



## Broadcasting Regulatory Policy CRTC 2015-514

PDF version

Reference: 2015-304

Ottawa, 19 November 2015

### **Amendments to the *Broadcasting Distribution Regulations* to implement determinations in the Let's Talk TV proceeding**

*The Commission announces that it has made amendments to the Broadcasting Distribution Regulations. The amendments reflect determinations made in the context of the Let's Talk TV proceeding, which include:*

- *providing Canadians with access to a small entry-level service offering (basic service) and pick-and-pay and flexible package options;*
- *eliminating genre protection to allow more programming flexibility, while streamlining the licensing regime for discretionary services;*
- *ensuring that a diversity of voices is offered to Canadians by requiring that vertically integrated distributors offer one English- or French-language independent service for every service of their own that they offer in the same language;*
- *ensuring that Canadians with disabilities have more access to accessibility features and a seamless experience when accessing their content of choice; and*
- *ensuring that broadcasting distribution undertakings distribute an adequate number of minority-language services in each majority-language market (the 10:1 rule).*

*These amendments will be published in the Canada Gazette, Part II, and will take effect on 1 March 2016, with the exception of the accessibility provisions, which will come into force on 1 December 2015.*

#### **Introduction**

1. The Commission hereby announces that it has made, with some changes, the proposed *Regulations Amending the Broadcasting Distribution Regulations* set out in the appendix to Broadcasting Notice of Consultation 2015-304 (the Notice).
2. These amendments to the *Broadcasting Distribution Regulations* (the Regulations), set out in the appendix to this regulatory policy, will implement determinations made in the context of the Let's Talk TV proceeding and set out in Broadcasting Regulatory Policies 2015-86, 2015-96 and 2015-104. The amendments will take effect on 1 March 2016, with the exception of the accessibility provisions, which will come into force on 1 December 2015.

3. In response to the Notice, the Commission received a number of comments on several issues, including the types of programming services to be included on the basic service, the price cap on the basic service, pick-and-pay and packaging options, linkage rules and accessibility. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca).

## **Issues**

4. After examining the public record for this proceeding, the Commission has made changes to the Regulations that relate to the following issues:
  - the types of programming services to be included on the basic service;
  - the price cap on the basic service;
  - pick-and-pay and packaging rules;
  - the 10:1 linkage rule;
  - the 1:1 linkage rule;
  - accessibility; and
  - implementation dates.
5. In addition, the Commission has made certain changes to the Regulations to maintain internal consistency, to correct errors and to ensure consistent meaning between the English- and the French-language versions. The Commission has addressed key issues in this regulatory policy and has set out its interpretation of certain sections of the Regulations to clarify any outstanding ambiguity with respect to those sections.

## **Types of programming services to be included on the basic service**

6. In the Notice, the Commission proposed that sections 17 and 46 of the Regulations set out the types of programming services to be included on the basic service. Section 17(6) would allow a broadcasting distribution undertaking (BDU) to include up to a maximum of 10 "local or regional" television stations (which include those that it is required to provide). Moreover, sections 17(6) and 46(8) would allow a BDU to include one set of U.S. 4+1 signals<sup>1</sup> on the basic service from the same time zone or from an adjacent time zone.

---

<sup>1</sup> This refers to the set of signals that provide the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network.

## **Positions of parties**

7. Various interveners suggested that sections 17 and 46 of the Regulations be amended to include other types of services, including traditional exempt services—such as teleshopping and real estate channels—out-of-province designated educational services and all radio stations. Shaw Communications Inc. (Shaw) also submitted that the direct-to-home (DTH) basic service was too limiting and, from a technological perspective, did not function with its own system. Shaw proposed that the Commission grandfather over-the-air (OTA) television stations that DTH BDUs have been distributing on the basic service since 19 March 2015, the date of the publication of Broadcasting Regulatory Policy 2015-96.
8. Rogers Communications Inc. (Rogers) and Shaw also questioned the inclusion of “any community channel” (as set out in section 17(6)(b)) on the basic service.
9. With respect to the authority of terrestrial BDUs to include a maximum of 10 additional television stations, several interveners raised the fact that the limitation to “local or regional” in section 17(6)(a) of the proposed Regulations was inconsistent with the policy. Rogers and BCE Inc. (BCE) further requested that, should the Commission expand the scope to include extra-regional and distant television stations, it limit them based on time zones, permit simultaneous substitution for the distant signals and not require consent for the distant signals of those stations distributed on the basic service.
10. Shaw also submitted that the provision of U.S. 4+1 signals on the basic service should not be restricted based on time zones.

