



## Broadcasting Notice of Consultation CRTC 2015-87

PDF version

Route references: 2014-190, 2014-190-1, 2014-190-2, 2014-190-3, 2014-190-4 and 2015-86

Ottawa, 12 March 2015

### **Call for comments on proposed amendments to the exemption order for video-on-demand undertakings and to the standard conditions of licence for video-on-demand undertakings**

*Pursuant to its policy determinations set out in Broadcasting Regulatory Policy 2015-86, also issued today, the Commission calls for comments on the proposed amendments to the exemption order for video-on-demand (VOD) undertakings and to the standard conditions of licence for VOD undertakings. A broadcasting undertaking is exempt from holding a licence provided that it operates in compliance with the conditions set out in the exemption order. Specifically, these amendments take into account the inclusion of a new hybrid VOD service as a second type of exempt undertaking and the elimination of the standard condition of licence prohibiting Canadian VOD subscription packages from competing directly with genre-protected Canadian discretionary services. As a result of these amendments, Canadians will have more opportunities to discover Canadian programming, including original Canadian programming, on multiple Canadian-operated platforms. The deadline for comments is **27 April 2015**.*

#### **Introduction**

1. In *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy 2015-86 (the Create policy), also issued today, the Commission stated that Canadians throughout the country should have access to programming, including original Canadian programming, on Canadian-operated online platforms. As one way to achieve this goal, it announced that it would create a new hybrid video-on-demand (VOD) service category and set the rules that apply to these services. Broadcasting undertakings that operate pursuant to the conditions set out in an exemption order need not hold a broadcasting licence. Creating this new category will help to remove barriers for Canadian companies to compete on an equal footing in an on-demand environment.
2. In the Create policy, the Commission also determined that regulatory support is no longer needed to ensure programming diversity between services and therefore eliminated its genre exclusivity policy. By doing so, the Commission is removing regulatory barriers to entry, programming adaptation and domestic competition, and is ensuring that programming diversity is governed by market forces to the greatest extent possible. As part of this change to eliminate genre protection, the Commission announced that it would remove the prohibition on VOD services from competing with other discretionary services.

## **Proposed amendments to the VOD exemption order**

3. The current exemption order for VOD undertakings (the VOD exemption order) is set out in Broadcasting Order 2011-60. This order exempts from licensing VOD services that are owned and operated exclusively by an exempt broadcasting distribution undertaking (BDU) that is not affiliated with a licensed BDU.
4. Given the new and evolving nature of many VOD services, the Commission announced in the Create policy that it would authorize a new VOD service category based on a hybrid regulatory approach. These hybrid services would be able to operate under light regulatory requirements, similar to fully Internet-based services operating under the Digital Media Exemption Order (DMEO) set out in Broadcasting Order 2012-409, but could also be offered over BDU facilities without the regulatory requirements normally imposed on VOD services, provided that they meet certain other conditions.
5. Specifically, the Commission announced that it would amend and expand the VOD exemption order to include these new hybrid VOD services as a second type of exempt undertaking. These services will benefit from the following incentives:
  - (a) the ability to offer exclusive programming content in the same manner as services operating under the DMEO; and
  - (b) the ability to offer their service on a closed BDU network in the same manner as traditional VOD services without the regulatory requirements relating to financial contributions to and shelf space for Canadian programming that would normally be imposed on those traditional VOD services.

However, to be eligible for exemption under the expanded order, the services must also be offered on the Internet to all Canadians without authentication to a BDU subscription.

6. Accordingly, the Commission seeks comments on these proposed amendments. The revised VOD exemption order is set out in Appendix 1, with the proposed amendments in **bold**.

## **Proposed amendment to the standard conditions of licence for VOD undertakings**

7. In the Create policy, the Commission announced that it would eliminate genre protection for all English- and French-language discretionary services. In doing so, it will no longer enforce conditions of licence relating to nature of service and will permit discretionary services to apply immediately to delete conditions of licence relating to their nature of service. Consistent with this approach, the Commission further announced that it would amend the standard conditions of licence, expectations and encouragement for VOD undertakings, currently set out in Broadcasting Regulatory Policy 2014-444, to remove the prohibition against a

Canadian subscription VOD package from competing directly with a genre-protected Canadian discretionary service.

