



## Broadcasting Notice of Consultation CRTC 2014-85

PDF version

Route reference: 2011-438

Ottawa, 27 February 2014

### **Call for comments on proposed amendments to various regulations, to the standard conditions of licence for video-on-demand undertakings, and to certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages**

*The Commission calls for comments on proposed amendments to certain of its rules, so as to require the broadcasting industry to participate in the national emergency alerting system. The rules in question relate to the Radio Regulations, 1986, the Television Broadcasting Regulations, 1987, the Broadcasting Distribution Regulations, the standard conditions of licence for video-on-demand undertakings, and exemption orders governing the operation of certain types of undertakings. The proposed amendments would implement the mandatory distribution of emergency alert messages by 31 December 2014, thereby ensuring that Canadians receive timely warnings of imminent perils.*

*The Commission also calls for comments on certain policy considerations relating to emergency alerting.*

*The deadline for the receipt of comments is **31 March 2014**.*

#### **Introduction**

1. The Commission proposes to amend the *Radio Regulations, 1986*, the *Television Broadcasting Regulations, 1987* and the *Broadcasting Distribution Regulations*, the standard conditions of licence for video-on-demand (VOD) undertakings, and exemption orders governing the operation of certain types of undertakings in order to implement the mandatory distribution of emergency alert messages by radio and over-the-air (OTA) television stations, VOD undertakings and broadcasting distribution undertakings (BDUs).

#### **Background**

2. Emergency alert messages are issued by public officials (such as emergency management officials (EMOs)) for immediate distribution to the public to warn of dangers to life and property. These messages contain information relating to the nature of the threat, the area affected, and actions the public should take. For the present notice, the Commission is focusing on emergency alert messages relating to imminent or unfolding dangers to life (including but not limited to tornadoes, forest

fires, industrial disasters and tsunamis) and for which an immediate public call to action is required.

3. The provision of emergency alert messages is achieved through the National Public Alerting System (NPAS). At the core of the NPAS is the National Alert Aggregation and Dissemination (NAAD) System, which is operated by Pelmorex Communications Inc. (Pelmorex). Launched in June 2010, the NAAD System authenticates alerts issued by public officials and disseminates these messages to broadcasters, BDUs and other parties for distribution to the public.

#### **Agreements with alert issuers**

4. In Broadcasting Decision 2011-438, the Commission stated that the participation of all EMOs is essential for the NAAD System to be effective, and that all federal, provincial and territorial (FPT) government EMOs must therefore be authorized to issue emergency alert messages through the system. Accordingly, the Commission required Pelmorex to execute NAAD System User Agreements with all FPT government EMOs. Pelmorex finalized agreements with all FPT government EMOs, including Environment Canada, in early 2012.
5. For its part, the Government of Alberta has operated its Alberta Emergency Alert (AEA) System, a system with similar functionality to the NPAS, since 1992. As part of that system, the Government of Alberta has installed equipment in several Albertan broadcasting facilities to enable the distribution of alerts to Albertans. The NPAS complements Alberta's existing system. The Commission's efforts relating to the NPAS have been complementary to the operation of the AEA System serving Albertans.

#### **Participation of the broadcasting industry in the NPAS**

6. In Broadcasting Decision 2011-438 the Commission expressed the view that the broadcasting system has a vital role to play in the provision of emergency alert messages to Canadians. It remains of that view today. In that decision, the Commission also set out an expectation for all broadcasting licensees to voluntarily participate in the NPAS. Holding a broadcasting licence is a privilege. Broadcasters and BDUs have a duty to inform the public of imminent perils.
7. As noted in Broadcasting Public Notice 2007-20 and Broadcasting Decision 2011-438, broadcasters and BDUs have stated their intentions to distribute alerts. In particular, in the process leading to the issuance of Broadcasting Decision 2011-438, several BDUs (Shaw Communications Inc., Quebecor Media Inc., Cogeco Cable Inc. and Rogers Communications Inc.) and the Bell Companies indicated that they would be able to distribute alerts to Canadians by early 2012. The Commission notes its determination set out in Broadcasting Decision 2013-263 that the Canadian Broadcasting Corporation's (CBC) radio stations should be required to participate in the NPAS, and imposed a condition of licence to that effect.

8. The Commission notes that since 2011, the ministries responsible for emergency management for the provinces of Prince Edward Island, Quebec, Ontario, Manitoba and British Columbia have intervened in a number of licensing or licence renewal proceedings to seek commitments from licensees to participate in the NPAS.
9. In its [Three-Year Plan 2013-2016](#), the Commission stated that it would take measures in the 2013-2014 fiscal year to ensure the participation of the Canadian broadcasting and telecommunications system in the NPAS. Further, it notes that it received a letter from the Federal/Provincial/Territorial Deputy Ministers Responsible for Emergency Management, dated 20 January 2014, requesting that the Commission require all commercial broadcasters and BDUs to distribute emergency alert messages to the Canadian public by the end of 2014.

#### **Issues raised by the broadcasting industry**

10. Over the past few years, broadcasters and BDUs have attributed their lack of participation in the NPAS to several unresolved matters. In particular, the industry has indicated that equipment and technical solutions are not available to enable the distribution of alerts, and that they require clear business and technical rules related to the operation of the NPAS.
11. The Commission notes that the Senior Officials Responsible for Emergency Management<sup>1</sup> (SOREM) have subsequently developed, in cooperation with broadcasters, specifications and recommended practices for alerting authorities, broadcasters, and other last-mile distributors. The [Guidance 1.0](#) was published by the Canadian Association for Public Alerting and Notification (CAPAN), at the request of SOREM, on 26 May 2013.
12. The Commission also notes that equipment is currently available to distribute alerts on broadcasting platforms and that this equipment could be readily modified to accommodate the distribution of alerts via the broadcasting system.<sup>2</sup> Finally, two Canadian suppliers of alerting equipment, in letters filed with the Commission, have offered technical solutions that comply with the *NPAS Common Look and Feel Guidance*.

#### **Next steps**

13. In Broadcasting Decision 2011-438, the Commission stated that it expected all television and radio stations, as well as BDUs, to participate in the NPAS. It also stated that a review may be initiated in 2013 should further measures be required to ensure full participation of the broadcasting industry.

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<sup>1</sup> This body consists of public officials designated by FPT governments, and is the authoritative body for emergency management in Canada.

<sup>2</sup> See Broadcasting Decision 2013-239.

14. The participation of broadcasters and BDUs in the NPAS is a key component to ensure that all Canadians are able to receive timely warnings of imminent perils via their broadcasting system. The Commission notes, however, a lack of participation by industry players. Accordingly, in the summer of 2013, Commission staff sent letters to broadcasters and BDUs requesting information relating to their participation in the NPAS. The Commission notes that the responses demonstrated a lack of uniformity across the industry. For example, a few broadcasters noted that they are currently distributing emergency alert messages to the public – the Commission commends these broadcasters. However, certain broadcasters stated that they would be prepared to distribute alerts only by the end of 2014. Others indicated that they were in preliminary stages of developing solutions to enable alerting or stated an inability to participate. Finally, certain parties expressed the view that all broadcasters and BDUs should begin distributing alerts in the same timeframe.
15. In light of all of the above, the Commission considers it appropriate to require the participation of broadcasters and BDUs in the NPAS.

### **Proposed amendments**

16. In order to require the participation of BDUs, radio and OTA television broadcasters, and VOD undertakings in the NPAS, the Commission proposes to make the amendments set out in the appendices to the present notice.