## **Commission’s analysis and decisions**

11. In Broadcasting Regulatory Policy 2015-96, the Commission determined that subscribers should have access to a small entry-level basic service with a limited selection of programming services. Specifically, the Commission indicated that the following services must be included on the basic service:
  - local and regional OTA Canadian television stations;
  - 9(1)(h) services mandated for distribution on the basic service; and,
  - in the case of terrestrial BDUs, the community channel and the proceedings of the provincial legislature, if offered.
12. The Commission also determined that BDUs would be authorized to include the following services on the basic service:
  - local AM and FM radio stations;
  - one set of U.S. 4+1 signals; and,

- in the case of terrestrial BDUs, other OTA Canadian television stations where fewer than 10 local or regional stations are available, to an overall maximum of 10.
13. Finally, the Commission indicated that terrestrial BDUs could seek to offer, by condition of licence, one out-of-province designated educational service in each official language in provinces or territories where no such service is designated.
  14. The Commission also indicated that BDUs could not include any other services beyond those set out above.
  15. In light of the above, the Commission **denies** the requests to include additional programming services on the basic service or to grandfather television stations for DTH BDUs as these would require changes to the policy. With respect to the out-of-province designated educational service, as noted in the policy, BDUs can apply for a condition of licence to include such a service on their basic service. Similarly, if Shaw's particular circumstances require an interim exception to the Regulations, it can apply to the Commission for a condition of licence.
  16. However, the Commission has amended the Regulations to authorize the distribution of local radio stations by DTH BDUs and has deleted as redundant the authority to include "any community channel" on the basic service. These changes respond to the concerns raised and will ensure that the Regulations are consistent with the policy. Further, BDUs will still be able to offer community programming on the basic service pursuant to section 17(2)(a) of the Regulations.
  17. The Commission acknowledges the oversight in referencing only local and regional television stations in the designation of a maximum of 10 additional television stations. It has also amended the Regulations to refer to "licensed television stations." However, the Commission does not consider it appropriate to place restrictions on the source or location of these stations. BDUs should be able to use whichever additional stations provide the most value to their subscribers, subject to any other requirements such as distant signal consent.
  18. The Commission also does not consider it appropriate to permit simultaneous substitution for non-local television stations or to exempt them from the consent requirement under section 21 of the Regulations. Simultaneous substitution is the exception rather than the rule, and permitting this practice for these stations would expand the scope of the simultaneous substitution regime detailed in Broadcasting Regulatory Policy 2015-25.
  19. Moreover, given that the ability to include distant television stations on the basic service is permissive rather than mandatory, the Commission considers that continuing to require consent for the distribution of the distant signals would not result in an additional burden to BDUs.

20. Finally, U.S. 4+1 signals on the basic service are currently authorized by condition of licence and are generally limited to services from the same time zone, with some exceptions. To maintain consistency with the status quo, but to also provide BDUs in areas where there is no set of U.S. 4+1 signals in the same time zone with the flexibility to carry the feeds most relevant to their subscribers, the Commission has changed the provisions relating to the authority to distribute the U.S. 4+1 signals on the basic service to only require that they be sourced from the same time zone, where available. Reference to the adjacent time zone has been deleted.

### **Price cap on the basic service**

21. In the Notice, the Commission proposed that the Regulations be amended by adding sections 17.1 and 46.1 to require that BDUs charge subscribers a maximum fee of \$25 per month for the distribution of the basic service.

### **Positions of parties**

22. Several interveners submitted that the \$25 maximum monthly fee should be subject to an annual adjustment for inflation, or that the rate not be specified in the Regulations but rather by reference to an amount prescribed by the Commission. Rogers also suggested that the amount be reviewed on a regular basis.

23. A number of interveners also submitted that the cap should only apply to residential customers and proposed replacing the reference to “subscribers” with “customers.” Shaw further proposed this change in relation to a number of other provisions.

24. Moreover, Rogers and Shaw proposed that the Regulations be amended to expressly exclude equipment from the \$25 maximum monthly fee.

### **Commission’s analysis and decisions**

25. In Broadcasting Regulatory Policy 2015-96, the Commission indicated that the basic service offering was to be “priced at no more than \$25 (not including equipment) per month.”

26. The policy did not include indexing, and a reference to an amount prescribed by the Commission would not conform to regulatory drafting requirements. The Regulations will, therefore, not incorporate these suggestions. Although it may choose to review the amount in the future, no date has been set for such a review.

27. With respect to the proposal to change the application of the provision from “subscribers” to “customers,” the Commission is of the view that this would be appropriate and has therefore effected this change. However, it will not replace “subscriber” with “customer” in any of the other provisions as this would require a policy change.

28. As noted above, the intent behind the policy was for the maximum \$25 monthly fee to exclude equipment. Consistent with this intent, proposed section 17.1 referred to the

\$25 as being for “distribution,” which the Commission considers only applies to programming. Consequently, the Commission finds that no change is required.

### **Pick-and-pay and packaging rules**

29. In the Notice, the Commission proposed that section 23 of the Regulations be amended to require that BDUs offer programming services as follows:
- (a) during the period beginning on 31 March 2016 and ending on 30 November 2016, on a stand-alone basis or in a package [pre-assembled or build your own] of up to 10 programming services; and
  - (b) on or after 1 December 2016, both on stand-alone basis and in packages of up to 10 programming services.

