



# Broadcasting Regulatory Policy CRTC 2013-561

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## Revised regulatory framework for pay-per-view services

*This Commission sets out a revised regulatory framework for pay-per-view (PPV) services. The revised framework simplifies the Commission's policy and makes it more consistent with the regulatory framework for video-on-demand services, with which PPV services compete.*

*In determining the most appropriate approach for PPV services, the Commission has addressed various issues, including the following:*

- *licensing criteria;*
- *Canadian content exhibition requirements;*
- *the promotion of Canadian programs;*
- *support for Canadian feature films;*
- *programming packaging;*
- *the broadcast of advertising; and*
- *the filing of aggregate data on Canadian programming.*

*In the appendix to this policy, the Commission sets out standard conditions of licence and expectations that will apply to new PPV services. The Commission also intends to apply these requirements to existing services at licence renewal.*

## Background

1. In the *Broadcasting Distribution Regulations*, a pay-per-view (PPV) service is defined as a “scheduled programming service that is provided to subscribers on a pay-per-view basis.” There are two types of PPV service, distinguished by their distribution. A direct-to-home (DTH) PPV service may only be distributed by a DTH broadcasting distribution undertaking (BDU), whereas a terrestrial PPV service may only be distributed by a terrestrial BDU, such as a cable or digital subscriber line-based service. Each type therefore requires a different broadcasting licence. Currently, there are 15 licensed DTH and terrestrial PPV services in Canada.

2. PPV services are subject to individual conditions of licence based on the provisions of Public Notice 2000-172, which sets out the licensing framework for such services. In that notice, the Commission stated that the regulatory approaches for general interest PPV and video-on-demand (VOD) services should generally be consistent because new VOD services would compete with existing PPV services. However, in Broadcasting Regulatory Policy 2010-190 (the VOD regulatory framework), following a public consultation, the Commission concluded that VOD's potential to compete with linear services by offering subscription packages made it impractical to introduce a common regulatory framework for both types of service.

### **Call for comments**

3. In Broadcasting Notice of Consultation 2012-81 (the Call for comments), the Commission called for comments on a revised regulatory framework for PPV services, with the objective of establishing an approach for licensing such services that was the most appropriate for the genre and that would provide a fair, up-to-date, competitive environment for all players. Noting the similarities between VOD and PPV services and that they have historically been subject to similar regulatory requirements, the Commission stated its intention to use the VOD regulatory framework as a baseline with which to revise the PPV regulatory framework. Accordingly, in establishing a regulatory framework for PPV services, the Commission has taken into consideration how it should differ from or resemble the regulatory framework for VOD services. In this regard, the standard conditions of licence, expectations and encouragements for VOD services are set out in the appendix to Broadcasting Regulatory Policy 2011-59-1.
4. The Commission received submissions from licensees of PPV services, associations and guilds representing the production sector, representatives of the film industry, and other broadcasters. 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."

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

5. After examining the public record for this proceeding, the Commission considers that the issues it must address relate to the following:
  - whether PPV services should adhere to a nature of service;
  - Canadian content exhibition requirements;
  - the promotion of Canadian programs;
  - contributions to production funds;
  - support for Canadian feature films;
  - programming packaging;
  - access to the distribution platform;

- linkage;
- advertising;
- the implementation of the Commission's Accessibility Policy;
- the filing of aggregate statistical data on Canadian programming; and
- other issues raised by parties to the present proceeding.

#### **Nature of service**

6. VOD services are licensed according to an open-entry, fully competitive approach. In addition to not being required to adhere to a nature of service condition of licence, such services may broadcast programs from all the program categories set out in the *Pay Television Regulations, 1990* (the Pay Television Regulations).
7. In contrast, when applying for a broadcasting licence to operate a PPV service, an applicant must provide a description of the proposed service and choose program categories from which it would draw programming for the service. If the application is approved, the above are imposed by condition of licence. Further, as is the case for specialty and pay services, PPV services must operate within a particular genre. For example, general interest PPV services primarily broadcast feature films whereas niche PPV services primarily broadcast live sports and special events programming.
8. In the Call for comments, the Commission questioned whether it should continue to require PPV licensees to adhere to a description of their service by condition of licence and restrict the program categories from which programming may be drawn for broadcast.
9. Various BDUs and Score Media Inc. (Score Media) supported an open-entry, fully competitive approach for PPV services, similar to that for VOD services. Rogers Communications Partnership (Rogers) and the Independent Broadcast Group (IBG), on the other hand, favoured the continued imposition of a description of service and of program category restrictions on these services. For their part, the Directors Guild of Canada (Directors Guild), On Screen Manitoba and the Canadian Media Production Association submitted that the frameworks for VOD and PPV services should be aligned. They further submitted, however, that the framework for VOD services is already outdated and should be reviewed to increase its support to Canadian feature film production and presentation.
10. The Commission does not use the nature of service to limit the licensing of PPV services or otherwise circumscribe the activities of these services, as it does with specialty services. Consequently, it considers that nature of service conditions of licence no longer serve a practical purpose for PPV services since these services may already draw programming from most program categories to ensure maximum programming flexibility. Although niche services generally draw programming from a more limited number of categories, these services should also be permitted to access the full range of program categories as they are licensed on a fully competitive basis.

11. Accordingly, the Commission considers that it would be appropriate to licence both general interest and niche PPV services under the same broad criteria similar to those established for VOD services. This would avoid the need for a different set of requirements for each type of PPV service and eliminate the requirement that such services abide by a nature of service condition of licence. In the appendix to the present regulatory policy, the Commission sets out standard requirements for all PPV services. Specifics on these requirements are discussed below.
12. The Commission notes that section 18 of the *Broadcasting Distribution Regulations* requires BDUs to carry at least one “general interest television PPV service,” which is defined as a television PPV service “whose programming is selected – unrestricted by any condition of licence – from any of the categories listed in column 1 of item 6 of Schedule I to the [Pay Television Regulations].” With the Commission’s decision to remove the distinction between “general interest” and “niche” for PPV services, all such services licensed under the present policy will be considered “general interest” for the purposes of section 18 of the *Broadcasting Distribution Regulations*.