### **Identification of emergency alert messages for immediate broadcast**

17. Pursuant to the proposed amendments, broadcasters, BDUs and VOD undertakings would be required to distribute emergency alert messages that announce imminent or unfolding dangers to life. SOREM has created a list of emergency alert messages that represent an imminent or actual event of major proportion with significant threat to life, and for which an immediate public call to action is required. In Broadcasting Decision 2011-438, the Commission found that SOREM's criteria for broadcast intrusive alerts satisfies the conditions of section 7(d) of the *Broadcasting Distribution Regulations*, which authorizes BDUs to interrupt a programming service without the programmer's consent in order to distribute such messages (commonly referred to as "broadcast intrusive" alert messages). The NAAD System alert feed identifies alerts designated for immediate broadcast through the use of a "broadcast intrusive flag," based on SOREM's criteria.

### **Format and target audience of emergency alert messages**

18. Pursuant to the proposed amendments, a broadcast intrusive emergency alert message would only need to be broadcast or distributed by a broadcaster or BDU if it contains audio as well as text content, and if it targets part of the area the broadcaster or BDU is licensed to serve. In order to ensure consistent presentation to, and comprehension by, the Canadian public, emergency alert messages would need to comply with the *NPAS Common Look and Feel Guidance*.

### **Deadline to distribute emergency alert messages**

19. The Commission notes that the CBC is required to implement its emergency alerting solution on its radio stations by no later than 31 December 2014. In light of this, and given that equipment for the distribution of alerts is or can be made readily available to broadcasters (as discussed above), the Commission is of the view that key challenges to the broadcasting industry's participation have been addressed. Consequently, the Commission is of the view that the broadcasting industry has had sufficient time to implement alerting solutions. To have a uniform date for the participation of the industry in the NPAS, the Commission proposes to require the broadcasting industry (i.e., radio broadcasters, OTA television broadcasters and BDUs) to distribute emergency alert messages received from the NAAD System by no later than 31 December 2014, the same date that the requirement will be effective for the CBC.

### **Alberta Emergency Alert System**

20. The Commission's proposed amendments make reference solely to alerts provided by the NAAD System. However, the Commission notes that if the broadcaster or BDU operates in the province of Alberta, it can choose to distribute, to listeners, viewers and subscribers in that province, emergency alert messages received from the AEA System, as this system currently incorporates alert messages from the NAAD System.

### **Implementation of the requirement to distribute emergency alert messages**

21. Implementing the requirement for radio and OTA television stations and BDUs to distribute emergency alert messages would require amendments to various regulations. Accordingly, the Commission seeks comments on proposed amendments to the *Radio Regulations, 1986*, the *Television Broadcasting Regulations, 1987* and the *Broadcasting Distribution Regulations*. The proposed amendments are set out in Appendix 1 to the present notice.
22. To ensure the required distribution of emergency alert messages on a national scale, the Commission also considers that VOD undertakings as well as certain undertakings that are exempt from licensing requirements (i.e., exempt undertakings) should also be required to participate.
23. Implementing the requirement for VOD undertakings to distribute emergency alert messages would require adding a condition of licence to the standard conditions of licence for such undertakings set out in the appendix to Broadcasting Regulatory Policy 2011-59-1. Accordingly, the Commission seeks comments on proposed amendments to those standard conditions of licence. The proposed amendments are set out in **bold** in Appendix 2.

24. Finally, implementing the requirement for certain exempt undertakings to distribute emergency alert messages would require amendments to the exemption orders that govern their operation. The relevant exemption orders are the following:

- Exemption order for terrestrial BDUs serving fewer than 20,000 subscribers (see Broadcasting Order 2012-408)
- Exemption order for radiocommunication distribution undertakings (see Broadcasting Order 2012-673)
- Exemption order for low-power radio stations that provide tourist information (see Broadcasting Order 2013-620)
- Exemption order respecting certain native radio undertakings (see Public Notice 1998-62)

25. Accordingly, the Commission seeks comments on proposed amendments to those exemption orders. Revised exemption orders for each of the above incorporating the proposed amendments (in **bold**) are set out in Appendices 3 through 6, respectively.<sup>3</sup> In regard to Appendix 3, the Commission notes that certain changes that would bring the exemption order in line with current regulatory measures, as well as corrections and housekeeping items, are footnoted where appropriate.

### **Policy considerations**

26. In order to ensure that the NPAS protects the lives and property of all Canadians, the Commission seeks comments on how the effectiveness of the proposed regulatory regime should be assessed and reviewed, as well as on what measures the Commission should adopt to ensure continued compliance by the broadcasting industry:

- How should the Commission evaluate and measure the effectiveness of the regulatory measures?
- What measures should be adopted to monitor and enforce the industry's compliance?

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<sup>3</sup> With respect to the Exemption Order for terrestrial BDUs serving fewer than 20,000 subscribers (Broadcasting Order 2012-408, Appendix 3), the Commission issued a number of decisions in 2012 and 2013 dealing with programming services that benefit from mandatory distribution. It has also announced a proceeding entitled "Let's Talk TV", [Phase 2](#), which was launched on 18 February 2014. The outcome of that proceeding may affect the mandatory distribution of programming services. Accordingly, in conditions of exemption 14 and 15, the Commission has not proposed any amendments to the list of services that benefit from mandatory distribution at the present time, pending the outcome of the "Let's Talk TV" proceeding.

- How and to which organization should results from any system tests and/or system usage be reported?
27. In order to ensure that emergency alert messages are available to as many Canadians as possible, the Commission is not predisposed at this time to grant exemptions to the proposed regulatory measures. It notes, however, that there is a wide spectrum of broadcasting industry players as well as their respective resources. Accordingly the Commission seeks comments on the following:
- Is it appropriate to allow relief from the application of the proposed regulatory measures? If so, what form should the relief take and in what circumstances should relief be warranted?
28. Given the nature of emergency alerting, and to ensure the effectiveness of the NPAS, the Commission is of the view that Canadians should be made aware of the purpose of emergency alerts and their look and feel. In Broadcasting Decision 2011-438, the Commission required Pelmorex to fund, develop and implement a \$2 million public awareness and education campaign. Pelmorex delayed the implementation of the awareness campaign until such a time where EMOs and last-mile distributors are fully participating in the alerting system. As the Commission's proposed amendments would ensure that the system operates as a whole, the Commission is of the preliminary view that the public awareness campaign should coincide with the date that the industry is required to participate in the NPAS. Accordingly, the Commission seeks comments on the following matters relating to public education:
- Over what period should Pelmorex implement its awareness campaign? Over which platforms should the campaign be distributed?
  - Should Pelmorex develop public service announcements that the broadcasting industry can air along with corresponding licensee branding?
  - What roles should the broadcasting industry play in educating the public about the system? Are regulatory measures required to ensure broadcasting industry participation in the awareness campaign?

### **Other matters**

29. Although the Commission is addressing the participation of the broadcasting industry in the present notice of consultation, it strongly encourages, as it did in Broadcasting Decision 2011-438, the use of digital media and mobile platforms to alert Canadians to imminent or unfolding dangers, particularly given the increase since 2011 of the use of mobile devices by Canadians.
30. Notwithstanding the measures taken pursuant to the proposed amendments, the Commission reminds parties that SOREM is the authoritative body for public alerting in Canada, and that key stakeholders in the NPAS have a voice on the Pelmorex Alerting Governance Council, which oversees the operation of the NAAD System.

The Commission encourages all parties to refer to the Council's Terms of Reference, and to leverage that forum to address and resolve any outstanding and/or future issues relating to the implementation of the NPAS. Further, the Commission expects Pelmorex to continue to respond to the needs of public officials, broadcasters, BDUs and other last-mile distributors to ensure that Canadians receive timely warnings of imminent perils.

