



Broadcasting Regulatory Policy CRTC 2015-24

PDF version

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Ottawa, 29 January 2015

Over-the-air transmission of television signals and local programming

This policy sets out the Commission's findings on over-the-air transmission of television signals and on local programming. The policy is a result of the process initiated by Let's Talk TV: A Conversation with Canadians. Today, the Commission also publishes its decision on measures to address issues related to simultaneous substitution. Other policy decisions resulting from the Let's Talk TV process will be published at a later date.

The Commission considers that over-the-air transmission of television signals continues to play an important role in the Canadian broadcasting system, at this time, particularly with respect to the local programming offered by conventional television stations. In addition, over-the-air transmission provides a widely available and affordable choice for Canadians wishing to access local and other television programming.

The Commission will therefore continue to require conventional television licensees to maintain an over-the-air presence in order to retain certain regulatory privileges, such as the privilege for their signal to be distributed on the basic service and the privilege to request simultaneous substitution. These privileges are a recognition that local programming is expensive to produce and that the amount of money spent on local programming by conventional television broadcasters is significant.

An overwhelming number of Canadians who commented on the topic of over-the-air television viewed the ability to receive television programs inexpensively over the air as important and valuable. Many also opposed proposals to shut down transmitters such as the one set out in the Commission's working document (Broadcasting Notice of Consultation 2014-190-3).

Introduction

1. On 24 April 2014, the Commission launched a proceeding to conduct a formal review of its television policies (Broadcasting Notice of Consultation 2014-190). This review, which included an appearing public hearing that began on 8 September 2014, represented Phase 3 of *Let's Talk TV: A Conversation with Canadians* and drew on issues and priorities identified by Canadians in the two earlier phases of that conversation. The public record for this proceeding, including reports on the

comments and input from Canadians received in Phases 1 and 2, can be found on the Commission's website at www.crtc.gc.ca.

2. Among the issues identified by Canadians on which the Commission sought comment in Broadcasting Notice of Consultation 2014-190 was over-the-air transmission of local television signals. The Commission requested comments on the ongoing role of local television and over-the-air transmission in Canada. The Commission also sought comments on ways to enhance the sustainability of local television stations.
3. While most Canadians receive their local television stations' signals from broadcasting distribution undertakings (BDUs), such as cable and satellite providers, a minority of the population use over-the-air antennas to receive their local television signals. As part of the 2011 digital transition,¹ significant investments were made into the over-the-air television infrastructure across the country to provide digital and often high-definition quality signals. Among other things, Canadian conventional broadcasters invested in new digital transmitters and equipment and governments funded consumer education campaigns to ensure Canadians were informed of the transition. A number of Canadians bought new antennas and, for some, converter boxes or new television sets in order to receive digital signals.
4. Today, over-the-air signals are widely available to Canadians: 97% of the population live within range of a transmitter.² Some of those Canadians, such as those who live in condos or apartment buildings, may not have access to these signals due to physical barriers or building rules. Others are used to receiving their free, over-the-air signals through a paid subscription to a cable or satellite service. According to Numeris population estimates, 8.1% of Canadians have chosen to access the television system free, over the air. This option has benefits—low-cost (one-time cost for the antenna with no monthly bill), signals that are uncompressed and of greater quality—yet, surprisingly, few Canadians take advantage of it.
5. Conventional broadcasters are permitted to use public airwaves to broadcast programming. In return, they must broadcast Canadian programming and, in most cases, local programming. These requirements encourage job creation and professional development while also ensuring that locally relevant programming is available to Canadians across the country in various communities. This programming may include news, analysis and interpretation that is more local in perspective than what national networks offer. Smaller, independently-owned local broadcasters also provide a diversity of news perspectives at the local level.
6. The costs associated with local programming are offset, in part, by advertising revenues and other privileges such as mandatory carriage on the basic service offered by BDUs as well as simultaneous substitution.

¹ For more information on the digital transition, see Broadcasting Public Notice 2007-53 and Broadcasting Regulatory Policy 2010-485.

² Based on where Canadians live according to the most recent Census data.

7. The Commission reviewed the record of the proceeding and considers that the issues it must address are the following:
 - the ongoing role of over-the-air transmission in providing programming to Canadians; and
 - the funding of local and community programming.

