



## Broadcasting Decision CRTC 2013-391

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Route reference: 2013-19

Additional references: 2013-19-1, 2013-19-3 and 2013-19-4

Ottawa, 8 August 2013

### **Cable Public Affairs Channel Inc.**

Across Canada

*Applications 2012-1107-8 and 2012-1109-4, received 30 August 2012*

*Public hearing in the National Capital Region*

*23 April 2013*

### **CPAC – Licence renewal and amendments**

*The Commission **renews** the broadcasting licence for the national, English- and French-language specialty Category A service CPAC from 1 September 2013 to 31 August 2018. This renewal will ensure that Canadians continue to have access to CPAC's licensed public affairs programming, which is a significant and valuable complement to the coverage of the proceedings of the House of Commons and its various committees offered by CPAC's exempt service.*

*The Commission **approves** the licensee's requests in regard to the following:*

- *an amendment to CPAC's nature of service condition of licence;*
- *the broadcast of a sponsor's logo in sponsorship messages; and*
- *an exception to the closed captioning quality standards.*

*The terms and **conditions of licence** are set out in the appendix to this decision.*

### **The applications**

1. Cable Public Affairs Channel Inc. (CPAC Inc.) filed applications to renew the broadcasting licence for the national, English- and French-language satellite-to-cable television service CPAC, which expires 31 August 2013.<sup>1</sup>
2. The licensee requested continued mandatory distribution of the service on the basic service of Canadian cable and satellite providers, pursuant to an order issued under section 9(1)(h) of the *Broadcasting Act* (the Act). This request was approved in Broadcasting Regulatory Policy 2013-372, also issued today.

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<sup>1</sup> The broadcasting licence for this undertaking was administratively renewed until 31 August 2013 as a result of Broadcasting Decisions 2009-145, 2010-562 and 2011-417.

3. The Commission received interventions in support of this application, as well as interventions in opposition and offering general comments. In general, the interventions related to the mandatory distribution of CPAC on the basic service. Those in opposition objected more generally to the concept of mandatory distribution of services on the basic service, often for reasons of choice and cost, and not to CPAC's application specifically. The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
4. As part of its renewal application, the applicant also proposed the following amendments to its conditions of licence:
  - an amendment to its nature of service condition of licence to allow for the broadcast of one repeat of its Canada Day programming;
  - an amendment to its condition of licence relating to funding to allow the inclusion of a sponsor's logo in sponsorship messages; and
  - amendments to the standard conditions of licence relating to closed captioning quality standards.

## Background

5. CPAC Inc. is a federally incorporated, not-for-profit company that is owned by companies in the cable television industry. It is licensed to provide, in English and in French, a public affairs programming service that is complementary to the exempt programming service that it also operates. The exempt service includes "gavel-to-gavel" coverage of the proceedings of the House of Commons, as well as coverage of the committees of the House of Commons. The exempt service has been operated by CPAC Inc. pursuant to the exemption order set out in Public Notice 1992-6 and in accordance with CPAC Inc.'s agreement with the Speaker of the House of Commons.
6. The "wrap-around" programming provided by CPAC Inc.'s licensed service complements the exempt service, and consists of both long-form programming and in-depth public affairs programming. The long-form programming of the service as currently licensed includes coverage of conferences and hearings of government departments and agencies, and coverage of special events and public inquiries. CPAC's in-depth public affairs programming consists of interviews, talk shows and in-depth reviews of key national events and policy issues.
7. In Public Notice 2001-115, the Commission underscored the importance it places on ensuring access by Canadians to coverage of the proceedings of the House of Commons and its committees, and announced its decision to ensure the availability of such coverage, in both official languages, to most cable and direct-to-home satellite subscribers across the country. The amendments to the *Broadcasting Distribution Regulations* came into effect on 1 September 2002, making carriage of the proceedings of the House of Commons and its committees mandatory for most BDUs (see Broadcasting Public Notice 2002-72).

8. In 2005, the Governor in Council issued *Direction to the CRTC (Reservation of Channels for the Distribution of CPAC)*, which instructed the Commission to require all cable BDUs that serve more than 2,000 subscribers to distribute both an English-language and a French-language version of CPAC and the parliamentary programming service.