## **Procedure**

31. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-277 (the Rules of Procedure), set out, among other things, the rules for content, format, filing and service of interventions. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."
32. The Commission invites comments on the appropriateness and wording of the proposed amendments set out in the appendices to this notice, as well as on the policy considerations discussed above. The Commission will accept comments that it receives on or before **31 March 2014**.
33. In accordance with the Rules of Procedure, a document must be filed with, not merely sent to, the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will not notify a party whose submission is received after the deadline date. Late submissions will not be considered by the Commission and will not be made part of the public file.
34. The Commission will not formally acknowledge interventions. It will, however, fully consider all interventions, and they will form part of the public record of the proceeding, provided that the procedures for filing set out in the Rules of Procedure and this notice have been followed.
35. Submissions must be filed by sending them to the Secretary General of the Commission by **only one** of the following means:

**by using the**  
[\[Intervention/comment/answer form\]](#)

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax at**  
819-994-0218



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

### **Important notice**

38. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, e-mail or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
39. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
40. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
41. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.
42. The Commission encourages parties and interested persons to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

### **Availability of documents**

43. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by visiting the "Public Proceedings" section of the Commission's website. The documents can be accessed by selecting "View all proceedings open for comment," then clicking on the links in the "Related Documents" column associated with this particular notice.
44. Documents are also available from Commission offices, upon request, during normal business hours.

## **Location of Commission offices**

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Secretary General

### **Related documents**

- *Exemption order for low-power radio stations that provide tourist information*, Broadcasting Order CRTC 2013-620, 21 November 2013
- *Canadian Broadcasting Corporation – Licence amendments*, Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, 28 May 2013
- *CHEX-TV Peterborough – Licence amendment*, Broadcasting Decision CRTC 2013-239, 10 May 2013
- *Revised exemption order for radiocommunication distribution undertakings*, Broadcasting Order CRTC 2012-673, 11 December 2012
- *Amended exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers – Implementation of the regulatory framework relating to vertical integration and other amendments*, Broadcasting Order CRTC 2012-408, 26 July 2012

- *The Weather Network/Météomédia – Licence renewal and extension of the mandatory distribution of the service*, Broadcasting Decision CRTC 2011-438, 22 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*, Broadcasting Regulatory Policy CRTC 2011-59-1, 8 May 2012
- *Emergency alert services*, Broadcasting Public Notice CRTC 2007-20, 28 February 2007
- *Exemption order respecting certain native radio undertakings*, Public Notice CRTC 1998-62, 9 July 1998

# Appendix 1 to Broadcasting Notice of Consultation CRTC 2014-85

## REGULATIONS AMENDING CERTAIN REGULATIONS MADE UNDER THE *BROADCASTING ACT*

### AMENDMENTS

### RADIO REGULATIONS, 1986

**1. The *Radio Regulations, 1986*<sup>1</sup> are amended by adding the following after section 15:**

#### PART IV

#### EMERGENCY ALERTS

**16.** (1) The following definitions apply in this section.

“issuing authority” means any person who is authorized by a Canadian governmental authority — including without limitation the Department of the Environment (Canada), federal and provincial government departments and agencies responsible for emergency management and public safety, and municipal officials — to issue warnings to the public, and to the National Alert Aggregation and Dissemination System, announcing danger to life or property. (*autorité compétente*)

“National Alert Aggregation and Dissemination System” means the alert message aggregation system established and operated by Pelmorex Communications Inc. (*système d’agrégation et de dissémination national d’alertes*)

(2) Except as otherwise provided under a condition of its licence, a licensee shall implement, by no later than December 31, 2014, a public alerting system on all its stations that immediately broadcasts on a given station any audio alert that it receives from the National Alert Aggregation and Dissemination System that

(a) announces an imminent or unfolding danger to life; and

(b) is designated by the applicable issuing authority for immediate broadcast in all or part of the area within the station’s contour.

(3) The licensee shall implement the public alerting system on each of its transmitters.

(4) The licensee shall broadcast the alert only on transmitters that serve the area targeted by the alert.

(5) The licensee shall ensure that the alerts that it broadcasts are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian

Association for Public Alerting and Notification (CAPAN), as amended from time to time.

## TELEVISION BROADCASTING REGULATIONS, 1987

**2. The *Television Broadcasting Regulations, 1987* are amended by adding the following after section 17:**

### EMERGENCY ALERTS

**18.** (1) The following definitions apply in this section.

“issuing authority” means any person who is authorized by a Canadian governmental authority — including without limitation the Department of the Environment (Canada), federal and provincial government departments and agencies responsible for emergency management and public safety, and municipal officials — to issue warnings to the public, and to the National Alert Aggregation and Dissemination System, announcing danger to life or property. (*autorité compétente*)

“National Alert Aggregation and Dissemination System” means the alert message aggregation system established and operated by Pelmorex Communications Inc. (*système d’agrégation et de dissémination national d’alertes*)

(2) Except as otherwise provided under a condition of its licence, a licensee shall implement, by no later than December 31, 2014, a public alerting system on all its stations that immediately broadcasts on a given station any alert that it receives — in a form including both text and audio content — from the National Alert Aggregation and Dissemination System that

(a) announces an imminent or unfolding danger to life; and

(b) is designated by the applicable issuing authority for immediate broadcast in all or part of the area within the station’s official contour.

(3) The licensee shall implement the public alerting system on each of its transmitters.

(4) The licensee shall broadcast the alert only on transmitters that serve the area targeted by the alert.

(5) The licensee shall ensure that the alerts that it broadcasts are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.

## BROADCASTING DISTRIBUTION REGULATIONS

**3. The portion of section 7 of the *Broadcasting Distribution Regulations*<sup>3</sup> before paragraph (a) is replaced by the following:**

7. Subject to section 7.2, a licensee shall not alter the content or format of a programming service or delete a programming service in a licensed area in the course of its distribution except

**4. The Regulations are amended by adding the following after section 7.1:**

### EMERGENCY ALERTS

**7.2** (1) The following definitions apply in this section.

“issuing authority” means any person who is authorized by a Canadian governmental authority — including without limitation the Department of the Environment (Canada), federal and provincial government departments and agencies responsible for emergency management and public safety, and municipal officials — to issue warnings to the public, and to the National Alert Aggregation and Dissemination System, announcing danger to life or property. (*autorité compétente*)

“National Alert Aggregation and Dissemination System” means the alert message aggregation system established and operated by Pelmorex Communications Inc. (*système d’agrégation et de dissémination nationale d’alertes*)

(2) Except as otherwise provided under a condition of its licence, a licensee shall implement, by no later than December 31, 2014, a public alerting system that immediately alters a programming service being distributed by the licensee in a licensed area to insert any alert that it receives — in a form including both text and audio content — from the National Alert Aggregation and Dissemination System that

(a) announces an imminent or unfolding danger to life; and

(b) is designated by the applicable issuing authority for immediate broadcast or distribution in the licensed area.

(3) The licensee shall insert the alert in all programming services that the licensee is distributing to subscribers whose residence or other premises are located in an area targeted by the alert.

(4) The licensee shall ensure that the alerts that it inserts in a programming service are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.

## COMING INTO FORCE

**5. These Regulations come into force on the day on which they are registered.**

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<sup>1</sup> SOR/86-982

<sup>2</sup> SOR/87-49

<sup>3</sup> SOR/97-555

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## Appendix 2 to Broadcasting Notice of Consultation CRTC 2014-85

### Proposed amendments to the standard conditions of licence for video-on-demand undertakings

#### Standard conditions of licence, expectations and encouragement for video-on-demand undertakings

##### Conditions of licence

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), 4 and 6.1.
2. Except as authorized by the Commission, the programming undertaking shall be operated in fact by the licensee itself.
3. The licensee shall ensure that at all times:
  - a) no less than 5% of the English-language feature films in the inventory available to subscribers are Canadian;
  - b) no less than 8% of the French-language feature films in the inventory available to subscribers are Canadian;
  - c) the feature film inventory includes all new Canadian feature films that are suitable for video-on-demand exhibition and that meet the approved *Industry Code of Programming Standards and Practices Governing Pay, Pay-Per-View and Video-On-Demand Services*; and
  - d) no less than 20% of all programming other than feature films in the inventory available to subscribers is Canadian.
4. The licensee shall ensure that no less than 25% of the titles promoted each month on its barker channel are Canadian titles.
5. The licensee shall contribute 5% of its gross annual revenues to an existing Canadian program production fund administered independently of its undertaking.

