 31 August 2009
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, 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 1 to Broadcasting Regulatory Policy CRTC 2011-455

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*¹ 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 whose distribution 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 a licensed programming undertaking. (*service de programmation canadien*)

“community-based digital undertaking” means a programming undertaking that is licensed as a community-based digital undertaking and 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 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 is more than 32 km from 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,
 - (i) 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, or
 - (ii) if the majority of programming services are not received at one specific location, the specific location in the licensed area that has been designated by the licensee and authorized by the Commission as the licensee’s head end for that licensed area. (*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 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 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*)

“authorized non-Canadian programming service” means a programming service that is authorized for distribution by the Commission and is included in the appendix to Broadcasting Regulatory Policy CRTC 2011-399, dated June 30, 2011 and entitled *List of non-Canadian programming services authorized for distribution*, as amended from time to time. (*service de programmation non canadien approuvé*)

“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 September 1, 2011,

(i) a pay television service other than a Category 2 service that was designated as such by the Commission before that day and other than 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 other than 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 September 1, 2011, 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*)

“English major ownership group” means a major ownership group that provides its programming primarily in English. (*groupe de propriété principale 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”, in respect of a video programming service, means analog, standard definition or high definition. (*format*)

“4 + 1 package of programming services” means a package that consists of the programming services of

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

(b) one non-commercial non-Canadian television station. (*bloc de services de programmation 4 + 1*)

“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;

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

(i) not more than 14 hours — over the course of a broadcast week — 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%. (*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 version of a 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 September 1, 2011; or

(b) for the remainder of the term of a licence that was issued before September 1, 2011,

(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.

(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) authorized non-Canadian programming 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. Section 8 of the Regulations is amended by adding the following after subsection (2):

(3) For the purpose of paragraph (1)(c), material is obscene if it has as a dominant characteristic the undue exploitation of sex or the combination of sexual content with one or more of the following subjects, namely, crime, horror, cruelty and violence.

5. Subsections 11(2) and (3) of the Regulations are 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 or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and

(b) any request for information regarding the licensee's adherence to the conditions of its 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) the educational television programming services that are received by the licensee over the air or by some other method, the operation of which is the responsibility of an educational authority designated by the province in which the licensed area 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 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 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 fulfils 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 following definitions 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; or

(b) an exempt programming undertaking of which the licensee or an affiliate, or both, controls more than 10% but less than 15% 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 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 that is not distributed by the licensee in the licensed area under section 17 or of any extra-regional television station;

(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) any authorized non-Canadian programming service — including, subject to section 22, a 4 + 1 package of programming services;
 - (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 — including, subject to section 22, a further 4 + 1 package of programming services — 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 a 4 + 1 package of programming services that originate outside the time zone in which the licensee's local head end is located unless the

licensee also distributes to its subscribers 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 an authorized non-Canadian programming service unless it distributes the service 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, on a stand-alone basis, a single point-of-view religious pay television service, a limited point-of-view religious pay television service, a religious specialty service or a religious authorized non-Canadian programming service.

(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 religious authorized non-Canadian programming 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) The following definitions apply in this section.

“general interest” in respect of programming, means programming from a broad spectrum of program genres and categories. (*intérêt général*)

“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. (*langue principale*)

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

(3) Except as otherwise provided under a condition of its licence, a licensee that distributes a non-Canadian third-language service in accordance with subsection (2) shall only distribute that service to its subscribers as part of a package with one or more Canadian third-language services.

(4) Except as otherwise provided under a condition of its licence, a licensee that distributes a general interest Category B third-language service to subscribers shall also distribute an ethnic Category A service to them if one is available in the same principal language.

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; or

(b) a pay audio programming undertaking of which the licensee or an affiliate, or both, controls more than 10% but less than 30% 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

(a) expenditures on volunteer training and volunteer program development and community outreach, but excluding expenditures related to technology, sales, promotion and administration as well as general expenses; and

(b) expenditures related to the acquisition of programming produced by community-based digital undertakings, community-based low-power television stations or community television corporations.

(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 audiovisual recording of a program, the licensee shall immediately furnish the log, record or recording to the Commission.

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 following definitions 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*)

(2) Except as otherwise provided in subsection (4) 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 it with 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 it with 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 a written request to the licensee 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 for it 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 of a local television station — other than the station “A” Atlantic or an educational authority responsible for an educational television programming service — is provided by direct feed to a licensee in its licensed area, the licensee is required to substitute the programming service under paragraph (2)(a) only if it 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.

ANALOG DISTRIBUTION

40. A licensee that distributes programming services on a digital basis to its subscribers in a licensed area shall not distribute a programming service on an analog basis in the licensed area if the distribution of the latter service prevents it from fulfilling its obligations under Part 2 in the 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 December 10, 2010.

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 the 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 23 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 following definitions 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 or an ownership group designated as such by the Commission in paragraph 31 of Broadcasting Regulatory Policy CRTC 2010–162 dated March 19, 2010 and entitled *Distribution by direct-to-home services of stations from the major ownership groups in the Atlantic provinces and independently owned stations across Canada*. (*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 that 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 that 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 that 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 that 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 authorized non-Canadian programming service — including, subject to section 50, a 4 + 1 package of programming services;
- (c) subject to section 29, the programming service of any exempt programming undertaking;
- (d) 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
- (e) any programming service — including, subject to section 50, a further 4 + 1 package of programming services — 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.