### **Positions of parties**

30. Several interveners raised questions about the services that should be included in the pick-and-pay and packaging rules found in section 23 of the Regulations. In particular, they proposed that on-demand, pay television and premium services should be excluded from the rules. Some interveners also submitted that television stations should be excluded from the rules.
31. BCE and Rogers also raised the fact that Broadcasting Regulatory Policy 2015-96 does not impose a specific number of services as part of the pre-assembled packages but rather refers to “small” packages. They proposed, therefore, that “10” be replaced by “small.”

### **Commission’s analysis and decisions**

32. In Broadcasting Regulatory Policy 2015-96, the Commission determined that:
- by March 2016, all licensed BDUs would be required to offer all discretionary services either on a pick-and-pay basis **or** in small, reasonably priced packages; and
  - by December 2016, all licensed BDUs would be required to offer all discretionary services on both a pick-and-pay basis **and** in small, reasonably priced packages.
33. The Commission also indicated that the “small, reasonably priced packages” could take the form of build-your-own packages (including an option to buy a package of up to a maximum of 10 services) or small, pre-assembled packages, such as theme packs.
34. In that policy, the Commission expressly indicated that these rules would apply to “discretionary services.” Accordingly, the Commission has amended the Regulations

to ensure that these provisions apply only to discretionary services and not to on-demand services or OTA television stations.

35. With respect to the concerns raised by Rogers and Shaw, the Regulations must be objectively ascertainable so that regulated entities understand their obligations. “Small” is not objectively ascertainable by itself and requires a precise definition to operationalize the policy. Given that the Commission expressly referenced “10” in the build-your-own package context and that most BDUs currently offer packages that include fewer than 10 programming services, the Commission is of the view that “10” is an appropriate number to use in the operationalization of this policy. Notably, “10” is a maximum under the provision, not a requirement. Therefore, BDUs can offer packages containing fewer than 10 services to meet this regulatory obligation. BDUs are also not prevented from offering services in larger packages once the service is offered in the package of 10 or fewer services.
36. More specifically, BDUs must ensure that all discretionary services are offered in a small package, whether it be a pre-assembled package of up to 10 programming services or a build-your-own package of up to 10 services. Having met that requirement, BDUs can then offer larger packages that consist of programming services chosen by the BDU or by the subscriber (i.e., “pick 20,” “pick 30,” etc.).

### **10:1 linkage rule**

37. As proposed in the Notice, sections 18 and 47 of the Regulations would be amended to require BDUs to distribute one licensed French- or English-language discretionary service (minority-language service) for every 10 English- or French-language programming services (majority-language services) that they distribute (the 10:1 rule).

### **Positions of parties**

38. BCE and Rogers questioned whether the 10:1 rule should be limited to licensed services since it would exclude exempt discretionary services. The Independent Broadcast Group (IBG) also submitted that OTA television stations should not be included in the calculation of this rule.

### **Commission’s analysis and decisions**

39. Given the intent to eliminate genre protection and, therefore, the distinctions between the different types of discretionary services and the intent to exempt a greater number of discretionary services, the Commission has amended sections 18 and 47 of the Regulations to allow BDUs to distribute an exempt discretionary service as the minority-language service for purposes of the 10:1 rule.
40. Further, the Commission has amended the definition of “discretionary services” to expressly exclude OTA television stations, thereby removing them from various calculations under the Regulations, including the 10:1 rule.

## 1:1 linkage rule

41. As proposed in the Notice, section 19(3) of the Regulations requires that for every English- or French-language discretionary service of a **related** programming undertaking that a BDU distributes, it must also distribute at least one discretionary service in the same language of an **independent** programming undertaking (the 1:1 rule).
42. For the purposes of that section, the definition of “discretionary service” does not include:
- (a) a programming service that the licensee distributes under section 18;
  - (b) an adult programming service;
  - (c) an exempt programming service, other than an exempt discretionary service;  
or
  - (d) a programming service that the licensee is required to distribute under paragraph 9(1)(h) of the *Broadcasting Act* (the Act).

## Positions of parties

43. Some interveners submitted that OTA television stations should not be included in the calculation of this rule, while adult, 9(1)(h) and exempt discretionary services should be included. They also submitted that existing services should be grandfathered (including existing Category A services) so that the rule only applies to new services.
44. Further, BCE submitted that by excluding from the definition a programming service that the licensee distributes under section 18, the Commission had unintentionally broadened the types of services that were not to be counted in the 1:1 rule. According to BCE, amended section 18 references ethnic Category A services, general interest television pay-per-view services, French-language discretionary services and English-language discretionary services. BCE therefore proposed that section 19(2)(a) be changed to refer to “an on-demand service.”
45. Corus and SaskTel submitted that the rules should not apply in respect of a licensee with no related programming undertakings.