#### **Canadian content exhibition requirements**

13. As set out in Broadcasting Regulatory Policy 2011-59-1, licensees of VOD services must ensure that not less than 5% of the English-language feature films and not less than 8% of the French-language feature films in the inventory available to subscribers are Canadian. Further, the feature film inventory must include all new Canadian feature films that are suitable for VOD exhibition and that meet the provisions of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*<sup>1</sup> (the Code). Finally, they must ensure that not less than 20% of all programming other than feature films in the inventory available to subscribers is Canadian.
14. The corresponding requirements for PPV services are more complex. In each broadcast year, licensees of English-language, general interest PPV services are required, by condition of licence, to provide the following:
  - a minimum of twelve English-language Canadian feature films (including all new Canadian feature films suitable for PPV exhibition that meet the provisions of the Code);
  - a minimum of four English-language Canadian-based events; and
  - minimum percentages of Canadian programming as follows: 5% of English-language feature films, and 20% of all program titles other than feature films.
15. Licensees of French-language, general interest PPV services are required, by condition of licence, to provide the following in each broadcast year:

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<sup>1</sup> See Broadcasting Public Notice 2003-10.

- a minimum of 20 Canadian feature films in the original French-language version, or dubbed in French, which have been exhibited in theatres in French-language markets, including all new Canadian feature films suitable for PPV exhibition that meet the provisions of the Code;
  - a minimum of six French-language events in each of years one and two of operation; eight in each of years three and four; ten in each of years five and six; and twelve in year seven of operation; and
  - minimum percentages of Canadian programming as follows: 8% of French-language feature films, and 20% of all program titles other than feature films.
16. Licensees of niche PPV services are required, by condition of licence, to ensure that not less than either 20% or 30% of the total number of hours of live sports events and special events programming in each broadcast year are Canadian.
17. Finally, licensees of bilingual PPV services, in addition to being subject to the requirements for English- and French-language PPV services, must ensure a ratio of 1:3 French- to English-language channels in markets where a bilingual service is offered, with a minimum of five French-language signals as well as the French-language barker channel.
18. In the Call for comments, the Commission sought comments on harmonizing requirements across PPV services, as well as on appropriate Canadian content exhibition levels and how those levels should be measured.

***Harmonization of Canadian content requirements across pay-per-view services***

19. Intervenors generally agreed that requirements relating to the exhibition of Canadian content should be harmonized across English-language, French-language, and bilingual PPV services. Québecor Média inc. (Québecor) proposed that requirements currently in place for English-language services should be imposed on French-language services, but provided no rationale for this change. For its part, the Writers Guild of Canada (Writers Guild) proposed that the required number of English-language feature films provided by English-language PPV services should be equal to the required number of French-language feature films provided by French-language PPV services.
20. Section 3(1)(c) of the *Broadcasting Act* (the Act) states that “English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements.” In this regard, English- and French-language PPV services continue to operate in different markets and each serves the needs of Canadians based on their linguistic preferences. The Commission considers that these different sets of operating realities require tailored approaches for PPV services operating in each language.

21. In light of the above, the Commission finds that the current requirements continue to be appropriate. Accordingly, it will maintain distinct Canadian content exhibition requirements for English- and French-language PPV programming, and for bilingual PPV services, and impose these requirements as standard conditions of licence for PPV services.
22. The Commission notes that section 18 of the *Broadcasting Distribution Regulations* requires BDU licensees operating in anglophone and francophone markets to distribute, respectively, at least one English-language general interest PPV service and at least one French-language general interest PPV service. Therefore, although the requirements will be imposed as one standard set of conditions of licence for PPV services, it will still be necessary to identify the language of operation of a PPV service being distributed for the purposes of the section 18 of the *Broadcasting Distribution Regulations*.

#### ***Measuring Canadian content exhibition levels***

23. In regard to the measurement of Canadian content exhibitions levels, FreeHD Canada Inc. (FreeHD Canada), Telefilm Canada and On Screen Manitoba proposed maintaining the current use of both the number of Canadian titles broadcast and the percentage of Canadian programming over total programming made available. Other interveners proposed adopting either one of the two methods. According to Rogers, services that primarily broadcast feature films should continue to be subject to different regulatory requirements than those imposed on event-based PPV services.
24. The Commission considers that simplified conditions of licence relating to the exhibition of Canadian content that are similar to those currently in place for VOD services would benefit licensees. This is because a single set of simple rules, compared to multiple types of Canadian content requirements, is much easier for licensees to administer and for the Commission to enforce. Accordingly, the new Canadian feature film exhibition requirements would be based uniquely on a percentage of feature films over total programming made available, rather than on both a percentage and a minimum number of Canadian feature films to be broadcast on a yearly basis. These simplified requirements would be applicable only to those PPV services that broadcast feature films, and would serve to maintain an appropriate level of Canadian feature films on all PPV services that broadcast such titles.
25. In regard to the percentage of feature films to be broadcast in each language, the Commission considers that not less than 5% of the English-language feature films in the inventory available to subscribers and not less than 8% of the French-language feature films in the inventory available to subscribers should be Canadian, in accordance with the requirements in this regard for VOD services. Further, if the service offers feature films, the offering should include all new Canadian feature films that are suitable for PPV exhibition and that meet the provisions of the Code. **Conditions of licence** in regard to the above are set out in the appendix to this regulatory policy.

26. In regard to programming other than feature films, general interest PPV services must currently ensure that not less than 20% of such programming made available to subscribers in each broadcast year is Canadian. The corresponding requirement for PPV services that broadcast primarily sports and special events programming is set as a minimum percentage of the total number of hours of live sports and special events programming made available in each broadcast year. In the Commission's view, adopting a requirement for all PPV services whereby not less than 20% of all programming other than feature films available to subscribers in each broadcast year must be Canadian would simplify matters while maintaining an acceptable exhibition level of Canadian programming other than feature films. A **condition of licence** in regard to the above is set out in the appendix to this regulatory policy.
27. Finally, in regard to bilingual PPV services, the Commission considers it appropriate to impose the above requirements for English- and French-language services, and maintain the requirement for a 1:3 ratio of French- to English-language channels, with at least five French-language channels as well as a French-language barker channel. This approach will maintain an acceptable level of French-language programming on bilingual services. A **condition of licence** to that effect is set out in the appendix to this regulatory policy.