### **Commission's analysis and decisions**

9. In the Commission's view, CPAC's licensed public affairs programming is a significant and valuable complement to the coverage of the proceedings of the House of Commons offered by the exempt service. Further, CPAC contributes to maintaining and enhancing Canada's national identity and cultural sovereignty, consistent with the objectives of the Act. As such, the renewal of the broadcasting licence for CPAC will allow the licensee to continue to contribute to shared national consciousness and identity and ensure that Canadians continue to have access to the public affairs programming it provides.
10. After examining the application in light of applicable regulations and policies, the Commission considers the issues that it must address are the following:
- a proposed amendment to CPAC's nature of service condition of licence;
  - a proposed amendment to CPAC's condition of licence relating to funding;
  - proposed amendments in regard to the provision of closed captioning; and
  - the designation of CPAC as a specialty Category A service.

### **Proposed amendment to CPAC's nature of service condition of licence**

11. As set out in Broadcasting Decision 2009-390, CPAC may offer music and dance programming, variety programming, and general entertainment and human interest programming<sup>2</sup> only on Canada Day (1 July) of each year.
12. The licensee requested authority to broadcast one repeat of its Canada Day programming to increase the availability of this programming for Canadians since many do not watch CPAC's televised live coverage of Canada Day events on 1 July and may wish to watch it at a later date.
13. The Commission considers that the licensee's rationale for this change is reasonable and that allowing the service to broadcast one repeat of its Canada Day programming would have a very limited impact on its overall programming. The Commission therefore **approves** the licensee's request to amend its nature of service condition of licence to be allowed to offer the programming described above on Canada Day and

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<sup>2</sup> Program categories 8(a), 9 and 11, respectively, set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*. In this regard, in Broadcasting Regulatory Policy 2011-401, the Commission announced that it had amended program category 11 in order to add a new program category, 11(b) Reality television.

on one other day of the broadcast year. The amended **condition of licence** is set out in the appendix to this decision.

**Proposed amendment to CPAC's condition of licence relating to funding**

14. As set out in Broadcasting Decision 2002-377, the licensee may not broadcast commercial messages other than sponsorship messages for closed captioning or described video, and such sponsorship messages must be limited to the identification of the name of the sponsor. In this regard, the licensee argued that it has been unable to attract sponsorship for the production of closed captioning or described video and that the proposed amendment could increase the attractiveness of such sponsorship opportunities.
15. The Commission finds that the licensee's request regarding sponsorship messages is consistent with the sponsorship messages that other broadcasting services are currently authorized to broadcast. The Commission therefore **approves** the licensee's request for authority to broadcast a sponsor's logo in sponsorship messages. The amended **condition of licence** is set out in the appendix to this decision.

**Proposed amendments in regard to the provision of closed captioning**

16. The closed captioning requirements imposed by the Commission are set out in Broadcasting Public Notice 2007-54, Broadcasting and Telecom Regulatory Policy 2009-430 and Broadcasting Regulatory Policy 2012-362. Standard requirements relating to closed captioning for Category A services are set out in Broadcasting Regulatory Policy 2011-443. The Commission requires that all television licensees adhere to the accessibility requirements it has approved through conditions of licence that will be applied at the time of licence renewal.
17. As part of its application, the licensee stated that it would close caption all programs broadcast on CPAC's licensed service, consistent with the standard requirements regarding closed captioning set out in Broadcasting Regulatory Policy 2011-443, and that it would continue its practice of captioning predominantly English-language programming in English and predominantly French-language programming in French.
18. In regard to the closed captioning of CPAC services, in Public Notice 1992-6, the Commission exempted from the requirements of Part II of the Act and any regulations undertakings providing coverage of the proceedings of the House of Commons and provincial or territorial legislatures. In that public notice, the Commission set out a list of exemption criteria, include the following criterion (e) relating to the provision of closed captioning:

Any programming that is included in the service, but is in addition to the coverage of the proceedings themselves, is limited to a description of the processes of the House of Commons or legislature involved or an agenda (including calls for submissions by committees, etc.) of upcoming activities, without any comment or analysis of the particular proceedings themselves. The operator of the undertaking

may offer a translation of the proceedings and may offer closed captioning or signing.

19. Further, as the Commission noted in Decision 95-22, CPAC would not necessarily be precluded by its agreements with the Parliament authorities from close captioning the exempted programming that CPAC receives.
20. The licensee requested one exception regarding the application of the closed captioning standards set out in Broadcasting Regulatory Policy 2012-362. It argued that it would be impractical for it to produce pop-on captioning for its English-language long-form pre-recorded programming given the large volume of this programming.
21. Accordingly, the Commission examined the following three issues relating to the closed captioning of CPAC programming:
  - the closed captioning of CPAC's exempt programming;
  - dual-language<sup>3</sup> captioning; and
  - the format of English-language captioning for pre-recorded programming.