For the purpose of this condition:

- a) if the video-on-demand service is a “related service,” “gross annual revenues” shall be 50% of the total video-on-demand associated revenues received from customers of the broadcasting distribution undertaking distributing the service;
- b) if the video-on-demand service is not a “related service,” “gross annual revenues” shall be the total amount received from the broadcasting distribution undertaking(s) distributing the video-on-demand service; and

- c) a “related service” means one in which the broadcasting distribution undertaking distributing the video-on-demand service or any of its shareholders owns, directly or indirectly, 10% or more of the equity of the video-on-demand service.
6. (a) The licensee shall remit to the rights holders of all Canadian feature films 100% of revenues earned from the exhibition of these films. The licensee will be permitted to exclude the amount remitted to Canadian feature film rights holders as revenue for the purpose of calculating the contribution to a production fund required under condition of licence 5.
- (b) Notwithstanding paragraph (a), some Canadian feature films may be the subject of a negotiated revenue-sharing agreement between the licensee and the rights holder of Canadian feature films. Any revenues retained by the video-on-demand licensee with respect to such Canadian feature films shall be included as gross broadcasting revenues for the purposes of calculating the contribution to a production fund required under condition of licence 5.
7. The licensee is prohibited from offering: (a) a non-Canadian subscription video-on-demand (SVOD) package that is directly competitive with a Canadian linear pay or specialty service or (b) a Canadian SVOD package that is directly competitive with a genre-protected Canadian linear pay or specialty service, unless the package is an on-demand extension of this Canadian linear pay or specialty service.
8. The licensee shall not include as part of its video-on-demand 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);
- (iii) was already included in a program previously broadcast in Canada by a non-Canadian programming service authorized for distribution in Canada; or
- (iv) is included in the licensee’s community programming in accordance with subsections 30(1)(g), 30(1)(h) and 30(1)(i) of the *Broadcasting Distribution Regulations* (where applicable);
- (b) if the commercial message is included in a program by virtue of 8(a)(i), 8(a)(ii) or 8(a)(iv), the program’s inclusion as part of the video-on-demand 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) as of 1 September 2012, 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 purpose 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.

9. 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.

10. The licensee shall not give an undue preference to any person, including itself, or subject any person to an undue disadvantage. In any proceedings before the Commission, the burden of establishing that any preference or disadvantage is not undue is on the licensee that has given the preference or subjected the person to the disadvantage.

11. The licensee shall not acquire exclusive rights for any of the programming offered on its programming service.

12. (a) The licensee shall caption 100% of the English- and French-language programs in its inventory, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007, with the exception of original licensee-produced community programming and access programming.

(b) The licensee shall caption 100% of original licensee-produced community programming by the end of the licence term.

13. 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.

14. 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.
15. 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.
16. 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.
17. The licensee shall adhere to the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, 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 maintain for a period of one year and submit to the Commission upon request a detailed list of the inventory available on each server. The list must identify each program by programming category and by country of origin and indicate the period of time that each program was on the server and available to subscribers.
19. (a) Except as otherwise provided in subsections (b) and (c) or under a condition of its licence, if a licensee elects to offer an outlet for local expression, the licensee shall offer the programming at no charge to its subscribers and shall not offer any programming service other than the following:
  - (i) community programming;
  - (ii) a maximum of two minutes during a 60-minute interval of announcements promoting broadcasting services that the licensee is authorized to provide;
  - (iii) a public service announcement;
  - (iv) an information program funded by and produced for a federal, provincial or municipal government or agency or a public service organization;
  - (v) the question period of the legislature of the province in which the licensed area is located;

- (vi) an announcement providing information about the programming that is to be offered as local expression;
  - (vii) a commercial message that mentions or displays the name of a person who sponsored a community event or the goods, services or activities sold or promoted by the person, if the mention or display is in the course and incidental to the production of community programming relating to the event;
  - (viii) an oral or written acknowledgement, which may include a moving visual presentation of no more than 15 seconds per message, contained in community programming that mentions no more than the name of a person, a description of the goods, services or activities that are being sold or promoted by the person and their address and telephone number, if the person provided direct financial assistance for the community programming in which the acknowledgement is contained;
  - (ix) an oral or a written acknowledgement contained in community programming that mentions no more than the name of a person, the goods or services provided by the person and their address and telephone number, if the person provided the goods or services free of charge to the licensee for use in connection with the production of the community programming in which the acknowledgement is contained;
  - (x) a still image programming service as described in Public Notice CRTC 1993-51, dated April 30, 1993 and entitled *Exemption order respecting still image programming service undertakings*, if the service is produced by the licensee or by members of the community served by the licensee and does not contain commercial messages, other than commercial messages that are contained within the programming service of a licensed radio station; and
  - (xi) the programming of a community programming undertaking.
- (b) At least 75% of the time for promotional announcements included in programming offered as local expression under subparagraph (a)(ii) shall be made available for the promotion of the outlet for local expression and for the promotion, by Canadian programming undertakings other than related programming undertakings, of their respective services.
- (c) A maximum of 25% of the time for promotional announcements included in programming offered as local expression under subparagraph (a)(ii) may be made available for the promotion of the services of related programming undertakings, discretionary services, packages of programming services, FM services and additional outlets and for the distribution of information on customer services and channel realignments.
- (d) Whenever a licensee is not offering community programming on the outlet for local expression or is offering as part of its inventory community programming that has no audio component, the licensee may offer as part of its inventory the

programming service of a local radio station, other than an educational radio programming service whose operation is the responsibility of an educational authority.

(e) If a licensee provides time on the outlet for local expression during an election period for the distribution of programming of a partisan political character, the licensee shall allocate that time on an equitable basis among all accredited political parties and rival candidates.

20. (a) Except as otherwise provided under a condition of its licence, a licensee shall devote to local community television programming not less than 60% of the programming offered as local expression.

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

(I) shall devote at least the following percentages of the programming offered as local expression to community access television programming:

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

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

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

(iv) 50% for the broadcast year beginning on 1 September 2014 and each subsequent broadcast year.

(II) shall, on or before August 31, 2014, devote a further percentage up to a total of 50% of the programming offered as local expression to community access television programming, according to requests;

(III) shall, if one or more community television corporations are in operation in a licensed area, make available to them up to 20% of the programming offered as local expression for community access television programming; and

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

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

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

(I) keep a program log or a machine-readable record of programs offered as local expression in the licensed area and retain it for a period of one year after the latest date on which the program is offered; and

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

(i) the title of the program;

(ii) the duration of time the program was offered, including the announcements and commercial messages referred to in conditions of licence 19(a)(ii) and (vii);

(iii) a brief description of the program, including a statement as to whether it is local community television programming;

(iv) the name of the distribution undertaking for which the program was produced and the name of the producer;

(v) a statement as to whether the program constitutes community access television programming and identifying the party that has been provided with access; and

(vi) the time of commencement of the announcements and commercial messages referred to in conditions of licence 19(a)(ii) and (vii), the duration and in the case of each commercial message, the name of the person selling or promoting goods, services or activities.

(b) The licensee shall retain a clear and intelligible audiovisual recording of each program offered as local expression in the licensed area for a period of

(I) four weeks after the latest date on which the program is offered; or

(II) eight weeks after the latest date on which the program is offered if the Commission receives a complaint from a person regarding the program or, for any other reason, decides to investigate and so notifies the licensee before the end of the period referred to in paragraph (I).