8. In light of this determination, the Commission proposes to remove condition of licence 7, which currently reads as follows:

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.

9. Accordingly, the Commission seeks comments on this proposed amendment. The revised standard conditions of licence, expectations and encouragement are set out in Appendix 2, with the proposed amendment in **bold**.

### **Call for comments**

10. The Commission calls for comments on the proposed exemption order and standard conditions of licence set out in the appendices to this document. The Commission will accept comments that it receives on or before **27 April 2015**. The Commission will not formally acknowledge written comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

### **Procedure for filing comments**

11. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, replies, answers of respondents and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. 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 "Statutes and Regulations." The *Guidelines on the CRTC Rules of Practice and Procedure*, set out in Broadcasting and Telecom Information Bulletin 2010-959, provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
12. The Commission invites interventions that address the issues and questions set out above. The Commission will accept interventions that it receives on or before **27 April 2015**.
13. The Commission encourages interested persons and parties 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.

14. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
15. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

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

or

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

or

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

16. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that service/filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
17. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
18. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

### **Important notice**

19. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email 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, email addresses, postal/street addresses, telephone and facsimile numbers, etc.

20. 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.
21. 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.
22. 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.

### **Availability of documents**

23. Electronic versions of the interventions and of 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 "Participate" section, selecting "Submit Ideas and Comments," and then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
24. Documents are also available from Commission offices, upon request, during normal business hours.

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## **Related documents**

- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012
- *Exemption order for small video-on-demand undertakings*, Broadcasting Order CRTC 2011-60, 31 January 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

## **Appendix 1 to Broadcasting Notice of Consultation CRTC 2015-87**

### **Proposed amendments to the terms and conditions of the exemption order for video-on-demand undertakings**

By this order, pursuant to subsection 9(4) of the *Broadcasting Act* (the Act), the Commission exempts from the requirements of Part II of the Act and any regulations made thereunder those persons carrying on broadcasting undertakings of the class defined by the criteria set out below.

#### **Purpose**

The purpose of these television programming undertakings is to provide on-demand programming services ~~for distribution that may be distributed~~ by broadcasting distribution undertakings.

#### **A. General**

**1. For the purpose of this order, the following definitions apply:**

**“television programming” means programming designed primarily for conventional television, discretionary programming services or licensed video-on-demand services.**

**“terms of carriage” means the rates, terms and conditions pursuant to which a programming service is provided by one broadcasting undertaking to another.**

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 does not give an undue preference to any person, including itself, or subject any person to an undue disadvantage. In any proceeding before the Commission, the burden of establishing that any preference or disadvantage is not undue is on the party that gives the preference or subjects the person to the disadvantage.**
4. The undertaking files information with the Commission specifying: the name of the service provider, the name under which the service operates, the broadcasting distribution undertaking(s) that distribute the service and the service’s contact information, including mailing address, telephone number, fax number, email address and website. In the case of a new undertaking, the above information is filed with the Commission when the undertaking is ready to commence operations. The undertaking will advise the Commission if there are any changes to this information.
5. The undertaking submits any information requested by the Commission to ascertain the undertaking’s compliance with the terms of this order.



6. The undertaking does not distribute programming that contains the following:
- (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 section (b), sexual orientation does not include the orientation towards a sexual act or activity that would constitute an offence under the *Criminal Code*.

7. The undertaking shall adhere to the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.
8. The undertaking 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.
9. The undertaking 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.

#### **B. Small video-on-demand undertakings**

10. The undertaking is owned and operated by a person that does not hold a broadcasting distribution licence and is not an affiliate of a person that holds a broadcasting distribution licence (licensee). An “affiliate” means a person who controls the licensee or who is controlled by the licensee or by a person who controls the licensee.
11. The undertaking provides video-on-demand services that are distributed using only the facilities of exempt broadcasting distribution undertakings operating pursuant to the exemption order set out in *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2009-544, 31 August 2009, as may be amended from time to time.