*Closed captioning of CPAC's exempt programming*

22. In the proceeding leading up to the publication of Broadcasting Decision 2002-377, CPAC Inc. indicated that under its current arrangement with Parliamentary authorities, the House of Commons and the Senate are responsible for furnishing any closed captioning or sign language that accompanies the programming they provide, including CPAC's exempt programming.
23. During this proceeding, the licensee confirmed that the House of Commons and the Senate continue to be responsible for furnishing any closed captioning and that it is not permitted to alter or modify the programming that it receives from them. It further submitted that the House of Commons has begun captioning its proceedings and is working on captioning a larger number of committees.
24. The Commission is of the view that all Canadians, including people who are deaf and hard-of-hearing, should be ensured access to coverage of the proceedings of the House of Commons and the Senate. While CPAC cannot alter or modify the programming it receives from the House of Commons or the Senate, the Commission strongly encourages the licensee to include a captioning clause in its contract with the House of Commons and the Senate to ensure that future programming received from them is captioned. The Commission also expects the licensee to include any closed

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<sup>3</sup> Dual-language captioning refers to the provision of closed captioning in the language of the service, not the speaker. In other words, if someone is watching the French-language CPAC channel, the captioning will always be in French regardless of the language of the person speaking.

captioning that is provided in programming from the House of Commons and the Senate.

*Dual-language captioning*

25. The Commission's current policy does not contemplate dual-language captioning. CPAC's current practice is to provide closed captioning in a program's original language regardless of whether the program is aired on the English- or French-language CPAC channel. For example, if the person on the floor is speaking in English, the audio will be captioned in English on both the English- and French-language CPAC channels despite the fact that the audio is being simultaneously translated for those watching the French-language CPAC channel.
26. The licensee argued that the cost and some of the closed captioning quality standards make it very difficult for it to provide dual-language captioning. At the hearing, it submitted that it would be prepared to provide dual-language captioning if the Commission were to grant the licensee relief from two of the closed captioning quality standards,<sup>4</sup> namely, lag time and correction of errors. The licensee added that providing dual-language captioning would have very substantial cost implications and raise its captioning costs well above current levels.
27. The licensee also pointed out that it has been captioning its licensed programming without dual-language captioning since 2002 and that it has not received viewer complaints regarding this issue. It argued that this shows a level of public acceptance and understanding of the inherent difficulties of translating and providing closed captioning in a bilingual format. Moreover, the licensee submitted that if it were not required to provide dual-language captioning, it would adhere to all of the closed captioning standards.
28. The Commission is of the view that the licensee has provided a compelling argument to continue to close caption its licensed programming without dual-language captioning. It finds that it is more important to ensure that the captioning provided is accurate and of good quality and is concerned that requiring the licensee to provide dual-language captioning would result in a substantial lag time that would render the programming very difficult to follow. Accordingly, the Commission is not requiring CPAC to provide dual-language captioning. However, the Commission encourages CPAC to investigate ways of solving this issue in the future.

*Format of English-language closed captioning for pre-recorded programming*

29. In Broadcasting and Telecom Regulatory Policy 2009-430, the Commission stated that it is preferable for Canadian pre-recorded programming to be provided in a

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<sup>4</sup> The quality standards for French-language closed captioning are set out in Broadcasting Regulatory Policies 2011-741 and 2011-741-1, and for English-language closed captioning, in Broadcasting Regulatory Policy 2012-362.

“pop-on” format.<sup>5</sup> However, in Broadcasting Regulatory Policy 2012-362, the Commission recognized that there are some instances where pre-recorded programming does not lend itself well to pop-on captioning due to time constraints, such as when the time between the delivery and airing of the program is not sufficient for the production of pop-on captions. Accordingly, the Commission approved a standard whereby pop-on captions are to be used for all new Canadian pre-recorded English-language programming. For the purpose of this standard, it defined pre-recorded programming as programming that has been delivered in its entirety - lacking only the closed captioning information – 96 hours before it is to be broadcast.

30. CPAC Inc. requested an exception to the closed captioning quality standard relating to the format of English-language pre-recorded captions,<sup>6</sup> arguing that:

- roll-up captioning<sup>7</sup> is better suited for the nature of its long-form programming, which typically involves coverage of public hearings, conferences, speeches and similar events;
- viewers are able to follow the speaker and associate the text with the appropriate speaker without the additional element of pop-on captions;
- pop-on captioning is more expensive than roll-up captioning, and adhering to the condition would likely result in CPAC providing fewer original long-form programming hours and covering fewer events; and
- the requirement to provide pop-on captions would result in production delays between the time of delivery of footage from CPAC and the time of its first broadcast.