## Commission’s analysis and decisions

46. In Broadcasting Regulatory Policy 2015-96, the Commission indicated that the 1:1 rule would only apply to discretionary services whose access is not already guaranteed, and has also expressly excluded from calculation:



- services benefitting from mandatory distribution under section 9(1)(h) of the Act;
- OTA television stations;
- educational services;
- adult services;
- pay audio services; and
- exempt programming services other than exempt discretionary services.

47. In response to suggestions that certain services be included or excluded, the above policy has already addressed each of these issues. Also, as noted above, the Commission has amended the definition of “discretionary service” to exclude OTA television stations.

48. Moreover, to clarify what types of services are to be included in the calculation of the 1:1 rule, reference to a type of service listed in section 18 does not imply that that service is “distributed under” that section. The only services that are excluded from the 1:1 calculation by virtue of reference to section 18 in section 19(2)(a) are:

- Category A services (which will eventually cease to hold this status and fall into the broader category of a discretionary service);
- one English- or French-language general interest television pay-per-view service, which, by definition, is already not a discretionary service;
- minority-language services; and
- ethnic Category A services.

49. Additionally, with respect to the general application of this section, a related service is one that is related to the BDU seeking to apply the section, not a programming service that is related to another vertically integrated BDU. In other words, if the BDU has no related programming undertakings, the provision would not apply to that particular BDU.

## **Accessibility**

50. As proposed in the Notice, section 7.3 specifies that a licensee shall make available to its subscribers such equipment, software or other technology (EST) that will allow any individual who is blind, visually impaired or who has fine motor skills disabilities to identify and have access to its programming services—including programs with described video—if that EST is available for purchase by the licensee and is compatible with its distribution system.

### **Positions of parties**

51. Several interveners commented on the operation of the provision relating to accessibility, suggesting the addition of wording related to the obligation for payment for EST, the requirement to make EST available simply because it is available and compatible, and generally, to make the provision more flexible for BDUs.

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

52. The Commission is satisfied that the wording of the Regulations accurately reflects its intentions with respect to accessibility. Nevertheless, it has added the words “except as otherwise provided under a condition of its licence” to provide flexibility to BDUs where their particular circumstances warrant an exception to the general rule.

53. For greater clarity, where EST is available for procurement by the BDU, is compatible with its distribution system and meets the functionality prescribed by the Regulations, the BDU must make the EST available to subscribers for purchase or rent, or as part of a promotion. The provision does not require BDUs to make available all EST that meets the requirements. It only requires that, where one exists, at least one must be made available that meets the needs of persons in each of the identified groups. For example, if one type of EST is available, compatible and meets the functionality needs for individuals who are blind or visually impaired, and two types of EST are available, compatible and meet the functionality needs for individuals with fine motor skills disabilities, the EST that meets the needs of individuals who are blind or visually impaired and one of the types of EST that meets the needs of individuals with fine motor skills disabilities must be made available to subscribers.

### **Implementation dates**

54. As proposed in the Notice, section 23 specifies that BDUs must offer services on either a stand-alone or 10-package basis starting 31 March 2016. The general coming into force date for the majority of the amendments is 1 March 2016.

### **Positions of parties**

55. Several interveners raised concerns regarding the apparent inconsistency between the first of the implementation dates for section 23 – pick-and-pay and packaging provisions (31 March 2016) and the general implementation date for the majority of the other provisions of the Regulations (1 March 2016).

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

56. The Commission considers it appropriate to harmonize these implementation dates. Given that the policy specifies “by March 2016” with respect to the pick-and-pay and packaging provisions, the Commission has amended the Regulations so that these provisions come into effect on 1 March 2016.

## Other issues

57. The definition of “Category A service” has been amended to replace the 12 March 2015 date with that of 31 August 2018. This change will prevent the premature loss of access rights by independent programming undertakings.
58. The Commission has corrected section 26 of the Regulations relating to the distribution and packaging of religious services by changing the reference to “religious specialty services.” This provision was intended to apply to single and limited point-of-view religious specialty services when the Commission incorporated the Distribution and Linkage Rules into the Regulations in 2011.
59. Finally, the Commission has amended sections 27(3) and 27(4) relating to the offering and packaging of third-language programming services to better reflect the policy and avoid conflict with the requirements of section 23.