22. 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:

- video server capacity – current;
- video server capacity – projected for the end of the next broadcast year;
- total number of titles on the servers;

- total number of Canadian titles on the servers;
  - total number of feature films on the servers;
  - total number of Canadian feature films on the servers;
  - breakdown of titles in both official languages;
  - total number of orders of Canadian programs;
  - total number of orders of non-Canadian programs;
  - total number of orders of Canadian feature films;
  - total number of orders of non-Canadian feature films; and
  - the amount of revenue remitted to Canadian feature film rights holders.
23. The licensee is authorized to make available for distribution both a standard definition and a high definition version of its service, provided that no 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.
- 24. (a) Except as otherwise provided under a condition of its licence, the licensee shall implement, by no later than December 31, 2014, a public alerting system that immediately inserts in a program any alert that the licensee receives – in a form including both text and audio content – from the National Alert Aggregation and Dissemination System, that:**
- (i) announces an imminent or unfolding danger to life; and**
  - (ii) is designated by the applicable issuing authority for immediate broadcast or distribution in the licensed area.**
- (b) The licensee shall insert the alert in all programs that the licensee is distributing to subscribers whose residence or other premises are located in an area targeted by the alert.**
- (c) The licensee shall ensure that the alerts that it inserts in a programming service are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.**

**For the purpose of this condition of licence, the terms “issuing authority” and “National Alert Aggregation and Dissemination System” shall have the same meaning as that set out in the *Broadcasting Distribution Regulations*.**



**Expectations**

- 1 The Commission expects the licensee to make its program offering available to the maximum extent possible in both official languages.
- 2 If 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.
- 3 The Commission expects the licensee to ensure that 100% of original access programming is captioned by the end of the licence term.
- 4 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.
- 5 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.
- 6 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.
- 7 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. 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.
- 8 Where applicable, the Commission expects the licensee to adhere to its internal policy on adult programming once reviewed and approved by the Commission.
- 9 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.

10 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. As part of the implementation of this 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.

#### **Encouragement**

The Commission encourages video-on-demand undertakings to share aggregate information on viewing of video-on-demand programs with broadcasters if such information is available.

## Appendix 3 to Broadcasting Notice of Consultation CRTC 2014-85

### Proposed amendments to the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers

#### Terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers

##### Description

The purpose of these broadcasting distribution undertakings is to provide programming services to fewer than 20,000 subscribers, using co-axial cable, fibre, digital subscriber line or multi-point distribution system technology.

##### A. Definition of terms

1. For the purpose of this order, the terms “affiliate,” “anglophone market,” “broadcast year,” “Canadian production fund,” “Canadian programming service,” “community access television,” “community channel,” “comparable,” “contribution to local expression,” “Corporation,” “educational television programming service,” “francophone market,” “independent production fund,” “**issuing authority**,” “licensed,” “licensed area,” “local television station,” “**National Alert Aggregation and Dissemination System**,” “new programming service” “pay television service,” “programming service,” “regional television station,” “radiocommunication distribution undertaking,” “relay distribution undertaking,” “specialty service,” “station” and “subscriber” have the same meaning as that set out in the *Broadcasting Distribution Regulations*; “basic service” means the package of programming services provided to all subscribers for a single fee; “gross revenues derived from broadcasting activities” has the same meaning as that set out in *Guidelines respecting financial contributions by the licensees of broadcasting distribution undertakings to the creation and presentation of Canadian programming*, Circular No. 426, 22 December 1997; “local head end” means (a) in respect of an undertaking other than a radiocommunication distribution undertaking, the specific location at which the undertaking receives the majority of the programming services that are transmitted by local television stations or, if there are no such stations, by regional television stations, and that are distributed by the exempt undertaking in the service area, and (b) in respect of a radiocommunication distribution undertaking, the undertaking’s transmitter site; “service area” means the area in which an exempt undertaking carries on a broadcasting distribution undertaking; and an undertaking that “serves more than 2,000 subscribers” means an undertaking whose subscriber base at the time it becomes exempt exceeds 2,000, or an undertaking whose subscriber base at the time it becomes exempt did not exceed 2,000 but has subsequently exceeded 2,200 for at least two consecutive broadcasting years as reported pursuant to paragraph 24, below.

## **B. Provisions applicable to exempt distribution undertakings**

### ***General provisions***

2. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
3. The undertaking meets all the technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by the Department.
4. In total, the number of subscribers served by the individual undertaking is fewer than 20,000, and the undertaking either (a) does not serve all or part of the licensed area of a licensed terrestrial broadcasting distribution undertaking (BDU) that serves 20,000 or more subscribers within that licensed area, or (b) serves all or part of the licensed area of a licensed terrestrial BDU that serves 20,000 or more subscribers only by virtue of the fact that the licensed BDU expanded to operate within the service area of the undertaking at some time following the time at which the undertaking came into being. Once exempt, the undertaking does not have more than 21,000 subscribers in any two consecutive broadcasting years as reported pursuant to paragraph 24, below.

### **Distribution of the basic service**

5. The undertaking does not provide a subscriber with any programming services, other than licensed pay-per-view services, licensed video-on-demand services or the programming services of exempt programming undertakings, without also providing the basic service.

### **Distribution of conventional television stations**

6. In regard to the provision of a basic service:
  - a) The undertaking distributes as part of its basic service all services of local television stations, with no degradation of the signal received.
  - b) If the undertaking serves more than 2,000 subscribers, it distributes as part of its basic service all services of regional television stations, other than affiliates or members of the same network of which a local television station distributed pursuant to paragraph 6(a), above, is also an affiliate or member. These stations are distributed with no degradation of the signal received. If the programming services of the two or more regional television stations that are affiliates or members of the same network are received at the local head end or equivalent, the undertaking is required to distribute only one of them.
  - c) If not otherwise distributed as a local or regional television station, the undertaking distributes at least one television station owned and operated by the Corporation, in each of the official languages, where the Corporation makes its signals available and pays the costs associated with the transport and reception of its signals to the undertaking's local head end or equivalent.

- d) If the undertaking receives television stations that are identical, the undertaking is required to distribute only one of them under this section.
- e) If the undertaking serves more than 2,000 subscribers, it distributes as part of its basic service, and with no degradation of the signal received, educational television programming services the operation of which is the responsibility of an educational authority designated by the province in which the service area of the undertaking is located.

#### **Majority of Canadian programming services**

7. A majority of each of the video and audio channels received by each subscriber, other than the programming distributed on program repeat channels, are devoted to the distribution of Canadian programming services. For the purposes of this paragraph, each pay television service, television pay-per-view service, and video-on-demand service is counted as a single video channel.

#### **Programming services in the language of the minority**

8. If the undertaking delivers any programming service on a digital basis,<sup>1</sup> it distributes:

- a) at least one French-language Canadian pay or specialty service, excluding the services that the undertaking may be required to distribute under paragraphs 14 and 15, below, for every ten English-language programming services distributed by the undertaking, if the undertaking is operating in an anglophone market; and
- b) at least one English-language Canadian pay or specialty service, excluding the services that the undertaking may be required to distribute under paragraphs 14 and 15, below, for every ten French-language programming services distributed by the undertaking, if the undertaking is operating in a francophone market.

#### **Distribution of adult programming services**

9. The undertaking does not package an adult programming service in such a way that subscribers are obliged to purchase the service in order to purchase any other programming service. The undertaking takes measures to fully block the reception of both the audio and video portions of any adult programming service to subscribers who request that it not be receivable in their home (in either unscrambled or scrambled mode).

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<sup>1</sup> This paragraph in the French-language version of this appendix has been modified to reflect the use of the expression "digital basis" in English.

### **Distribution of single point-of-view religious services**

10. The undertaking distributes a single or limited point-of-view religious pay or specialty service only on a “stand-alone basis” or in a package with other single or limited point-of-view religious services, and all such services are distributed only on a discretionary basis.