#### **C. Hybrid video-on-demand undertakings**

- 12. If the undertaking does not meet the criteria set out in paragraphs 10 and 11 above, the undertaking offers its service over the facilities of a broadcasting distribution undertaking provided that this service is also delivered and accessed over the Internet.**

13. Where the service is delivered and accessed over the Internet as described in paragraph 12 above, it shall not be offered in a way that is dependent on a subscription to any broadcasting distribution undertaking or to a specific mobile or retail Internet access service.
14. An undertaking of the type described in paragraphs 12 and 13 shall submit such information regarding the undertaking's activities in broadcasting in digital media, and such other information that is required by the Commission to monitor the development of broadcasting in digital media, at such time and in such form, as requested by the Commission from time to time.

#### **D. Obligation during dispute**

15. If there is a dispute concerning the carriage or terms of carriage of programming or concerning any other right or obligation under the *Broadcasting Act*, the undertaking shall continue to provide access to the programming services on the same terms of carriage as it did before the dispute.
16. For purposes of paragraph 15, 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 undertakings or, if no such agreement is reached, when the Commission renders a decision concerning any unresolved matter.

#### **E. Dispute Resolution**

17. If there is a dispute concerning any aspect of the terms of carriage, one or both of the undertakings to the dispute may refer the matter to the Commission for dispute resolution and the undertakings to the dispute submit to any decision that may result therefrom.
18. If the Commission accepts a referral of a matter for dispute resolution, the undertaking submits to participation in a mediation before a person appointed by the Commission.
19. Where the undertaking provides another undertaking with access to television programming in the absence of a commercial agreement and the matter proceeds before the Commission for dispute resolution, the undertaking submits to:
  - (a) having the dispute resolved as provided for in *Practices and procedures for staff-assisted mediation, final offer arbitration, and expedited hearings*, Broadcasting and Telecom Information Bulletin CRTC 2009-38, 29 January 2009, as amended from time to time; and
  - (b) the terms of carriage established by the Commission as of the date the programming was first made available to the relevant undertaking

**absent a commercial agreement and on a going-forward basis for the contractual term established by the Commission.**

- 20. For greater certainty, nothing in paragraphs 17 or 19 prevents parties from reaching an agreement with respect to rates, terms or conditions that differ from those established by the Commission.**
- 21. During 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 a mediator in a given dispute.**

## **Appendix 2 to Broadcasting Notice of Consultation CRTC 2015-87**

### **Proposed amendment to the 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. In regard to Canadian feature films:
- 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.~~
7. 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.

- 8. 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.

- 9. 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.
- 10. The licensee shall not acquire exclusive rights for any of the programming offered on its programming service.
- 11. The licensee shall caption
  - a. 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. 100% of original licensee-produced community programming by the end of the licence term.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. In regard to local expression:
  - 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.

19. Except as otherwise provided under a condition of its licence,

- a. a licensee shall devote to local community television programming not less than 60% of the programming offered as local expression.
- b. 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.

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

20. The licensee shall:

- a. except as otherwise provided under a condition of its licence,
  - 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. 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).
21. As part of its annual return on 30 November of each year, the licensee shall file aggregate statistical data for the previous broadcast year ending 31 August concerning the following:
- 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.
22. 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.
23. The licensee shall:
- a. except as otherwise provided under a condition of its licence, implement, by no later than March 31, 2015, a public alerting system that inserts in a program, without delay, 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 service area.
- b. insert the alert in all programs that it is distributing to subscribers whose residence or other premises are located in an area that is targeted by the alert.
  - c. take all reasonable measures to ensure that the alerts that it inserts in a program are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, produced at the request of the Federal/Provincial/Territorial Public Alerting Working Group of Senior Officials Responsible for Emergency Management with the support of Defence Research and Development Canada, Centre for Security Science, Canadian Safety and Security Program, and in consultation with the public-private Common Look and Feel Working Group, as that document is 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.