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 a 4 + 1 package of programming services that originate outside the time zone in which the subscriber's residence or other premises are

located unless the licensee also offers to the subscriber 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 it with 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 a higher format than, the programming service to be deleted.

CONTRIBUTION TO CANADIAN PROGRAMMING

52. Except as otherwise provided under a condition of its licence, 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.

53. (1) The licensee shall separately calculate the contributions required under section 52 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.

54. If, as a result of the calculations performed under subsection 53(1), a contribution made by a licensee for a broadcast year is greater than the amount required under section 52, 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 9)

SCHEDULE

(Section 1)

MAJOR OWNERSHIP GROUPS

Column 1	Column 2
Item	Group
1.	Shaw Television G.P. Inc. (the general partner) and Shaw Media Global Inc. (the limited partner), carrying on business as Shaw Television Limited Partnership
2.	BCE Inc.
3.	Quebecor Media Inc.
4.	Remstar Broadcasting Inc.
5.	Rogers Communications Inc.

Appendix 2 to Broadcasting Regulatory Policy CRTC 2011-455

REGULATIONS AMENDING CERTAIN REGULATIONS MADE UNDER THE BROADCASTING ACT

RADIO REGULATIONS, 1986

1. The *Radio Regulations, 1986*¹ are amended by adding the following after section 3.1:

3.2 For the purposes of paragraph 3(c), language is obscene if it has as a dominant characteristic the undue exploitation of sex or the combination of sexual content with one or more of the following subjects, namely, crime, horror, cruelty and violence.

2. Subsection 9(4) of the Regulations is replaced by the following:

(4) 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 or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and

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

TELEVISION BROADCASTING REGULATIONS, 1987

3. Section 5 of the *Television Broadcasting Regulations, 1987*² is amended by adding the following after subsection (1.1):

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

4. Subsection 12(3) of the Regulations is replaced by the following:

(3) 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 the programming originated or distributed by the licensee or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and

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

PAY TELEVISION REGULATIONS, 1990

5. Subsection 5(2) of the *Pay Television Regulations, 1990*³ 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 the programming originated or distributed by the licensee or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and

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

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

7. During any dispute between a licensee and a person licensed to carry on a distribution undertaking or the operator of an exempt distribution undertaking concerning the carriage or terms of carriage of programming originated by the licensee or concerning any right or obligation under the Act, the licensee shall continue to provide the distribution undertaking with its programming services, on the same terms and conditions as it did before the dispute, if the services are required to be distributed:

(a) under subparagraph 18(2)(a)(i) or (b)(i) or paragraph 18(2)(c) of the *Broadcasting Distribution Regulations*;

7. Paragraph 8(a) of the Regulations is replaced by the following:

(a) ensure the transmission of the programming service from its production facilities to each broadcasting distribution undertaking's head end located within the area for which the licensee is licensed or to a satellite uplink centre located within that area; and

SPECIALTY SERVICES REGULATIONS, 1990

8. The *Specialty Services Regulations, 1990*⁴ are amended by adding the following after section 3.1:

3.2 For the purposes of paragraph 3(c), material is obscene if it has as a dominant characteristic the undue exploitation of sex or the combination of sexual content with one or more of the following subjects, namely, crime, horror, cruelty and violence.

9. Subsection 8(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 the programming originated or distributed by the licensee or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and

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

10. The portion of section 11 of the Regulations before paragraph (b) is replaced by the following:

11. During any dispute between a licensee and a person licensed to carry on a distribution undertaking or the operator of an exempt distribution undertaking concerning the carriage or terms of carriage of programming originated by the licensee or concerning any right or obligation under the Act, the licensee shall continue to provide the distribution undertaking with its programming services, on the same terms and conditions as it did before the dispute, if the services are required to be distributed

(a) under subparagraph 18(2)(a)(i) or (b)(i) or paragraph 18(2)(c) of the *Broadcasting Distribution Regulations*;

11. Paragraph 12(a) of the Regulations is replaced by the following:

(a) ensure the transmission of the programming service from its production facilities to each broadcasting distribution undertaking's head end located within the area for which the licensee is licensed or to a satellite uplink centre located within that area; and

BROADCASTING INFORMATION REGULATIONS, 1993

12. Subsections 2(2) and (3) of the *Broadcasting Information Regulations, 1993*⁵ are 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 the programming originated or distributed by the licensee or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and

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

(3) In this section, "subscriber" means

(a) a household of one or more persons, whether occupying a single-unit dwelling or a unit in a multiple-unit dwelling, to which service is provided directly or indirectly by the holder of a licence, as defined in section 2 of the *Broadcasting Act*; or

(b) the owner or operator of any hotel, hospital, nursing home or other commercial or institutional premises to which service is provided by the holder of a licence, as defined in section 2 of the *Broadcasting Act*.

COMING INTO FORCE

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

¹ SOR/86-982

² SOR/87-49

³ SOR/90-105

⁴ SOR/90-106

⁵ SOR/93-420