31. The Commission is of the view that CPAC’s “podium-style”<sup>8</sup> programming is distinct from other broadcasters’ programming and that viewers would still be able to associate the text with the appropriate speaker during this type of programming if roll-up captioning were used. However, the Commission does not consider it necessary to grant the exception for CPAC’s remaining pre-recorded programming. It notes that the standard condition of licence takes into account when a program is delivered to a licensee. Accordingly, the Commission **approves** the licensee’s request for an exception to the closed captioning quality standard that relates to the format of

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<sup>5</sup> “Pop-on” in regard to captioning refers to a phrase or sentence that appears on the screen all at once – not line by line –, stays there for a few seconds, and then disappears or is replaced by another full caption. Pop-on captions are timed to synchronize with the program and are placed on the screen to help identify the speaker.

<sup>6</sup> There is no such requirement for French-language programming.

<sup>7</sup> A “roll-up caption” refers to usually two or three lines of text appearing at one time that roll on and off the screen in a continuous motion. As a new line comes along, it appears at the bottom of the screen, pushing up the other lines on the screen.

<sup>8</sup> “Podium-style” programming refers to programming where a single, stationary person is speaking for an extended period of time, such as during public hearings, conferences and speeches.

Canadian pre-recorded English-language programming for its podium-style programming only. All other pre-recorded programming will be subject to the closed captioning standards. An amended **condition of licence** is set out in the appendix to this decision.

### **Designation of CPAC as a specialty Category A service**

32. The Commission notes that CPAC is currently designated as a satellite-to-cable programming service. The licence for this type of service was first granted in the 1980s and was only attributed in special circumstances. In light of recent changes to its licensing framework for specialty services, the Commission considers that CPAC could be designated as a specialty Category A service going forward. While the licensee has indicated that it would rather keep its current designation, the Commission is of the view that it could be advantageous for CPAC to be converted to a specialty Category A service as these services benefit from status and certain protections under various regulations not granted to satellite-to-cable licences. Consequently, the licensee will be subject to the standard conditions of licence, expectations and encouragements for specialty Category A services set out in Appendix 1 to Broadcasting Regulatory Policy 2011-443, with the exception of condition of licence 8.

### **Conclusion**

33. As noted above, in Broadcasting Regulatory Policy 2013-372, the Commission approved the licensee's request for mandatory distribution. In that policy, the Commission decided that a five-year term for the distribution order was appropriate, given the pace of change in the Canadian broadcasting environment. The Commission considers that the licence term for CPAC should coincide with that of the associated order.

34. Accordingly, the Commission **renews** the broadcasting licence for the national, English- and French-language specialty Category A service CPAC from 1 September 2013 to 31 August 2018. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

### **Related documents**

- *Applications for mandatory distribution on cable and satellite under section 9(1)(h) of the Broadcasting Act, Broadcasting Regulatory Policy CRTC 2013-372, 8 August 2013*
- *Quality standards for English-language closed captioning, Broadcasting Regulatory Policy CRTC 2012-362, 5 July 2012*
- *Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning*

*Working Group, Broadcasting Regulatory Policy CRTC 2011-741-1, 21 February 2012*

- *Quality standards for French-language closed captioning, Broadcasting Regulatory Policy CRTC 2011-741, 1 December 2011*
- *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services, Broadcasting Order CRTC 2011-443, 27 July 2011*
- *Administrative renewals, Broadcasting Decision CRTC 2011-417, 12 July 2011*
- *Amendments to certain Regulations made under the Broadcasting Act to add a new program category “Reality television”, Broadcasting Regulatory Policy CRTC 2011-401, 30 June 2011*
- *Administrative renewals, Broadcasting Decision CRTC 2010-562, 9 August 2010, as corrected by Administrative renewals – Corrections, Broadcasting Decision CRTC 2010-562-1, 21 September 2010*
- *Accessibility of telecommunications and broadcasting services, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009*
- *Licence amendment for CPAC – Addition of program categories, Broadcasting Decision CRTC 2009-390, 29 June 2009*
- *Administrative renewals, Broadcasting Decision CRTC 2009-145, 17 March 2009*
- *A new policy with respect to closed captioning, Broadcasting Public Notice CRTC 2007-54, 17 May 2007*
- *Licence renewal for CPAC; and issuance of a distribution order, Broadcasting Decision CRTC 2002-377, 19 November 2002*
- *Amendments to the Broadcasting Distribution Regulations – Distribution of the proceedings of the House of Commons and its various committees, Broadcasting Public Notice CRTC 2002-72, 19 November 2002*
- *The distribution of the House of Commons on CPAC, Public Notice CRTC 2001-115, 6 November 2001*
- *Licence renewals, Decision CRTC 95-22, 20 January 1995*
- *House of Commons and Provincial or Territorial Legislature Proceedings Exemption Order, Public Notice CRTC 1992-6, 17 January 1992*

*\*This decision is to be appended to the licence.*

# Appendix to Broadcasting Decision CRTC 2013-391

## Terms and conditions of licence for the English- and French-language specialty Category A service CPAC

### Terms

The licence will take effect 1 September 2013 and expire 31 August 2018.

### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category A services set out in *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time, with the exception of condition of licence 8.
2. In regard to the nature of service:
  - (a) The licensee shall provide a national public affairs programming service complementary to the exempt service it operates in accordance with *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, appended to Public Notice CRTC 2002-73, 19 November 2002, as may be amended from time to time, consisting exclusively of long-form programming or programming focusing on local, regional, national and international civic affairs, including the process and debates that underpin the operations of democratic government and the development of public policy.
  - (b) Apart from the exception set out in condition of licence 2(c), the programming shall be drawn exclusively from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
    - 2 (a) Analysis and interpretation
    - (b) Long-form documentary
    - 3 Reporting and actualities
    - 5 (b) Informal education/Recreation and leisure, but excluding Recreation and leisure
    - 12 Interstitials
    - 13 Public service announcements
  - (c) Only on Canada Day (1 July) of each year and on one other day on which the licensee's Canada Day programming is repeated may the licensee draw programming from program categories 8(a) Music and dance other than music video programs or clips, 9 Variety and 11(a) General entertainment and human interest that does not consist exclusively of long-form programming or programming focusing on local, regional, national and international civic affairs,

- including the process and debates that underpin the operations of democratic government and the development of public policy.
- (d) The licensee shall devote not more than 38 hours in any broadcast week to programming other than long-form programming.
  - (e) The licensee shall devote not more than 5% of the licensed programming broadcast in each semester to programming drawn from program category 2(b).
  - (f) The licensee shall devote not more than 5% of the licensed programming broadcast in each semester to programming drawn from program category 5(b).
  - (g) The licensee shall devote at least 90% of the licensed programming broadcast in each semester to Canadian programming.
  - (h) The licensee shall devote at least 90% of the licensed programming broadcast during the evening broadcast period to Canadian programming.
  - (i) The licensee shall broadcast as many events as possible that originate in the French language. At a minimum, 20% of all events broadcast in each broadcast year shall originate in the French language.
  - (j) The licensee shall provide simultaneous translation for 100% of its licensed programming.
  - (k) At least 25% of the in-depth public affairs programming the licensee originates in each broadcast year shall be produced in the French language.
3. The licensee shall not broadcast commercial messages other than sponsorship messages for closed captioning or described video. Such sponsorship messages shall be limited to the identification of the name and logo of the sponsor.
  4. The licensee shall retain in a form acceptable to the Commission, a program log or machine-readable record or audio-visual recording of all the programming broadcast as part of its licensed programming service, in accordance with the provisions set out in section 7 of the *Specialty Services Regulations, 1990*, and shall furnish to the Commission such a log or machine-readable record on request.
  5. With the exception of CPAC's "podium-style" English-language pre-recorded programming, the licensee shall adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission.

## Definitions

For the purposes of the conditions of this licence:

"long-form programming" means programming drawn from program categories 2(a), 2(b) and 3 set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990* that provides extended coverage of public speeches, political conventions, conferences, commissions of inquiry, public hearings, proceedings of the Supreme Court of Canada

and of the Federal Court of Canada, proceedings of legislatures other than those of the Parliament of Canada, press conferences, public ceremonies, federal and provincial general elections, and other similar public events of regional or national importance;

“broadcast day” means the period from 8 a.m. to 2 a.m.;

“broadcast month” means the total number of hours devoted by the licensee to broadcasting during the aggregate of the broadcast days in a month;

“broadcast week” means seven consecutive broadcast days beginning on Sunday;

“broadcast year” means the total number of hours devoted by the licensee to broadcasting during the aggregate of the broadcast months in a 12-month period beginning on 1 September in any year;

“evening broadcast period” means the total number of hours devoted by the licensee to broadcasting between 6 p.m. and midnight during each semester;

“podium-style” programming refers to programming where a single, stationary person is speaking for an extended period of time, such as during public hearings, conferences and speeches; and

“semester” means the total number of hours devoted by the licensee to broadcasting in a six-month period beginning on 1 September and 1 March in any year.