Over-the-air transmission

Positions of parties

8. Over 95% of the participants who posted comments on the topic of over-the-air television in the online consultation held during Phase 3 referred to the importance and value of the ability to receive television programs inexpensively over the air and opposed proposals to shut down transmitters. Many of the interveners in Phase 3 of the consultation were of the same view. They argued that many Canadians rely on over-the-air transmission to get their local news and programming and that, in some areas, over-the-air reception is the only means available to watch television. Some suggested that if Canadian conventional television stations were to shut down their transmitters, Canadian viewership would shift toward watching American over-the-air signals.
9. Online consultation participants as well as some interveners argued that over-the-air television is an inexpensive alternative to cable and satellite television. As an example, one online participant stated: “I do not subscribe to cable, and I have no plans on ever subscribing, I watch the local [over-the-air] channels and supplement with Netflix and/or streaming off the Internet to watch anything I want to watch.” Some argued that fixed- and low-income households would be greatly affected by a shutdown of over-the-air transmitters. Some also suggested that over-the-air television can be used as a public warning system in case of natural disasters and other emergency situations.
10. At the hearing, The Antenna Guys, a southern Ontario-based company that sells and installs over-the-air antennas, argued that a healthy and dynamic retail market should include the ability of a consumer not to use a given service if the price is prohibitive and if a legal, lower-cost option is available. It added that when Canadians discover that they can watch television with an indoor or an outdoor antenna, in full high definition, for free, many of them cancel their cable or satellite subscriptions immediately.
11. Multicasting, the use of one digital transmitter by one or more broadcasters to transmit several programming services at the same time using the same spectrum resources, was brought up by several participants in the online consultation as well as by interveners in Phase 3 of the consultation. In his intervention and hearing presentation, Dr. Gregory Taylor, Post-Doctoral Fellow at Ryerson University, suggested that over-the-air broadcasters have yet to explore the true capabilities of

digital over-the-air television and that Canadian broadcasters should explore signal multicasting. Dr. Taylor also argued that a more vibrant over-the-air sector could be a way to maximize choice for Canadians and provide a viable alternative to cable and satellite subscriptions.

12. In their interventions, Bell Canada (Bell), the Canadian Broadcasting Corporation (CBC) and Groupe V Média inc. (V Média) suggested alternatives to the current local television framework. They suggested that local television broadcasters be allowed to shut down their transmitters but continue to receive mandatory carriage of their services on basic along with the ability to negotiate some form of compensation for the services from BDUs. Bell and the CBC both specifically proposed that BDUs be required to pay a fee to the broadcaster for offering the local television signals to their subscribers. V Média suggested that the broadcaster be allowed to negotiate for a portion of the contribution made by BDUs to Canadian programming.
13. During the consultation, the Commission asked whether shutting down transmitters would significantly reduce costs for stations so that they can devote more resources to local programming and to offering a local presence in their communities. Interveners submitted that the cost savings would be marginal and ineffective. In this respect, Bell stated that the cost of operating transmitters comprises less than 1% of its local television operating costs. It added that stations would see a drop in advertising revenue from the loss of over-the-air viewers. Moreover, both Bell and V Média stated that they would lose revenue from copyright payments under the distant signal retransmission regime.

Commission's analysis and decision

14. The Commission considers that over-the-air television reception plays an important role in the Canadian broadcasting system, at this time, particularly with respect to the local and Canadian programming offered by conventional television stations. The Commission also considers that it is in the public interest that Canadians continue to have access to this inexpensive means of receiving Canadian programming.
15. Currently, over 40% of viewing in the English-language market and over 50% in the French-language market is to conventional television stations during the prime time hours of 7 to 11 pm, whether those stations are accessed directly over the air or through a BDU.³ While some have suggested that conventional television will disappear and be replaced by online video, specialty or other services, the Commission considers that the large audiences consuming programming on conventional stations indicates that these stations continue to play a significant role in the lives of Canadians for the moment. In particular, conventional stations continue to be an important source of news, information and analysis for Canadians. According to

³ Numeris, PPM data, broadcast year 2013-2014

recent audience data, conventional stations garner 40% of the news programming viewing market share.⁴

16. In the Commission's view, a significant number of Canadians would be adversely affected by a transmitter shutdown at this time. Over-the-air television reception provides a low-cost option, of often higher quality, for virtually all Canadians (97%) to access local, regional and national Canadian television programs appealing to a variety of interests. Canadians can choose over-the-air antennas as their primary way to access television programming or for a second television set in their home or secondary residence.
17. In their interventions, Bell and the CBC made proposals for a new regime that would allow conventional broadcasters to shut down their transmitters and to negotiate some form of compensation for their signals from BDUs. In this respect, the Commission is of the view that this would result in increased costs to BDU subscribers and would reduce the viability of a low-cost entry point for consumers who choose to subscribe to a BDU. With respect to the CBC, the *Broadcasting Act* (the Act) states that the programming provided by the CBC should be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose. The Commission considers that over-the-air transmission remains an appropriate and efficient way for the CBC to provide programming to Canadians. With respect to Bell, the Commission notes that when Bell acquired stations from Astral Media inc., it committed to keep open until 2017 all of its conventional television stations.⁵
18. Finally, the Commission is of the view that any cost savings gained from a transmitter shutdown would not be significant enough to provide any meaningful additional assistance to local stations in the production of local programming. Further, the Commission is mindful of the significant investments that broadcasters, Canadians and government recently made into the successful transition to digital over-the-air technology. The Commission is of the view that the broadcasting system should continue to benefit from those investments. The Commission also took into account the significant public opposition to the proposals to shut down transmitters.
19. The Commission will therefore continue to require conventional television licensees to maintain an over-the-air presence in order to retain certain regulatory privileges. Broadcasters electing to shut down their over-the-air transmitters will not be permitted to retain the privilege to be distributed on the basic service nor will they be able to make requests for simultaneous substitution in the manner described in the *Broadcasting Distribution Regulations* (the Regulations). The Regulations will be amended to reflect the Commission's decision with respect to simultaneous substitution set out in Broadcasting Regulatory Policy 2015-25, also issued today.