### **Alteration or deletion of a programming service**

11. **Subject to 11.1 and 11.2, the** undertaking does not alter the content or format of a programming service or delete a programming service in the course of its distribution except:

- a) for the purpose of complying with section 328(1) of the *Canada Elections Act*;
- b) for the purpose of deleting a programming service to comply with an order of a court prohibiting the distribution of the service to any part of the service area;
- c) for the purpose of altering a programming service to insert a warning to the public announcing:
  - i. any danger to life or property if the insertion is provided for in an agreement entered into by the undertaking with the operator of the service or the network responsible for the service; or
  - ii. an imminent or unfolding danger to life if there is no agreement with the operator of the service or the network responsible for the service;
- d) for the purpose of preventing the breach of programming or underlying rights of a third party, in accordance with an agreement entered into with the operator of the service or the network responsible for the service;
- e) for the purpose of deleting a subsidiary signal, unless the signal is, itself, a programming service or is related to the service being distributed;
- f) for the purpose of deleting the described video programming of a service distributed on an analog basis; or
- g) for the purpose of inserting a commercial message in a Canadian programming service, excluding a video-on-demand service, if the insertion is in accordance with an agreement between the undertaking and the operator of the service or the network responsible for the service and that pertains to commercial messages that are directed to a target market of consumers.

11.1 (1) An undertaking that serves more than 2,000 subscribers and that alters the audio content or audio format of a programming service under paragraph 11(g) shall ensure that every 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.

(2) An undertaking that serves more than 2,000 subscribers and that distributes an authorized non-Canadian programming service shall ensure that every 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.<sup>2</sup>

**11.2 (1) An undertaking that serves more than 2,000 subscribers shall implement, by no later than December 31, 2014, a public alerting system that immediately alters a programming service being distributed by the undertaking in its service area to insert any alert that it receives – in a form including both text and audio content – from the National Alert Aggregation and Dissemination System,<sup>3</sup> that:**

**(i) announces an imminent or unfolding danger to life; and**

**(ii) is designated by the applicable issuing authority<sup>4</sup> for immediate broadcast or distribution in the undertaking's service area.**

**(2) The undertaking shall insert the alert in all programming services that the undertaking is distributing to subscribers whose residence or other premises are located in an area targeted by the alert.**

**(3) The undertaking shall ensure that the alerts that it inserts in a programming service are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.**

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<sup>2</sup> The inclusion of paragraph 11.1 consolidates into this exemption order the loudness provisions set out in paragraph 11.1 of the exemption order respecting terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers, which is appended to *Amendments to various regulations and an exemption order to implement measures to control the loudness of commercial messages*, Broadcasting Regulatory Policy CRTC 2012-273 and Broadcasting Order CRTC 2012-274, 8 May 2012.

<sup>3</sup> The definition of this term is set out in section A to this appendix.

<sup>4</sup> The definition of this term is set out in section A to this appendix.

### Prohibited programming content

12. The undertaking does not distribute a programming service that the undertaking originates and that contains:

- a) anything that contravenes any law;
- b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;
- c) any obscene or profane language or pictorial representation; or
- d) any false or misleading news.

For the purpose of (b), sexual orientation does not include the orientation towards a sexual act or activity that would constitute an offence under the *Criminal Code*.

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

### Other services distributed

13. a) No service received over-the-air or by any other means is distributed over the undertaking, other than a service that the Commission, by regulation or otherwise, has authorized. If the Commission has authorized a service for distribution subject to terms and conditions intended to address the concerns addressed in paragraph 12, above, the undertaking distributes the service subject to those terms and conditions.

b) The undertaking distributes no more than two sets of U.S. 4+1 signals, with the exception of signals receivable by the undertaking over the air, to its subscribers.

c) The undertaking is authorized to undertake any activity authorized in the regulatory policy entitled *General authorizations for broadcasting distribution undertakings*, as amended from time to time, under the terms and conditions set out in that regulatory policy.

### Distribution of services subject to orders under section 9(1)(h) of the *Broadcasting Act*

14. If the undertaking serves more than 2,000 subscribers, it distributes, as part of the basic service,

- a) the Aboriginal Peoples Television Network programming service;
- b) the programming service of TVA Group Inc. (CFTM-TV Montréal or the programming service of one of its affiliates);



- c) if the undertaking is operating in a francophone market, the licensed public affairs programming service of the Cable Public Affairs Channel Inc. (CPAC) and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language and an auxiliary audio channel of those services in the English language;
- d) if the undertaking is operating in an anglophone market, the licensed public affairs programming service of CPAC and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language and an auxiliary audio channel of those services in the French language;
- e) if the undertaking is operating in a francophone market, a second version of the licensed public affairs programming service of CPAC and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language, which may be distributed as part of the basic service or on a discretionary basis;
- f) if the undertaking is operating in an anglophone market, a second version of the licensed public affairs programming service of CPAC and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language and an auxiliary audio channel of those services in the French language, which may be distributed as part of the basic service or on a discretionary basis;
- g) where the undertaking elects to distribute, as part of its basic service, both an English-language and a French-language version of the licensed public affairs programming service of CPAC and the service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, it is relieved of the requirement to distribute an auxiliary audio channel for any of these services;

- h) if the undertaking is operating in an anglophone market and distributes the Corporation's CBC News Network programming service on an analog basis, the programming service AMI-audio<sup>5</sup> as the secondary audio program of the former service; and
  - i) the undertaking does not distribute the Corporation's CBC News Network programming service on an analog basis, the programming service AMI-audio on an audio channel.
15. If the undertaking serves more than 2,000 subscribers and delivers any programming service on a digital basis, it distributes to all digital subscribers:
- a) AMI-tv;<sup>6</sup>
  - b) if it operates in a francophone market, CBC News Network, Canal M<sup>7</sup> and, until 31 August 2015, Météomedia;
  - c) if it operates in an anglophone market, le Réseau de l'information and, until 31 August 2015, The Weather Network; and
  - d) if it operates in the province of Quebec, Avis de Recherche.

16. An exempt undertaking is not required to distribute any of the programming services noted in paragraphs 14 and 15, above, with the exception of AMI-audio and Canal M, unless the licensee or operator of the programming service or a third party pays for the satellite uplink and transponder costs associated with the delivery of its programming service to the exempt undertaking.

#### **Dispute resolution**

17. In regard to the resolution of disputes:

- a) If a dispute concerning the terms and conditions under which programming services are distributed arises between the exempt undertaking and a programming undertaking, whether operating by licence or by exemption order, the undertaking submits to such mediation and/or dispute resolution process or processes as may be required by the Commission and to any decision that may ultimately result therefrom.
- b) If a dispute, within the meaning of paragraph 17(a), arises with respect to a programming undertaking's programming services being distributed in the absence of a commercial agreement and the matter proceeds before the

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<sup>5</sup> In March 2012, the National Broadcast Reading Service (Voiceprint) was rebranded as AMI-audio.

<sup>6</sup> In January 2012, the Accessible Channel was rebranded as AMI-tv.

<sup>7</sup> In Spring 2011, La Magnétothèque was rebranded as Canal M.

Commission for dispute resolution, the undertaking submits to having the dispute resolved as provided for in Broadcasting and Telecom Information Bulletin CRTC 2009-38, dated 29 January 2009, as amended from time to time, and further submits to the rates, terms and conditions established by the Commission as of the date on which the programming was first made available to the relevant undertaking in the absence of a commercial agreement.

- c) If a dispute, within the meaning of paragraph 17(a), arises with respect to a programming undertaking's new programming service that is being distributed in the absence of a commercial agreement and the matter proceeds before the Commission for dispute resolution, the undertaking further submits to the rates, terms and conditions established by the Commission for the duration of the contractual term established by the Commission.
- d) If a dispute concerning the terms and conditions under which programming services are provided to the undertaking arises between the undertaking and a relay distribution undertaking, whether operating by licence or by exemption order, the undertaking submits to such mediation and/or dispute resolution process or processes as may be required by the Commission and to any decision that may ultimately result therefrom.
- e) For greater certainty, nothing in paragraphs 17(a) through (d) prevents parties from reaching an agreement with respect to rates, terms or conditions that differ from those established by the Commission.
- f) If the Commission accepts a referral of a matter for dispute resolution, the undertaking submits to produce and file such additional information as may be requested by the Commission or any individual named by the Commission to act as mediator in a given dispute.