#### **Promotion of Canadian programs**

28. Licensees of VOD services must ensure that not less than 25% of the titles promoted each month on their barker channels are Canadian titles. In contrast, licensees of PPV services must ensure that both English- and French-language Canadian feature films are scheduled, repeated and promoted in the same manner as non-Canadian feature films. In the Call for comments, the Commission sought comments on whether PPV services should continue to be subject to the current requirement regarding the promotion of Canadian programs, or, if not, on the most appropriate method of ensuring the promotion of Canadian feature films scheduled by PPV services.
29. FreeHD Canada and the Canadian Association of Film Distributors and Exporters (CAFDE) considered the current requirement to be appropriate. Shaw Communications Inc. (Shaw) questioned the necessity of requiring the promotion of Canadian titles, arguing that the requirement in this regard is less onerous for VOD services and that commercial forces would ensure promotion. Bell Canada and Telefilm Canada submitted that such a requirement should be established at not less than 25% of the titles promoted each month.
30. The condition of licence in this regard for VOD services constitutes a promotional instrument for all types of Canadian programming since it refers broadly to Canadian titles instead of exclusively to Canadian feature films. In contrast, the current condition of licence for PPV services relating to the promotion of Canadian programs provides promotional support only to feature films, and not other types of Canadian programming that may be broadcast by PPV services.

31. Accordingly, the Commission finds it appropriate to maintain the current condition of licence requiring all licensees of PPV services that offer feature films to ensure that Canadian English- and French-language feature films are scheduled, repeated and promoted in the same manner as non-Canadian feature films. Further, the Commission considers it appropriate to require licensees of PPV services that have a barker channel to ensure that not less than 25% of the titles promoted each month on that channel are Canadian titles. A **condition of licence** to that effect is set out in the appendix to this regulatory policy.

#### **Contributions to production funds**

32. As is the case for licensees of VOD services, licensees of PPV services are required, by condition of licence, to contribute 5% of their gross annual revenues to the Canada Media Fund (CMF) or to a certified independent production fund, whether the services are related to a BDU or not.<sup>2</sup> Contributions must take the form of monthly instalments to be remitted within 45 days of month's end, and must represent a minimum of 5% of that month's gross revenues. In the Call for comments, the Commission sought comments on the appropriateness of the current contribution requirement of 5% of gross annual revenues as well as how to define a PPV service's gross annual revenues.

#### ***Appropriateness of the contribution of 5% of gross annual revenues***

33. Most interveners proposed maintaining the current contribution level. The Directors Guild, however, proposed increasing the contribution level, while Shaw proposed lowering it from 5% to 2.5% of gross annual revenues. Given that the current contribution level is consistent with that currently required of licensees of VOD services, the Commission considers it appropriate that licensees of PPV services continue to be subject to a required contribution level of 5% of gross annual revenues.

34. Certain interveners proposed redirecting portions of the contributions to other initiatives. Bell Canada proposed that licensees of PPV services be permitted to direct up to 2% of their gross annual revenues (out of the 5% total) to a new PPV multi-platform fund. Telefilm Canada, On Screen Manitoba and representatives of the creative sector proposed that a significant portion of the 5% contribution be directed to the development and production of theatrical feature films. The Directors Guild, supported by the Writers Guild, proposed the creation of a new independent fund dedicated to such programming.

35. The Commission notes that the CMF, supported by ongoing funding from the Department of Canadian Heritage, plays a fundamental role in producing quality Canadian television programs as well as digital media content for Canadians. The Commission also notes that there are two certified independent production funds – the Harold Greenberg Fund and the recently approved fund administered by

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<sup>2</sup> A "related service" means a service in which the BDU distributing the VOD service, or any of its shareholders, owns, directly or indirectly, 10% or more of the equity of the service.



Telefilm Canada – to which contributions could be directed to support the production of feature films. Both the CMF and certified independent funds provide licensees with choices in how they wish to direct their required contributions. In any event, any proposal to redirect contributions to funds other than the CMF or certified independent production funds would need to be examined by the Commission in the context of a public process. Accordingly, the Commission does not consider it appropriate to allow licensees of PPV services to redirect their production fund contributions to other initiatives as proposed by interveners.

***Definition of a pay-per-view service's gross annual revenues***

36. For the purpose of calculating financial support for independent production, the gross annual revenues of a VOD service affiliated with a BDU distributing the service are 50% of the total VOD-associated retail revenues received from customers by the BDU. For a VOD service that is not a related service, gross annual revenues are the total amounts received from the BDU distributing the service.
37. All BDUs with the exception of Québecor proposed that the gross annual revenues of PPV services should be 50% of the total retail revenues received from BDU customers. Québecor argued that the current contribution regime represents a form of double taxation, as it requires payment by licensees of BDUs and of PPV services, and is based on the revenues collected rather than the revenues kept by licensees of both types of service. It proposed that contributions required by licensees of BDUs and PPV services to an independent production fund be 5% of the revenues that they retain, rather than 5% of the revenues that they collect, whether the BDUs and PPV services are related or not.
38. The current contribution approach applicable to related VOD services was put in place to recognize that it is difficult to disassociate a VOD service from the BDU that is distributing it. This is due in part to the infrastructure needed to operate a VOD service and the fact that VOD services are typically owned and operated by BDUs.
39. In regard to the impact of adopting the VOD approach for related PPV services, the Commission currently does not have any information relating to the amount of retail revenues collected by BDUs for PPV services or to the proportion of those revenues that is currently being passed on to licensees of PPV services as a “wholesale fee.” Consequently, the extent of the impact that adopting the VOD approach would have on PPV services and on contributions to the CMF or to certified independent production funds is unclear.
40. Consequently, the Commission considers it appropriate to maintain the current contribution requirement for PPV services. Accordingly, PPV services shall continue to contribute a minimum of 5% of their gross annual revenues to an existing Canadian independent production fund, as noted above. A **condition of licence** to that effect is set out in the appendix to the present regulatory policy.