⁴ Numeris, PPM data, broadcast year 2013-2014

⁵ See Broadcasting Decision 2013-310.

20. The Commission recognizes that in light of changing technology and new platforms for broadcasting, reliance on over-the-air television reception may diminish in the future. To this end, the Commission notes that the Department of Industry has initiated a consultation on repurposing spectrum in the 600 MHz band, one of the bands used for over-the-air television.⁶

Local and community programming

Positions of parties

21. The Commission received a number of comments about the importance Canadians place on local programming in all three phases of the consultation. As part of their comments on over-the-air television, a significant number of participants in the online consultation expressed their concerns over the potential loss of locally reflective programming including local news, weather and other information programming and alerting. In a number of the interventions and other comments received during Phase 3, individuals expressed their support for local programming. According to the public opinion survey commissioned during Phase 2 of the consultation, 81% of all respondents considered local news programming important while local programming generally was considered important by 51% of all respondents. Similar concerns were brought forward in Phase 1 of the consultation with some participants expressing a need for more locally relevant news and others concerned about a perceived lack of locally reflective programming.

22. However, many broadcasters and stakeholders argued that the business model for local programming on over-the-air stations is tenuous. A number of interveners including the Coalition of Small Market Independent Television Stations, Bell, CBC, RNC MEDIA Inc., UNIFOR, the Independent Broadcasters Group and the Canada Media Guild submitted various funding proposals to support local programming. The proposals ranged from the creation of a new fund, to redirecting the funds of a current fund such as the Small Market Local Production Fund (SMLPF), to an increase in BDU contributions, to other mechanisms to levy fees from BDU subscribers.

Commission's analysis and decision

23. Section 3(1)(i) of the Act states that the programming provided by the Canadian broadcasting system should:

- be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes;
- be drawn from local, regional, national and international sources;
- include educational and community programs;

⁶ For more information and to participate in the consultation, visit the Department of Industry's website at <http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf10891.html>.

- provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.
24. In light of this and the record of the proceeding, the Commission considers that the Canadian television system should encourage the creation of compelling and diverse Canadian programming produced by and reflective of local communities, whether such programming is produced by the commercial, public or community sector. This programming should include news, analysis and interpretation that ensures the presence in the broadcasting system of a local perspective on current events.
 25. The Commission recognizes that local programming, especially news and information, is expensive to produce and that the amount of money spent on such programming by broadcasters is significant. In light of the evolving communications market and the importance of providing affordable access to local news and information, the Commission considers that the imposition of additional fees or levies on Canadians is not an appropriate mechanism to finance local programming. If additional support is required to finance local programming, it should come from a reallocation of existing contributions, those contributions being already paid for by Canadians in a variety of ways.
 26. In this respect, the Commission is of the preliminary view that there is currently sufficient funding within the system to ensure the creation of locally relevant and reflective programming, but that the allocation of such funding needs to be re-examined in order to ensure that such programming is compelling, accessible and well-financed.
 27. Under the Regulations, licensed BDUs must contribute 5% of their gross broadcasting revenues to support Canadian programming. For terrestrial BDUs (e.g. cable providers), this may include a contribution to local expression, while direct-to-home satellite BDUs make a contribution to the SMPLF. These contributions are meant to ensure that BDUs contribute to the creation and presentation of Canadian programming.
 28. In its three-year plan, the Commission stated that, in the 2015-2016 fiscal year, it will assess the ongoing effectiveness of the community television policy. The Commission intends to expand its examination to include the overall state and funding of locally relevant and locally reflective television programming offered in the broadcasting system.
 29. Consequently, the Commission intends to examine issues relating to locally relevant, locally reflective and community access programming more broadly with a view to ensuring that appropriate policies and regulations are in place to provide for:

- the creation and exhibition of locally produced and locally reflective programming in a multi-platform environment;
- access by professional and non-professional independent producers and community members to the broadcasting system;
- the production and exhibition of locally relevant news and information programming.

30. The Commission will issue a notice of consultation to initiate this review in the coming months.

Secretary General

Related documents

- *Measures to address issues related to simultaneous substitution*, Broadcasting Regulatory Policy CRTC 2015-25, 29 January 2015
- *Let's Talk TV: Working document for discussion*, Broadcasting Notice of Consultation CRTC 2014-190-3, 21 August 2014
- *Let's Talk TV*, Broadcasting Notice of Consultation CRTC 2014-190, 24 April 2014
- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013
- *Issues related to the digital television transition*, Broadcasting Regulatory Policy CRTC 2010-485, 16 July 2010
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007