#### **Obligation during dispute**

18. a) During any dispute between the undertaking and a person licensed to carry on a programming undertaking or the operator of an exempt programming undertaking concerning the carriage or terms of carriage of programming services or concerning any right or obligation under the Act, the undertaking shall continue to distribute those programming services subject to the dispute, at the same rates and on the same terms and conditions as it did before the dispute.

b) For the purposes of paragraph 18(a), a dispute exists from the moment that written notice of the dispute is provided to the Commission and served on the other undertaking that is party to the dispute and ends when an agreement settling the dispute is reached by the concerned undertakings or when the Commission renders a decision concerning any unresolved matter, whichever is first.

c) An undertaking that distributes a new programming service with respect to which it has no commercial agreement shall abide by the rates, terms and conditions established by the operator of the concerned programming undertaking until such time as a commercial agreement is reached between the parties or the Commission renders a decision concerning any unresolved matter.

#### **Programming service substitution**

19. If the undertaking serves more than 2,000 subscribers, the undertaking deletes the programming service of a television station and substitutes the programming service of a local television station or, with the agreement of the broadcaster operating the local television station, has that broadcaster carry out the deletion and substitution, if

- a) the main studio of the local television station (i) is located within the service area of the undertaking, and (ii) is used to produce locally originated programming;
- b) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast;
- c) in a case where the broadcaster operating the local television station is not to carry out the deletion and substitution under an agreement with the undertaking, the undertaking has, at least four days before the date on which the programming service is broadcast, received from the broadcaster operating the local television station a written request for the deletion and substitution; and
- d) if a substitution is requested by more than one broadcaster, the undertaking gives priority, in the following order, to (i) if the studios of the stations are located in the same province as the service area of the undertaking or in the National Capital Region, as described in the schedule to the *National Capital Act*, the programming service of the station whose main studio is closest to the local head end, or equivalent, of the service area; (ii) in any other case, the programming service of the station that has a studio located in the same province as the service area.

An undertaking may discontinue a deletion and substitution if the programming services in respect of which the deletion and substitution are made are not, or are no longer, comparable and broadcast simultaneously.

#### **Community channel**

20. Subject to paragraph 21, if the undertaking serves more than 2,000 subscribers, it shall make a contribution to Canadian programming in each broadcast year of an amount not less than 5% of that undertaking's gross revenues derived from broadcasting activities in the year, less any contribution to local expression made by the undertaking in that year. Contributions to Canadian programming shall consist of:

- a) a contribution to the Canadian production fund of at least 80% of the undertaking's total required contribution; and
- b) to one or more independent production funds, the remainder of its total required contribution.

21. For the 2011-2012 broadcast year, the contribution to Canadian programming referred to in paragraph 20 above shall amount to not less than 5% of that undertaking's gross revenues derived from broadcasting during the period between 1 April 2012 and 31 August 2012, less any contribution to local expression made by the undertaking during that same period.

22. The undertaking is authorized to offer a zone-based community channel (where two or more exempt BDU service areas are combined to share local and community access television programming) under the following condition:

Exempt systems that make up a zone must be part of a community of interest. A community of interest would be determined by the following criteria:

A community of interest is one where its members share one or more of the following attributes:

- common social and economic interests;
- common heritage, culture or history;
- the same geographic or politically recognized boundary;
- access to the same local/regional media.

23. If the undertaking serves more than 2,000 subscribers and elects to offer a community channel or a zone-based community channel, the community channel offers programming that meets the following requirements:

- a) the programming offered consists of at least:
  - i. 60% local community television programs that are reflective of the community and produced in the undertaking's service area by the undertaking or by other members of the community served by the undertaking;
  - ii. 30% access programming consisting of programs produced by members of the community served by the undertaking;
- b) alternatively,
  - i. where an undertaking is an affiliate of a licensed cable undertaking, and the Commission has prescribed specific conditions of licence governing the offering of a community channel by that licensed

undertaking, the undertaking may offer its community channel on the same basis as that approved for the licensed undertaking;

- ii. where an undertaking is not an affiliate of a licensed cable undertaking, it may offer a community channel on the same basis as approved by condition of licence for any licensed undertaking that has a licensed area that includes any part of the same province or territory in which the undertaking operates;
- c) the programming includes no more than two minutes per hour of promotional messages and at least 75% of this promotional time is made available for the promotion of the community channel, non-related Canadian programming undertakings and for unpaid Canadian public service announcements;
- d) reasonable efforts are made to ensure that all the communities included within a zone-based community channel are proportionately represented; and
- e) the programming offered adheres to:
  - i. the *Cable television community channel standards*, as amended from time to time; and
  - ii. the Canadian Association of Broadcasters' *Violence Code*, as amended from time to time and approved by the Commission.

#### **Information requirements**

24. The undertaking or its representative submits the following information to the Commission by 30 November of each year:

- a) the name and contact information of the operator of the undertaking;
- b) the location of the undertaking and the communities served by the undertaking;
- c) the total number of basic subscribers served by the undertaking as of 31 August of that year;
- d) if the undertaking offers community programming exclusively through a video-on-demand service or provides community programming under a "zone based" approach, and does not operate separate head-end facilities or distribute a distinct local or regional television station, a statement as to its gross revenues derived from broadcasting activities in the past broadcast year and the amount and percentage of those revenues that have been contributed to community programming as described in paragraph 20(a); and
- e) whether any programming services are provided on a digital basis.

25. If the exempt undertaking serves more than 2,000 subscribers, the undertaking submits the simplified annual return for exempt broadcasting distribution undertakings by 30 November of each year.

26. The undertaking submits any information requested by the Commission in order to ascertain the undertaking's compliance with the terms of this order.

## Appendix 4 to Broadcasting Notice of Consultation CRTC 2014-85

### Proposed amendments to the exemption order for radiocommunication distribution undertakings

#### Exemption order for radiocommunication distribution undertakings

Pursuant to subsection 9(4) of the *Broadcasting Act* (the Act), the Commission by this order exempts from the requirements of Part II of the Act and any regulations made thereunder those persons carrying on radiocommunication distribution undertakings (RDUs) defined by the following criteria.

#### Purpose

The purpose of these RDUs is to serve small, rural and/or often remote communities having small populations by distributing the services of one or more programming undertakings, as authorized by the Commission.

#### Criteria

1. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
2. The undertaking meets all the technical requirements of the Department of Industry and has acquired all authorization or certificates prescribed by that department.
3. The undertaking does not alter the content or format of a programming service or delete a programming service in the course of its distribution except:
  - a) for the purpose of complying with subsection 328(1) of the *Canada Elections Act*;
  - b) for the purpose of deleting a programming service to comply with an order of a court prohibiting the distribution of the service to any part of the licensed area;
  - c) for the purpose of altering a programming service to insert a warning to the public announcing:
    - (i) any danger to life or property if the insertion is provided for in an agreement entered into by the licensee with the operator of the service or the network responsible for the service; or
    - (ii) an imminent or unfolding danger to life if there is no agreement with the operator of the service or the network responsible for the service;
  - d) for the purpose of preventing the breach of programming or underlying rights of a third party, in accordance with an agreement entered into with the operator of the service or the network responsible for the service; or



- e) for the purpose of deleting a subsidiary signal, unless the signal is itself a programming service or is related to the service being distributed.
4. The undertaking originates no programming itself.
5. The undertaking distributes services by means of radiocommunication and distributes no service of a programming undertaking other than one which the Commission has authorized by regulation or otherwise.
6. The undertaking operates in an area covered by the local service contour (official Grade A contour or official digital urban contour) of no more than two licensed television programming undertakings.
7. Each channel used by the undertaking to distribute radio and or television signals does not exceed the power limits for low and very low power transmitters, as defined in the Department of Industry's *Broadcast Procedures and Rules* (Parts II, III and IV).