Secretary General

## Related documents

- *Call for comments on amendments to the Broadcasting Distribution Regulations to implement determinations in the Let’s Talk TV proceeding*, Broadcasting Notice of Consultation CRTC 2015-304, 9 July 2015
- *Let’s Talk TV - Navigating the Road Ahead - Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015
- *Let’s Talk TV - A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015
- *Let’s Talk TV - The way forward - Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Measures to address issues related to simultaneous substitution*, Broadcasting Regulatory Policy CRTC 2015-25, 29 January 2015

# Appendix to Broadcasting Regulatory Policy CRTC 2015-514

## REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

### AMENDMENTS

**1. (1) The definitions “Category B service”, “ethnic Category A service”, “exempt Category B service”, “exempt third-language service” and “Local Programming Improvement Fund” in section 1 of the *Broadcasting Distribution Regulations*<sup>1</sup> are repealed.**

**(2) The definitions “basic service”, “Category A service”, “discretionary service” and “licence” in section 1 of the Regulations are replaced by the following:**

“basic service” means a package of programming services that is distributed by a licensee in a licensed area for a single fee and that consists of

(a) in the case of a terrestrial distribution undertaking that distributes programming services on a digital basis, the programming services that are distributed in accordance with section 17 or a condition of its licence;

(b) in the case of a terrestrial distribution undertaking that distributes programming services on an analog basis, the programming services that are required to be distributed under section 41 or a condition of its licence, and any other services that are included in the package; and

(c) in the case of a DTH distribution undertaking, the programming services that are distributed in accordance with section 46 or a condition of its licence. (*service de base*)

“Category A service” means

(a) in respect of a licence that was issued before September 1, 2011,

(i) a pay television service, other than a Category C service or a service that was designated as a Category 2 service by the Commission before that day, or

(ii) a specialty service, other than a Category C service or a service that was designated as a Category 2 service by the Commission before that day; and

(b) in respect of a licence that is issued during the period beginning on September 1, 2011 and ending on August 31, 2018, a Canadian programming service that is designated as a Category A service by the Commission. (*service de catégorie A*)

“discretionary service” means a programming service that is not included in basic service, other than

(a) an on-demand service;

(b) an audio programming service;

(c) a pay audio service;

(d) a specialty audio service;

(e) a non-Canadian programming service; or

(f) the programming service of a television station. (*service facultatif*)

“licence” means

(a) in the case of a discretionary service or a programming service that is distributed under paragraph 17 (1) (g), a licence to carry on a discretionary programming undertaking, a pay television programming undertaking or a specialty programming undertaking;

(b) in the case of an on-demand service, a licence to carry on an on-demand programming undertaking, a pay-per-view programming undertaking or a video-on-demand programming undertaking;

(c) in the case of a television station, a licence to carry on a television station; and

(d) in any other case, a licence to carry on a distribution undertaking. (*licence*)

**(3) Paragraph (b) of the definition “Category C service” in section 1 of the Regulations is replaced by the following:**

(b) a pay television service or a specialty service that is subject to the conditions of licence set out in

(i) the appendices to Broadcasting Regulatory Policy CRTC 2009-562-2, dated May 25, 2012 and entitled *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news – Definition of “broadcast day” for mainstream sports services*, as amended from time to time; or

(ii) the appendix to Broadcasting Regulatory Policy CRTC 2015-436, dated September 23, 2015 and entitled *Revised standard conditions of licence for Canadian discretionary services operating as national news services*, as amended from time to time. (*service de catégorie C*)

**(4) Paragraph (a) of the definition “high definition version” in section 1 of the Regulations is replaced by the following:**

(a) in respect of a discretionary service or a programming service that is distributed under paragraph 17 (1) (g), the version of that service that is authorized by a condition of licence;

**(5) Section 1 of the Regulations is amended by adding the following in alphabetical order:**

“discretionary basis” means, in respect of the distribution of a programming service, its distribution as other than part of the basic service or the first-tier offering for a fee that is in addition to that charged for the basic service or the first-tier offering. (*base facultative*)

“exempt discretionary service” means a discretionary service that is offered by an exempt programming undertaking that meets the criteria set out in the appendix to Broadcasting Order CRTC 2015-88, dated March 12, 2015 and entitled *Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers*, as amended from time to time. (*service facultatif exempté*)

“exempt programming service” means a programming service that is offered by an exempt programming undertaking. (*service de programmation exempté*)

“first-tier offering” means a package of programming services that is distributed by a licensee in a licensed area for a single fee and that consists of

(a) in the case of a terrestrial distribution undertaking that distributes programming services on a digital basis, the programming services that are distributed in accordance with section 17.3 or a condition of its licence; and

(b) in the case of a DTH distribution undertaking, the programming services that are distributed in accordance with section 46.3 or a condition of its licence. (*premier volet facultatif*)

“on-demand service” means a pay-per-view service, a video-on-demand service or any other programming service that provides programs that are accessed individually at the request of a subscriber. (*service sur demande*)

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

OFFER OF BASIC SERVICE

**4.1** Except as otherwise provided under a condition of its licence, a licensee shall offer its basic service to its subscribers and to prospective subscribers.

**3. Section 5 of the Regulations is replaced by the following:**

**5.** Except as otherwise provided under a condition of its licence or these Regulations, a licensee shall provide a subscriber with its basic service or, if offered, its first-tier offering, if it provides the subscriber with a programming service other than

(a) an on-demand service; or

(b) an exempt programming service, other than an exempt discretionary service.