### **Support for Canadian feature films**

41. Licensees of VOD services are authorized to exclude the amount remitted to Canadian feature film rights holders as revenue for the purpose of calculating their contributions to a production fund. In addition, some Canadian feature films may be the subject of a negotiated revenue-sharing agreement between the licensee of the VOD service and the rights holder of those films. In this case, any revenues retained by the licensee of the VOD service are counted as gross annual revenues derived from broadcasting activities for the purposes of calculating the contribution to a production fund.
42. The corresponding requirement for PPV services requires licensees to remit 100% of their gross annual revenues earned from the exhibition of English-language Canadian feature films to the rights holders, and 100% of the gross annual revenues earned from the exhibition of French-language films to distributors and providers. For French-language feature films, a minimum of 60% of gross annual revenues are directed to the programming providers.
43. In the Call for comments, the Commission sought comments on whether the approach for VOD services should be adopted for PPV services; on the appropriate percentage of revenues earned from the exhibition of Canadian feature films that should be remitted to the rights holders of those films; and on whether it continues to be appropriate to distinguish between the distribution of revenues from the exhibition of English- and French-language films.

### ***Positions of parties***

44. CAFDE stated that the approach currently in place for PPV services is satisfactory. In contrast, Shaw, Québecor, FreeHD Canada and representatives of the creative sector proposed adopting the VOD approach for PPV services.
45. Bell Canada, Shaw and Québecor also proposed that licensees of PPV services should be authorized to exclude the amount remitted to Canadian feature film rights holders as revenues for the purpose of calculating contributions to a production fund. They argued that the current requirement prevents them from recovering their costs for the exhibition of such films and serves as a disincentive to exhibit them beyond the minimum requirements. These interveners further proposed that feature films be the subject of a negotiated revenue-sharing agreement between the licensee of the PPV service and the rights holders of Canadian feature films. For its part, FreeHD Canada proposed lowering the percentage of gross annual revenues to be remitted from 100% to 80% to allow BDUs to recover promotional, administrative and technical costs for the distribution of Canadian films. CAFDE and Telefilm Canada, on the other hand, proposed maintaining the 100% requirement.
46. Finally, Bell Canada and Shaw proposed that the distribution of revenues for both English- and French-language Canadian feature films should be subject to negotiation. Accordingly, Bell Canada argued that the distinction between the

distribution of revenues earned from the exhibition of English- and French-language films be removed. FreeHD Canada and Telefilm Canada proposed maintaining this distinction.

### **Commission analysis and decisions**

47. In the Commission's view, the percentage of gross annual revenues earned from the exhibition of Canadian feature films that PPV services are currently required to remit to rights holders of English-language feature films and to distributors and providers of French-language feature films offers a small but important type of financial support for such films. Further, it considers the costs to PPV licensees of promotional, administrative and technical support for Canadian feature films to be minimal. Accordingly, the Commission concludes that no changes should be made to these requirements.
48. Further, allowing licensees of PPV services to exclude the remitted amounts from their gross annual revenues for the purpose of calculating contributions to a production fund would allow those licensees to recover the costs associated with the exhibition of these films and ensure that there is no disincentive to offering or promoting Canadian films. Accordingly, the Commission considers that the same exclusion applicable to licensees of VOD services should be granted to licensees of PPV services. An amended **condition of licence** in this regard is set out in the appendix to the present regulatory policy.
49. The Commission notes that the licensees of four PPV services currently in operation must remit to rights holders 100% of the gross revenues earned from the exhibition of **two** Canadian-based events per year. However, as the Call for comments did not seek comments on this requirement, interveners did not have an opportunity to provide their views. Moreover, licensees of PPV services do not report in their annual returns the revenues remitted to the rights holders for Canadian-based events. The Commission is therefore not aware of the level of support this requirement provides for the production of Canadian-based events. Accordingly, the Commission considers that this requirement should not be included in the standard conditions of licence for PPV services. However, it may wish to discuss its relevance with individual licensees at the time of licence renewal for their services.

### **Programming packaging**

50. VOD services may offer programming packages of more than one week in duration, with the proviso that subscription packages must not be competitive with any Canadian linear pay or specialty service. In contrast, PPV services offering programming packages must ensure that the total period during which the programming is to be viewed does not exceed one week.
51. In Public Notice 2000-172, citing the competitive pressure that the launch of new VOD services could place on PPV services, the Commission stressed the importance of equal packaging flexibility for both types of service. Further, it noted that some

packages of events programming (for example, seasonal sports or Christmas concert series) make attractive programming packages that naturally continue longer than one week. Accordingly, it excluded from the one-week limitation packages comprised exclusively of events, with the proviso that the events programming must be limited to the events themselves and not include “wrap-around” programming (i.e., any other programming that is offered together with the live event itself, such as pre- or post-commentaries of the event) that would tend to give the package the characteristics of a specialty service.

52. In the Call for comments, the Commission sought comments on whether PPV services should have the same packaging flexibility as VOD services or remain subject to the current restriction, and on an appropriate safeguard to ensure that PPV programming packages do not compete with Canadian linear discretionary services.

#### ***Positions of parties***

53. BDUs agreed that PPV services, like VOD services, should be authorized to offer programming packages exceeding one week in duration. Whereas Bell Canada submitted that this flexibility should also include the wrap-around programming, even if this makes the PPV service competitive with a licensed pay or specialty service. Score Media argued against such inclusion and, along with the IBG, argued against the removal of packaging restrictions for general interest PPV services as it would result in PPV services operating in a manner similar to subscription-based specialty services. Saskatchewan Telecommunications (SaskTel) submitted that existing packaging flexibility for sports events should remain even if this leads to competition with linear Category C sports services.
54. Most BDUs questioned the need for safeguards to ensure that programming packages offered by PPV services do not compete with Canadian Category A services. Bell Canada and Shaw added that, to the extent that safeguards are needed, the same rules applicable to subscription VOD could be applied to PPV services. According to Rogers, excluding wrap-around programming from the PPV packages exceeding one week in duration remains an appropriate safeguard to prevent those packages from competing directly with Category A services.