**8.(a) Effective December 31, 2014, the undertaking has implemented a public alerting system that immediately alters a programming service being distributed by the undertaking in its service area to insert any alert that it receives – in a form including both text and audio content – from the National Alert Aggregation and Dissemination System, that:**

- (i) announces an imminent or unfolding danger to life; and**
  - (ii) is designated by the applicable issuing authority for immediate broadcast or distribution in the undertaking's service area.**
- (b) The undertaking shall insert the alert in all programming services that the undertaking is distributing to subscribers whose residence or other premises are located in an area targeted by the alert.**
- (c) The undertaking shall ensure that the alerts that it inserts in a programming service are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.**

**For the purpose of this provision, the terms “issuing authority” and “National Alert Aggregation and Dissemination System” shall have the same meaning as that set out in the *Broadcasting Distribution Regulations*.**

9. Any undertaking licensed by the Commission as a radiocommunication distribution undertaking as of 1 November 2012 shall be deemed to meet the requirements of this exemption order so long as it continues to operate in accordance with the specific frequencies, contours, effective radiated powers and effective height of antenna above average terrain authorized by the Department of Industry for the undertaking as of 1 November 2012.

## **Appendix 5 to Broadcasting Notice of Consultation CRTC 2014-85**

### **Proposed amendments to the exemption order for low-power radio tourist information related radio programming undertakings**

#### **Terms and conditions of the exemption order for low-power radio tourist information related radio programming undertakings**

Pursuant to subsection 9(4) of the *Broadcasting Act* (the Act), the Commission by this order, exempts from the requirement of Part II of the Act and any regulations, those persons carrying on broadcasting undertakings of the class defined by the following criteria:

#### **Purpose**

The purpose of these radio programming undertakings is to provide the public with live or pre-recorded messages with tourist related information that may include information about local traffic, weather and marine conditions, road and boating conditions, highway construction and closures, airport arrival and departure information, ferry and train schedules, current border crossing regulations and wait times, marine traffic information, conditions on bridges and in mountain passes, advisories of approaching large vehicles (example: logging trucks and large construction and road maintenance vehicles) and any other locally relevant information relating to attractions and events of interest to tourists or the public.

#### **Description**

1. The undertaking meets all technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by that Department.
2. The low-power undertaking operates between 525 kHz and 1705 kHz in the AM frequency band or between 88 MHz and 107.5 MHz in the FM frequency band. The undertaking broadcasts with a transmitter power of less than 100 watts in the AM band, and with a maximum effective radiated power of 50 watts with a maximum transmitting antenna height of 60 metres in the FM band as defined by the Department of Industry in Parts II and III of its *Broadcasting Procedures and Rules*.
3. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
4. The programming provided by the undertaking consists of live or pre-recorded messages which provide the public with information about local traffic, weather and marine conditions, road and boating conditions, highway construction and closures, airport arrival and departure information, ferry and train schedules, current border crossing regulations and wait times, conditions on bridges and in mountain passes,

advisories of approaching large vehicles (example: logging, construction, road maintenance and other large vehicles) and any other locally relevant information relating to attractions and events of interest to tourists.

5. The undertaking does not rebroadcast the programming service of any licensed or exempted radio or television undertaking.
6. The programming provided by the undertaking contains no musical selections, except as incidental background music.
7. The undertaking does not broadcast programming that is religious or political in nature.
8. The undertaking's programming complies with the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' *Equitable portrayal code*, as amended from time to time and approved by the Commission.
9. The undertaking adheres to the Canadian Association of Broadcasters' *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.

**10.(a) Effective December 31, 2014, the undertaking has implemented a public alerting system on all its stations that immediately broadcasts on a given station any audio alert that it receives from the National Alert Aggregation and Dissemination System, that:**

- (i) announces an imminent or unfolding danger to life; and**
- (ii) is designated by the applicable issuing authority for immediate broadcast in the undertaking's official contours as approved by the Department of Industry.**

**(b) The undertaking shall implement the public alerting system on each of its transmitters.**

**(c) The undertaking shall broadcast the alert only on the transmitters that serve the area targeted by the alert.**

**(d) The undertaking shall ensure that the alerts that it broadcasts are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.**

**For the purpose of this provision, the terms "issuing authority" and "National Alert Aggregation and Dissemination System" shall have the same meaning as that set out in the *Broadcasting Distribution Regulations*.**

# Appendix 6 to Broadcasting Notice of Consultation CRTC 2014-85

## Proposed amendment to the exemption order respecting certain native radio undertakings

### Exemption order respecting certain native radio undertakings

The Commission, by this order made pursuant to section 9(4) of the *Broadcasting Act* (the Act), exempts those persons carrying on radio programming undertakings of the class defined below from the requirements of Part II of the Act, with the exception of the requirements set out in sections 32 and 34. Such persons shall also be subject to the requirements of sections 3, 3.1, 4 and 5 (broadcasting content) of the *Radio Regulations, 1986*, with the necessary modifications.

#### I. Purpose

The purpose of these radio programming undertakings is to provide radio programming that reflects the interests and needs of, and is specifically oriented to, the native communities they serve. These undertakings have a distinct role in fostering the development of aboriginal cultures and, where possible, the preservation of ancestral languages. These undertakings broadcast programming in any native Canadian language or in either or both of the two official languages, and make the greatest practicable use of Canadian creative and other resources in the creation and presentation of programming.

#### II. Description

1. The undertaking is owned and controlled by a not-for-profit organization whose structure provides for board membership by the native population of the region served.
2. The primary purpose of the undertaking is not to provide a religious programming service.
3. No commercial AM, FM or digital radio programming undertaking or terrestrial radiocommunication distribution undertaking that distributes the programming of a commercial radio undertaking is licensed to operate in all or in any part of the undertaking's geographical area enclosed within: (a) in the case of a native AM station, the 5 millivolt-per-metre daytime official contour; or (b) in the case of a native FM station, the 500 microvolt-per-metre official contour. For greater clarity, the official contour includes the service contour marked for each transmitter on the map that pertains to that station and that is most recently published under the Department of Industry Act by the Minister of Industry.
4. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament, of the Direction to the CRTC (*Ineligibility of Non-Canadians*), the Direction to the CRTC (*Ineligibility to Hold Broadcasting Licences*) or of any other direction to the Commission by the Governor in Council.

5. The undertaking's programming complies with the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' (CAB) *Sex-Role Portrayal Code for Television and Radio Programming* and the provisions of the CAB's *Broadcast Code for Advertising to Children* as may be amended from time to time and approved by the Commission.
6. The undertaking meets all technical requirements of the Department of Industry and has acquired all authorizations or certificates prescribed by the Department.
- 7. (a) Effective December 31, 2014, the undertaking has implemented a public alerting system on all its stations that immediately broadcasts on a given station any audio alert that it receives from the National Alert Aggregation and Dissemination System, that:**
  - (i) announces an imminent or unfolding danger to life; and**
  - (ii) is designated by the applicable issuing authority for immediate broadcast in the undertaking's official contours as approved by the Department of Industry.**
- (b) The undertaking shall implement the public alerting system on each of its transmitters.**
- (c) The undertaking shall broadcast the alert only on the transmitters that serve the area targeted by the alert.**
- (d) The undertaking shall ensure that the alerts that it broadcasts are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, published by the Canadian Association for Public Alerting and Notification (CAPAN), as amended from time to time.**

**For the purpose of this provision, the terms "issuing authority" and "National Alert Aggregation and Dissemination System" shall have the same meaning as that set out in the *Broadcasting Distribution Regulations*.**