**4. (1) Subsection 6 (1) of the Regulations is replaced by the following:**

**6. (1)** Except as otherwise provided under a condition of its licence, a licensee shall ensure, in respect of each of analog and digital technology, that a majority of each of the video and audio programming services that are offered to a subscriber are devoted to the distribution of Canadian programming services.

**(2) Subsection 6 (2) of the Regulations is amended by adding “and” at the end of paragraph (a) and by replacing paragraphs (b) to (d) with the following:**

(b) on-demand service.

**(3) Paragraphs 6 (3) (b) and (c) of the Regulations are replaced by the following:**

(b) discretionary service;

(c) programming service that is distributed under paragraph 17 (1) (g);

**5. The Regulations are amended by adding the following after section 7.2:**

ACCESSIBILITY OF PROGRAMMING

**7.3** Except as otherwise provided under a condition of its licence, a licensee shall make available to its subscribers such equipment, software or other technology that will allow any individual who is blind, visually impaired or who has fine motor skills disabilities to identify and have access to its programming services — including programs with described video — if that equipment, software or other technology is available for purchase by the licensee and is compatible with its distribution system.

**6. The portion of subsection 9.1 (2) of the Regulations before paragraph (a) is replaced by the following:**

(2) A licensee that is distributing an exempt discretionary service of an exempt programming undertaking or that is negotiating terms of carriage with an exempt programming undertaking for an exempt discretionary service, including any new programming service that is an exempt discretionary service, shall sign and provide to the operator of the exempt programming undertaking an agreement that

**7. The heading before section 17 of the Regulations is replaced by the following:**

BASIC SERVICE

**16.1** Except as otherwise provided under a condition of its licence, a licensee shall not distribute as part of its basic service any programming services other than those referred to in section 17.

**8. (1) Paragraph 17 (2) (b) of the Regulations is replaced by the following:**

(b) a programming service that consists of the proceedings of the legislature of the province in which the licensed area is located if the licensee elects to distribute that programming service, unless the programming undertaking that provides that programming service agrees in writing to its distribution on a discretionary basis.

**(2) Section 17 of the Regulations is amended by adding the following after subsection (5):**

(6) Except as otherwise provided under a condition of its licence, a licensee may, in addition to the programming services required under subsections (1) to (5), distribute the following services as part of its basic service in the licensed area:

(a) the programming services of no more than 10 licensed television stations, including those stations whose programming services are required to be distributed under subsection (1);

(b) a 4 + 1 package of programming services that originates

(i) in the same time zone as that in which the licensee's local head end is located,  
or

(ii) if no such package originates in that time zone, in any other time zone; and

(c) the programming service of any local radio station.

(7) A licensee that distributes a programming service under this section may also distribute the high definition version of that programming service.

**9. The Regulations are amended by adding the following after section 17:**

**17.1** Except as otherwise provided under a condition of its licence, a licensee shall not charge a customer more than \$25 per month for the distribution of its basic service.

FIRST-TIER OFFERING

**17.2** Except as otherwise provided under a condition of its licence, a licensee may offer its first-tier offering to its subscribers and prospective subscribers.

**17.3** (1) Except as otherwise provided under a condition of its licence, if a licensee offers a first-tier offering it shall distribute the following services in each licensed area as part of that offering:

(a) the programming services that are required to be distributed under subsections 17 (1) to (5); and

(b) the programming service of at least one Canadian programming service that is in addition to those distributed under paragraph (a).

(2) Except as otherwise provided under a condition of its licence, a licensee may, in addition to the programming services required under subsection (1), distribute as part of the first-tier offering in the licensed area any non-Canadian programming service that may be distributed under subsection 17 (6).

**10. (1) Subsection 18 (1) of the Regulations is replaced by the following:**

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

“ethnic Category A service” means, in respect of a licence that was issued before March 12, 2015, a programming service that is designated as an ethnic Category A service by the Commission or named in paragraph 138 of Broadcasting Public Notice CRTC 2008-100, dated October 30, 2008 and entitled *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*. (*service ethnique de catégorie A*)

“general interest television pay-per-view service” means a television pay-per-view service whose programming is selected — unrestricted by any condition of licence — from any of the categories set out in item 6, column I, of Schedule I to the *Pay Television Regulations, 1990* (*service de télévision à la carte d'intérêt général*)

**(2) Subparagraph 18 (2) (a) (iii) of the Regulations is replaced by the following:**

(iii) to the extent that such a programming service is available, at least one French-language discretionary service for every 10 English-language programming services that it distributes;

**(3) Subparagraph 18 (2) (b) (iii) of the Regulations is replaced by the following:**

(iii) to the extent that such a programming service is available, at least one English-language discretionary service for every 10 French-language programming services that it distributes; and



**(4) Paragraph 18 (3) (a) of the Regulations is replaced by the following:**

(a) the definition “discretionary service” in section 1 does not include a programming service that the licensee is required to distribute under paragraph 9 (1) (h) of the Act; and

**11. (1) The definition “exempt distribution undertaking” in subsection 19 (1) of the Regulations is replaced by the following:**

“exempt distribution undertaking” means a distribution undertaking the operator of which is exempt under Broadcasting Order CRTC 2014-445, dated August 29, 2014 and entitled *Terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, as amended from time to time. (*entreprise de distribution exemptée*)

**(2) Subsections 19 (2) to (4) of the Regulations are replaced by the following:**

(2) For the purposes of subsection (3), the definition “discretionary service” in section 1 does not include any of the following:

- (a) a programming service that the licensee distributes under section 18;
- (b) an adult programming service;
- (c) an exempt programming service, other than an exempt discretionary service;
- (d) a programming service that the licensee is required to distribute under paragraph 9 (1) (h) of the Act.