#### ***Commission analysis and decisions***

55. A certain level of flexibility in programming package offerings (such as seasonal sports and concert series) has been provided to PPV services since their inception. In the Commission’s view, additional flexibility for such services is not likely to harm other licensed services. Accordingly, the Commission considers that the one-week limitation on PPV programming packages is no longer appropriate.
56. The Commission further considers, however, that a modified version of the packaging restriction for VOD services would be appropriate for PPV services as it would make programming packages available while ensuring that the PPV services do not become directly competitive with existing Category A services or Category C mainstream

sports services, both of which have more onerous regulatory obligations. Accordingly, licensees of PPV services shall be prohibited from offering either (a) a non-Canadian subscription PPV package that is directly competitive with a Canadian linear pay or specialty service or (b) a Canadian subscription PPV package that is directly competitive with a genre-protected Canadian linear pay or specialty service, unless the package is an extension of that Canadian linear pay or specialty service or a package exclusively comprised of live events that does not include any wrap-around programming. A **condition of licence** to that effect is set out in the appendix to this regulatory policy.

#### **Access to the distribution platform**

57. As stated in Broadcasting Regulatory Policy 2010-190, given that server capacity is generally not an issue on the VOD platform and that there is no reason to impose limits on the availability of any type of programming on that platform, it was no longer necessary to apply the prohibition on the distribution by VOD services of programming produced by the licensee or a related party. Since then, licensees of VOD services have been authorized to distribute programming produced by that licensee through exceptions to sections 3(2)(e) and 3(2)(f) of the Pay Television Regulations. In contrast, pursuant to a condition of licence incorporating those same sections, the licensee of a PPV service is prohibited from distributing a program that it has produced or that is produced by a related undertaking.
58. In the Call for comments, the Commission sought comments on whether PPV services should continue to be prohibited from distributing programming produced by themselves or by related undertakings.
59. Whereas CAFDE supported the continued prohibition for feature films, interveners were generally in favour of allowing PPV services, like VOD services, to distribute programming that they produce or that is produced by related undertakings. Bell Canada, Rogers and Score Media indicated that any third-party complaints over the removal of this prohibition can be effectively dealt with through the undue preference provision set out in section 6.1 of the Pay Television Regulations. The IBG admitted that this prohibition may no longer be relevant, but expressed concern over the ability of unrelated broadcasters to offer branded content through PPV platforms in a manner that is similar to how a BDU may offer branded content provided by related broadcasting services.
60. In the Commission's view, removing this prohibition may incentivize licensees of PPV services to increase their offering of Canadian programs. In regard to the view expressed by CAFDE, the Commission notes that this would most likely not result in a significant increase in the broadcast of self-produced feature films by licensees of PPV services. Accordingly, the Commission considers it appropriate to eliminate this prohibition for PPV services and to set out for such services exceptions to sections 3(2)(e) and 3(2)(f) of the Pay Television Regulations. A **condition of licence** to that effect is set out in the appendix to the present regulatory policy.

## **Linkage**

61. Licensees of PPV services are currently prohibited, by condition of licence, from entering into an affiliation agreement with the licensee of a terrestrial or DTH BDU unless the agreement incorporates a prohibition against the linkage of the licensee's PPV service with any non-Canadian discretionary service.
62. In the Call for comments, the Commission indicated that the elimination of packaging rules as of 31 August 2011 pursuant to Broadcasting Regulatory Policy 2011-455 rendered that condition of licence obsolete, and requested comments on its continued relevance. All interveners agreed that the condition of licence should be eliminated.
63. In light of the above, the above-noted condition of licence has not been retained in the standard conditions of licence for PPV services.

## **Advertising**

64. In Broadcasting Regulatory Policy 2010-190, the Commission granted VOD services permission to offer advertising under certain limited circumstances, in order to offset the costs of acquiring VOD rights to programming and help create a viable business model for VOD. Specifically, the Commission only permitted advertising in (a) VOD programming acquired directly from an unrelated licensed Canadian broadcaster or from a related broadcaster that has also acquired the linear rights to the program, or (b) the licensee's community programming in accordance with the *Broadcasting Distribution Regulations*. Certain PPV services have already been granted a similar authority.
65. In Broadcasting Regulatory Policy 2011-59-1, the Commission further noted that any commercial messages broadcast on a VOD service would be subject to the measures to control the loudness of commercial messages set out in *ATSC Recommended Practice A/85: Techniques for Establishing and Maintaining Audio Loudness for Digital Television* (the Recommended Practice).
66. In the Call for comments, the Commission sought comments on various questions relating to the broadcast of advertising on PPV services. In the following sections, the Commission addresses whether it would be appropriate to grant PPV services – both terrestrial and DTH – the same flexibility with respect to advertising as VOD services, and on whether licensees of PPV services, if granted authorization to broadcast commercial messages, should be required to ensure that commercial messages comply with the technical requirements set out in the Recommended Practice.

## **Broadcast of advertising on pay-per-view services**

67. Most BDUs and Score Media agreed that both terrestrial and DTH PPV services should be authorized to broadcast advertising. Moreover, BDUs and the IBG submitted that the authorization to broadcast advertising granted to VOD services should be granted to PPV services. Score Media proposed that any PPV service

should be permitted to broadcast advertising messages provided that (i) the message was already included in a previous broadcast of the programming, and (ii) the programming is only offered pursuant to an agreement with an unrelated licensed Canadian programming service. Shaw added that PPV services should be authorized to sell local availabilities<sup>3</sup> in sports events licensed to them from non-Canadian sources, as this would increase the ability of PPV services to financially contribute to the Canadian broadcasting system.

68. Due to the types of programming that they offer, authorizing PPV services to avail themselves of the same advertising opportunities available to VOD services would likely provide them with only limited benefits. However, in the Commission's view, there is no evidence to justify why PPV services should not be permitted to avail themselves of those same advertising opportunities. Accordingly, the Commission considers it appropriate to grant PPV services the same authorization currently in place for VOD services. A **condition of licence** to that effect is set out in the appendix to the present regulatory policy.
69. With respect to Shaw's proposal regarding local availabilities, the Commission considers that the potential impact of permitting licensees of PPV services to sell local availabilities in sports events licensed to them from non-Canadian sources is uncertain. However, it is clear that such permission would provide services with a direct incentive to offer U.S. programs containing local availabilities rather than Canadian programs. Further, the Commission notes that in a number of proceedings, it has consistently dismissed proposals to insert commercial messages in the local availabilities of non-Canadian services.<sup>4</sup> It also notes that no new information has been brought to its attention that would warrant a departure from the current policy in this regard. Consequently, the Commission does not consider it appropriate to allow licensees of PPV services to sell advertising in local availabilities.

#### ***Loudness of commercial messages***

70. According to most BDUs and Score Media, should PPV services be granted authorization to broadcast commercial messages, those commercial messages should be required to comply with the technical requirements set out in the Recommended Practice.
71. The Commission notes that it has amended the various regulations and exemption orders to implement measures to control the loudness of commercial messages applicable to all distributors and broadcasters involved in the Canadian broadcasting system. Consequently, it considers that the same requirement should be imposed on PPV services. A **condition of licence** to that effect is set out in the appendix to this regulatory policy.

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<sup>3</sup> "Local availabilities" refers to the approximately two minutes per hour of air time set aside in the programming of certain U.S. satellite programming services for use by distributors to insert their own advertising or promotional messages.

<sup>4</sup> See Broadcasting Public Notice 2006-69 and Broadcasting Regulatory Policy 2010-189.

## **Implementation of the Accessibility Policy**

72. In Broadcasting Public Notice 2007-54, the Commission indicated that it would require all English- and French-language broadcasters to close caption 100% of their programs over the broadcast day, with the exception of advertising and promos, beginning in the first year of the licence term.
73. Further, in the Accessibility Policy (see Broadcasting and Telecom Regulatory Policy 2009-430), the Commission stated its intention to require broadcasters to adhere to the quality standards on closed captioning developed by the television industry's working groups once such standards are approved by the Commission. The Commission also stated that it intended to require broadcasters to implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal, and this captioning reaches the distributor of that signal in its original form.
74. In the Accessibility Policy, the Commission considered that persons with disabilities should be able to access programming with described video<sup>5</sup> from both the public and private broadcasters, in both French and English. In addition, it stated that basic levels of described video should be available on a wide variety of services. It also set out its intention to apply, through conditions of licence, the existing described video requirements not only to English-language private broadcasters but also to French-language private broadcasters and to the Canadian Broadcasting Corporation. It further set out its intention to consider expanding the types of licensees to which it would apply described video requirements in the future. In its implementation of the Accessibility Policy, the Commission generally expected licensees that do not currently have a condition of licence relating to described video to acquire and make available described versions of programming whenever possible. Similarly, in the Accessibility Policy, the Commission discussed the importance of audio description.<sup>6</sup>

### **Current requirements**

75. VOD services licensed or renewed since the introduction of the Accessibility Policy are subject to the closed captioning policy set out in Broadcasting Public Notice 2007-54, as well as the quality standards set out in Broadcasting Regulatory Policies 2011-741, 2011-741-1 and 2012-362. In addition, these services are subject to the standard accessibility conditions of licence and expectations set out in the Accessibility Policy.

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<sup>5</sup> "Described video" (also referred to as video description or described narrative) is a narrated description of a program's main visual elements, such as settings, costumes, or body language. The description is added during natural pauses in dialogue, and enables people to form a mental picture of the program. Described video uses a separate audio track.

<sup>6</sup> "Audio description" uses an on-air program host or announcer to provide a basic voice-over, reading text and describing graphics that appear on the screen. Audio description is often used for newscasts, weather reports, sports scores or financial data, and is best suited to live, information-based programming.



76. In regard to PPV services, the Commission noted in Broadcasting Public Notice 2007-54 that it intended to implement the closed captioning policy set out in that public notice by imposing appropriate conditions of licence at the time of licence renewal or when licences are first issued. Accordingly, PPV services for which the licences have been renewed or approved since the issuance of Broadcasting Public Notice 2007-54 are now subject to a condition of licence requiring them to close caption 100% of their programs over the broadcast day. Remaining PPV services are subject to a requirement to close caption 90% of their programs over the broadcast day. PPV services are not subject to a requirement to offer audio description and/or described video.

### ***Positions of parties***

77. In the Call for comments, the Commission sought comments on whether the implementation of the above-noted requirements is appropriate for PPV services.

78. Most BDUs as well as the Centre québécois de la déficience auditive considered the application of the Accessibility Policy to PPV services to be appropriate. Québecor, however, submitted that it would be inappropriate to require licensees of PPV services to close caption 100% of their programs, given the costs involved in captioning programs that are not already closed captioned and that certain genres of programming (i.e., adult programming) do not require captioning. Québecor also opposed requiring PPV services to offer described video, given the difficulty of describing live events and the low availability of described feature films. Rogers and SaskTel submitted that a 100% closed-captioning requirement is not appropriate for PPV services focused on offering live events programming. Rogers and Bell Canada proposed that in the case of sports programming, which they qualified as highly descriptive in nature, an expectation that licensees of PPV services provide described video would suffice with no additional regulatory intervention.

### ***Commission analysis and decisions***

79. Although parties that commented on this issue generally opposed the full application of the Accessibility Policy on PPV services, the Commission reminds parties that the requirements of the Accessibility Policy were developed through considerable consultation. It considers that accessibility requirements for PPV services should be consistent not only with that policy, but also with section 3.(1)(p) of the Act.<sup>7</sup> Consequently, the Commission finds that:

- the Accessibility Policy should apply to all PPV services;
- no changes should be made to the standard accessibility conditions of licence and expectations set out the Accessibility Policy, which reference the closed

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<sup>7</sup> Section 3 (1)(p) of the Act reads as follows: “It is hereby declared as the broadcasting policy for Canada that [...] programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose.”

captioning quality standards outlined in Broadcasting Regulatory Policies 2011-741, 2011-741-1 and 2012-362; and

- the application of the Accessibility Policy to PPV services should mirror the standard requirements for VOD services, which are set out in Broadcasting Regulatory Policy 2011-59-1.