(3) Except as otherwise provided under a condition of its licence, a licensee shall distribute in its licensed area

(a) to the extent that such programming is available, at least one English-language discretionary service of an independent programming undertaking for each English-language discretionary service of a related programming undertaking that it distributes in the area; and

(b) to the extent that such programming is available, at least one French-language discretionary service of an independent programming undertaking for each French-language discretionary service of a related programming undertaking that it distributes in the area.

**(3) Subsection 19 (6) of the Regulations is replaced by the following:**

(6) Subsection (5) does not apply to the distribution of an exempt discretionary service of a related exempt programming undertaking.

**12. (1) The portion of subsection 20 (1) of the Regulations before paragraph (a) is replaced by the following:**

**20.** (1) Except as otherwise provided under a condition of its licence, a licensee may, in addition to the programming services required under sections 17 to 19, distribute in its licensed area

**(2) Paragraphs 20 (1) (b) and (c) of the Regulations are replaced by the following:**

(b) any on-demand service, the operator of which is authorized to provide the service to all or part of the licensed area, that is not distributed by the licensee in the licensed area under section 18;

(c) any discretionary service that is not distributed by the licensee in the licensed area under section 18 or 19;

**(3) Paragraph 20 (1) (i) of the Regulations is replaced by the following:**

(i) the programming service of any exempt programming undertaking;

**13. Sections 23 to 27 of the Regulations are replaced by the following:**

**23.** (1) Except as otherwise provided under a condition of its licence, all discretionary services offered by a licensee in a licensed area shall be offered as follows:

(a) during the period beginning on March 1, 2016 and ending on November 30, 2016, either on a stand-alone basis or in packages of up to 10 programming services; and

(b) on or after December 1, 2016, both on a stand-alone basis and in packages of up to 10 programming services.

(2) In addition to the packages required under subsection (1), a licensee may offer any programming services that are not distributed as part of its basic service in packages of more than 10 programming services.

(3) For the purposes of subsections (1) and (2), the licensee may offer either or both of the following:

(a) packages that consist of programming services that are chosen by the licensee; and

(b) packages that consist of programming services that are chosen by the subscriber.

(4) Except as otherwise provided under a condition of its licence or these Regulations, a licensee shall not, on or after December 1, 2016, distribute a programming service or package of programming services such that, in order to obtain that service or package, a subscriber is required to subscribe to an additional programming service or package of programming services.

**24.** Except as otherwise provided under a condition of its licence or these Regulations, a licensee may only distribute an authorized non-Canadian programming service on a discretionary basis.

**25.** (1) Except as otherwise provided under a condition of its licence, a licensee shall not distribute an adult programming service in a package such that a subscriber is required to subscribe to that service in order to obtain any other programming service.

(2) A licensee that distributes an adult programming service shall fully block the reception of both the audio and video portions of the service to subscribers who request that they not receive the service in either unscrambled or scrambled mode.

**26.** (1) Except as otherwise provided under a condition of its licence, a licensee may only distribute the following programming services on a discretionary basis:

- (a) a single point-of-view religious discretionary service;
- (b) a limited point-of-view religious discretionary service;
- (c) a religious exempt discretionary service; and
- (d) a religious authorized non-Canadian programming service.

(2) Except as otherwise provided under a condition of its licence, a licensee shall not distribute a programming service referred to in subsection (1) in a package of programming services that is chosen by the licensee unless all of the services in the package are those referred to in that subsection and they are distributed on a discretionary basis.

**27.** (1) In this section, “principal language” means a language in which 40% or more of the programming of a programming service is provided over the course of a broadcast week.

(2) For the purposes of this section, the definition “third-language service” in section 1 includes a programming service that is named in paragraph 138 of Broadcasting Public Notice CRTC 2008-100, dated October 30, 2008 and entitled *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*.

(3) Except as otherwise provided under a condition of its licence, a licensee shall, for each non-Canadian third-language service that it offers to its subscribers, offer — to the extent that such a service is available — at least one Canadian third-language service in the same principal language.

(4) Except as otherwise provided under a condition of its licence, a licensee shall, for each non-Canadian third-language service that it distributes to its subscribers as part of a package of programming services that is chosen by the licensee, distribute in that package — to the extent that such a service is available — at least one Canadian third-language service in the same principal language.