80. Accordingly, the Commission has set out, in the appendix to the present regulatory policy, **conditions of licence** and an expectation relating to closed captioning for PPV services; an expectation relating to the provision of described video for such services; and an expectation that licensees of such services provide audio description of all programming that provides textual or graphic information, including programming broadcast on the barker channel. As per the standard approach taken with licensees of other types of programming services, the Commission will adopt a case-by-case approach for individual applicants requesting flexibility in meeting accessibility requirements. Applicants may therefore propose alternative accessibility commitments, accompanied by specific, detailed financial evidence to justify exceptions.

#### **Filing of aggregate statistical data on Canadian programming**

81. As of 2012, licensees of VOD services are required to file aggregate statistical data as part of their annual returns. The Commission considered it appropriate to request this information to ensure licensees' compliance with regulatory requirements and to obtain statistical data. In the Commission's view, it is equally important for the same reasons to collect this data from PPV services. Accordingly, the Commission will require licensees of PPV services to provide, as of fall 2014, the following information as part of their annual returns:

- the total number of programs broadcast during the broadcast year;
- the total number of Canadian programs broadcast during the broadcast year;
- the total number of Canadian feature films broadcast during the broadcast year;
- a breakdown of programs in both official languages;
- the total number of orders of Canadian programs;
- the total number of orders of non-Canadian programs;
- the total number of orders of Canadian feature films;
- the total number of orders of non-Canadian feature films; and
- the amount of revenues remitted to Canadian feature film rights holders.

## Other issues

82. Certain parties proposed other changes regarding the current regulatory framework for PPV services, including the elimination of the prohibition on the offer of exclusive content contained in section 6.1(2) of the Pay Television Regulations; the deletion of the provision that deems PPV and VOD services to be Category B services for the purpose of the 3:1 access rule set out in the *Broadcasting Distribution Regulations*; the addition of a safeguard ensuring the distribution of unrelated Category B services or of subscription PPV services by BDUs; the creation of a new type of PPV broadcasting licence for small BDU systems; and the establishment of an exemption order for PPV services.
83. The Commission notes that a number of these proposed changes would entail amendments to the Pay Television Regulations or the *Broadcasting Distribution Regulations*, which would require further public consultation. The Commission also notes that provisions in these regulations and other Commission policies already provide appropriate safeguards or mechanisms to address some of the concerns expressed. Moreover, the Commission considers that some of these proposals lie outside the scope of the present proceeding. Consequently, the Commission considers that it would not be appropriate to implement any of these proposals at the present time.

Secretary General

## Related documents

- *Quality standards for English-language closed captioning*, Broadcasting Regulatory Policy CRTC 2012-362, 5 July 2012
- *Call for comments on a revised licensing framework for pay-per-view services*, Broadcasting Notice of Consultation CRTC 2012-81, 9 February 2012, as amended by Broadcasting Notices of Consultation CRTC 2012-81-1, 9 March 2012 and 2012-81-2, 11 May 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
- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011
- *Standard requirements for video-on-demand undertakings – Provision of an outlet for local expression, measures to control the loudness of commercial messages and annual filing of aggregate statistical data*, Broadcasting Regulatory Policy CRTC 2011-59-1, 8 May 2012

- *Regulatory framework for video-on-demand undertakings*, Broadcasting Regulatory Policy CRTC 2010-190, 29 March 2010
- *Commercial advertising in the local availabilities of non-Canadian services*, Broadcasting Regulatory Policy CRTC 2010-189, 29 March 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Promotion of non-programming services using local availabilities*, Broadcasting Public Notice CRTC 2006-69, 2 June 2006
- *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003
- *Introductory statement to Decisions CRTC 2000-733 to 2000-738: Licensing of new video-on-demand and pay-per-view services*, Public Notice CRTC 2000-172, 14 December 2000

# **Appendix to Broadcasting Regulatory Policy CRTC 2013-561**

## **Standard conditions of licence and expectations for pay-per-view programming undertakings**

### **Conditions of licence**

#### **Regulations**

1. The licensee shall adhere to the *Pay Television Regulations, 1990*, as amended from time to time, with the exception of sections 3(2)(d), 3(2)(e), 3(2)(f) and 4.

#### **Exhibition of Canadian content**

2. If feature films are offered, not less than 5% of the English-language feature films and not less than 8% of French-language feature films available to subscribers in each broadcast year shall be Canadian.
3. If feature films are offered, the feature film offering shall include all new Canadian feature films that are suitable for pay-per-view exhibition and that meet the provisions of *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003, as amended from time to time and approved by the Commission.
4. Not less than 20% of all programming other than feature films available to subscribers in each broadcast year shall be Canadian.
5. Where a bilingual service is offered, the licensee shall maintain the channels in a ratio of French to English of 1:3, with a minimum of five French-language signals in addition to the French-language barker channel.

#### **Promotion of Canadian feature films**

6. If feature films are offered, the licensee shall ensure that Canadian feature films are scheduled, repeated and promoted in the same manner as non-Canadian feature films.
7. If a barker channel is provided, the licensee shall ensure that at least 25% of the titles promoted each month on its barker channel are Canadian titles.

#### **Contribution to Canadian programming**

8. The licensee shall contribute at least 5% of its gross annual revenues to an existing Canadian independent production fund administered independently of its undertaking. Contributions shall take the form of monthly instalments, to be remitted within 45 days of month's end, and shall represent at least 5% of that month's gross revenues.

### **Support for feature films**

9. The licensee shall remit:

- a) 100% of the gross revenues earned by the licensee from the exhibition of English-language Canadian feature films to the rights holders of these films;
- b) 100% of the gross revenues earned by the licensee from the exhibition of French-language Canadian feature films to distributors and providers, with a minimum of 60% to the programming providers;
- c) The licensee will be permitted to exclude the amount remitted to Canadian feature film rights holders for English-language feature films and to distributors and providers for French-language feature films as revenue for the purpose of calculating the contribution to a production fund required under condition of licence 8.

### **Programming packages**

10. The licensee is prohibited from offering to its subscribers: a) a non-Canadian subscription pay-per-view (PPV) package that is directly competitive with a Canadian linear pay or specialty service, or b) a Canadian subscription PPV package that is directly competitive with a genre-protected Canadian linear pay or specialty service, unless the package is an extension of this Canadian linear pay or specialty service or a package exclusively comprised of live events that does not include any “wrap-around programming.”

For the purposes of this condition of licence, “wrap-around programming” means any other programming that is offered together with the live event itself (for example, pre-or post-commentaries of the event).

### **Advertising**

11. The licensee shall not include as part of its pay-per-view offering any program containing a commercial message except under the following circumstances:

- a) the commercial message
  - i. is inserted by the licensee in a program that is obtained from a Canadian programming undertaking that is not a related Canadian programming undertaking;
  - ii. is inserted by the licensee in a program that is obtained from a related licensed Canadian programming undertaking that has acquired the right to broadcast the program on its linear Canadian programming service(s); or

- iii. was already included in a program previously broadcast in Canada by a non-Canadian programming service authorized for distribution in Canada;
- b) if the commercial message is included in a program by virtue of 11(a)(i) or 11(a)(ii), the program's inclusion as part of the pay-per-view offering must be the subject of a written agreement entered into with the programming undertaking that owns the rights to the program;
- c) the commercial message complies with the *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission; and
- d) the commercial message complies with the technical requirements set out in *ATSC Recommended Practice A/85: Techniques for Establishing and Maintaining Audio Loudness for Digital Television*, published by the Advanced Television Systems Committee Inc., as amended from time to time.

For the purposes of this condition of licence, "related Canadian programming undertaking" means a Canadian programming undertaking of which the licensee and/or an affiliate controls more than 10% of the total shares issued and outstanding.

12. The licensee may broadcast a commercial message directly or indirectly advertising an alcoholic beverage only if:
- a) the sponsor is not prohibited from advertising the alcoholic beverage by the laws of the province in which the commercial message is broadcast;
  - b) the commercial message is not designed to promote the general consumption of alcoholic beverages; and
  - c) the commercial message complies with the *Code for Broadcast Advertising of Alcoholic Beverages* published by the Commission on 1 August 1996.

Paragraph (b) does not prohibit industry, public service or brand preference advertising.

For the purposes of this section, "commercial message" has the same meaning as that set out in the *Pay Television Regulations, 1990*.

#### **Accessibility**

13. The licensee shall caption 100% of the English- and French-language programs in its program schedule, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.

14. The licensee shall adhere to the quality standards on closed captioning developed by the television industry's working groups, as amended from time to time and approved by the Commission.
15. The licensee shall have a monitoring system in place to ensure that for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. "Original form" means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.

#### **Industry codes**

16. The licensee shall adhere to the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
17. The licensee shall adhere to the *Pay television and pay-per-view programming code regarding violence*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
18. The licensee shall adhere to the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.

#### **Programming list**

19. The licensee shall maintain for a period of one year and submit to the Commission upon request a detailed list of programs broadcast on each channel. The list must identify each program broadcast, its key features, its program category, whether the program is an event, the language of the program, whether it is Canadian or non-Canadian, whether captioning and/or video description is available, whether it is produced by the licensee, and the time and dates of broadcast.

#### **Programming in high definition**

20. The licensee is authorized to make available for distribution both a standard definition and a high definition version of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.



### **Aggregate statistical data**

21. As part of its annual return on 30 November of each year, the licensee shall file aggregate statistical data for the previous broadcast year ending 31 August concerning the following:

- the total number of programs broadcast during the broadcast year;
- the total number of Canadian programs broadcast during the broadcast year;
- the total number of Canadian feature films broadcast during the broadcast year;
- a breakdown of programs in both official languages;
- the total number of orders of Canadian programs;
- the total number of orders of non-Canadian programs;
- the total number of orders of Canadian feature films;
- the total number of orders of non-Canadian feature films; and
- the amount of revenues remitted to Canadian feature film rights holders.

### **Expectations**

#### **Programming offering in both official languages**

The Commission expects the licensee to make its programming offering available to the maximum extent possible in both official languages.

#### **Accessibility**

When captions are available, the Commission expects the licensee to provide viewers with a captioned version of all advertising, sponsorship messages and promos offered in its programming.

The Commission expects the licensee to acquire and make available described versions of programming, where possible, and to ensure that its customer service responds to the needs of persons with a visual impairment, as set out in *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009.

The Commission expects the licensee to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

The Commission expects the licensee to provide an audio description of all programming that provides textual or graphic information, including programming broadcast on the barker channel.

### **Adult programming**

If the licensee broadcasts adult programming, the Commission expects the licensee to provide its proposed internal policy on adult programming at least one month prior to the implementation of the service, as required by the Commission in *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003, as amended from time to time and approved by the Commission. The Commission further expects that any future changes made by the licensee to its internal policy on adult programming will be submitted for Commission approval prior to their implementation.

Where applicable, the Commission expects the licensee to adhere to its internal policy on adult programming once reviewed and approved by the Commission.

### **Cultural diversity**

The Commission expects the licensee to endeavour through its programming and employment opportunities to reflect the presence in Canada of ethnocultural minorities, Aboriginal peoples and persons with disabilities. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.

### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992 (Public Notice 1992-59):

- if the licensee has 100 or more employees, it is subject to the *Employment Equity Act*.
- if the licensee has between 25 and 99 employees, the Commission expects the licensee to have in place an employment equity plan that addresses the equitable representation of the four designated groups (women, Aboriginal peoples, persons with disabilities and visible minorities), as set out in Public Notice 1992-59 and in *Amendments to the Commission's Employment Equity Policy*, Public Notice CRTC 1997-34, 2 April 1997. In implementing its employment equity plan, the Commission further expects the licensee to:
  - ensure that the details of the licensee's employment equity policies are communicated to managers and staff;
  - assign a senior level person to be responsible for tracking progress and monitoring results; and
  - dedicate financial resources to the promotion of employment equity in the workplace.