**14. Subsection 30 (3) of the Regulations is replaced by the following:**

(3) A maximum of 25% of the time for promotional announcements broadcast in each broadcast week under paragraph (1) (b) may be made available for the promotion of the services of related programming undertakings, services distributed on a discretionary basis, packages of programming services, FM services and additional outlets and for the distribution of information on customer services and channel realignments.

**15. Section 35 of the Regulations is repealed.**

**16. Subsections 36 (1) and (2) of the Regulations are replaced by the following:**

**36.** (1) A licensee shall calculate the contribution that it is required to make under section 34 on the basis of its gross revenues derived from broadcasting activities in the previous broadcast year.

(2) The contribution shall be made by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month.

**17. Section 37 of the Regulations is replaced by the following:**

**37.** If, as a result of the calculation performed under subsection 36 (1), the contribution made by a licensee for a broadcast year is greater than the amount required under section 34, the licensee may deduct the excess from the amount of the contribution that is required for the subsequent broadcast year; however, if it is less than the amount required, the licensee shall make the balance of the contribution by December 31 of the subsequent broadcast year.

**18. The portion of subsection 41 (1) of the Regulations before paragraph (a) is replaced by the following:**

**41.** (1) Except as otherwise provided under a condition of its licence or in subsections 17 (3) and (4), a licensee that distributes programming services on an analog basis in a licensed area shall distribute the following as part of its analog basic service in the licensed area in the following order of priority:

**19. Section 45 of the Regulations is replaced by the following:**

**45.** Except as otherwise provided under a condition of licence, this Part and sections 19 and 23 to 29 apply to licensees that hold a licence to operate a DTH distribution undertaking.

**20. The heading before section 46 of the Regulations is replaced by the following:**

BASIC SERVICE

**45.1** Except as otherwise provided under a condition of its licence, a licensee shall not distribute as part of its basic service any programming services other than those that are referred to in section 46.

**21. Section 46 of the Regulations is amended by adding the following after subsection (7):**

(8) Except as otherwise provided under a condition of its licence, a licensee may, in addition to the programming services required under subsections (2) to (7), distribute to a subscriber as part of its basic service

(a) a 4 + 1 package of programming services that originates

(i) in the same time zone as that in which the subscriber's residence or other premises is located, or

(ii) if no such package originates in that time zone, in any other time zone; and

(b) the programming service of any radio station whose market, as defined in section 2 of the *Radio Regulations, 1986*, includes the location of the subscriber's residence or other premises.

(9) A licensee that distributes a programming service under this section may also distribute the high definition version of that programming service.

**22. The Regulations are amended by adding the following after section 46:**

**46.1** Except as otherwise provided under a condition of its licence, a licensee shall not charge a customer more than \$25 per month for the distribution of its basic service.

## FIRST-TIER OFFERING

**46.2** Except as otherwise provided under a condition of its licence, a licensee may offer its first-tier offering to its subscribers and prospective subscribers.

**46.3** (1) Except as otherwise provided under a condition of its licence, if a licensee offers a first-tier offering it shall distribute the following services as part of that offering:

(a) the programming services that are required to be distributed under subsections 46 (2) to (7); and

(b) the programming service of at least one Canadian programming service that is in addition to those distributed under paragraph (a).

(2) Except as otherwise provided under a condition of its licence, a licensee may, in addition to the programming services required under subsection (1), distribute as part of the first-tier offering in the licensed area any non-Canadian programming service that may be distributed under subsection 46 (8).

**23. Subsection 47 (2) of the Regulations is amended by adding the following after paragraph (a):**

(a.1) to each subscriber whose residence or other premises is located in an anglophone market and to the extent that such a programming service is available, at least one French-language discretionary service — other than a programming service that the licensee is required to distribute under paragraph 9 (1) (h) of the Act — for every 10 English-language programming services that it distributes to the subscriber;

**24. (1) Subsection 52 (1) of the Regulations is amended by adding “and” at the end of paragraph (a), by striking out “and” at the end of paragraph (b) and by repealing paragraph (c).**

**(2) Subsection 52 (2) of the Regulations is repealed.**

**25. Subsection 54 (2) of the Regulations is repealed.**

**26. The schedule to the Regulations is replaced by the schedule set out in the schedule to these Regulations.**

## COMING INTO FORCE

**27. (1) These Regulations, except for section 5, come into force on March 1, 2016.**

**(2) Section 5 comes into force on December 1, 2015.**

---

<sup>1</sup> SOR/97-555

**SCHEDULE**

*(Section 26)*

**SCHEDULE**

*(Section 1)*

**MAJOR OWNERSHIP GROUPS**

Item	Group
1.	Shaw Media Inc.
2.	Bell Media Inc.
3.	Quebecor Media Inc.
4.	Remstar Broadcasting Inc.
5.	Rogers Media Inc.