



## Broadcasting Regulatory Policy CRTC 2016-224

PDF version

References: 2015-421, 2015-421-1, 2015-421-2, 2015-421-3 and 2015-421-4

Ottawa, 15 June 2016

### Policy framework for local and community television

*This policy sets out regulatory measures to ensure that Canadians continue to have access to local programming that reflects their needs and interests. This includes the broadcast of high-quality local news on which Canadians rely to stay informed of issues that matter to them, as well as the broadcast of community programming through which Canadians can express themselves.*

*More specifically, building on the Commission's determinations in the Let's Talk TV proceeding, this policy seeks to ensure that:*

- *locally relevant news and information is produced and exhibited within the Canadian broadcasting system;*
- *Canadians have access to locally reflective programming in a multi-platform environment; and*
- *both professional and non-professional independent producers and community members have access to the broadcasting system.*

#### **Importance of local news – a public service**

*The emergence of new digital technologies has made access to news and analysis from around the world easier than ever and presents many new opportunities. Digital technologies are empowering individuals, allowing them to tell stories that are in the public interest and to share them instantly with millions of people. These media may emerge as the news-reporting technologies of the future. However, the evidence on the record of this proceeding indicates that online news services do not yet have the news-gathering resources and expertise to replace traditional local news sources.*

*As they did in the Let's Talk TV proceeding, many Canadians who participated in the online forum for this proceeding emphasized that local programming, particularly local news, is of great importance to them and a primary source of news and information. In one survey, 81% of Canadians indicated that local news is important to them.*

*As stated in the Broadcasting Act (the Act), the Canadian broadcasting system should provide through its programming a public service essential to maintaining and enhancing Canadians' national identity and cultural sovereignty (section 3(1)(b)). As custodians of the television system, broadcasters have a special obligation to ensure that the system reflects our identity, contributes to our democracy and enhances our safety and security.*

*Local news, information and analysis produced and distributed through the broadcasting system are of central importance to meeting these objectives of the Act and remain important today—not only as an expression of journalistic independence and a reflection of Canadians’ right to freedom of expression, but also as a key part of the Canadian democratic system and trust that Canadians place in it. Broadcasters have a duty to ensure that news reporting and analysis continue to be properly funded so that Canadians, as citizens, understand events occurring around them every day.*

*The measures adopted in this policy to ensure continued local reflection include:*

- *requiring that local television stations maintain historical exhibition and expenditure levels for locally reflective news and information; and*
- *maintaining the current overall exhibition level for locally relevant programming, which may be taken from any programming category.*

*Although local broadcasters face similar economic realities across the country, the resources at their disposal to tackle the situation differ significantly depending on market size and ownership. As such, the Commission has sought a balance by creating a policy that is national in scope but provides flexibility in its implementation at the local level.*

### **Exhibition**

*As part of the upcoming licence renewals for local television stations, the Commission considers that it would be appropriate to maintain the following requirements for licensees:*

- *commercial English-language stations will continue to be required to broadcast at least 7 hours of local programming per week in non-metropolitan markets and at least 14 hours per week in metropolitan markets; and*
- *the local programming requirements for commercial French-language stations will continue to be assessed on a case-by-case basis, using a benchmark minimum of 5 hours of local programming per week.*

*For the purposes of these requirements, all local programming must be locally relevant, while all local news must be locally reflective.*

*News programming will be considered locally reflective if it meets all of the following criteria:*

- *the subject matter relates specifically to the market a station is licensed to serve;*
- *it portrays an onscreen image of the market by, for example, including its residents or officials or featuring coverage of its municipal or provincial government; and*
- *it is produced by the station’s staff or by independent producers specifically for the station.*

## **Expenditures**

*To ensure that Canadians continue to benefit from local reflection in the form of local news, the Commission considers it appropriate to require that a minimum level of local programming be devoted to local news. Specifically, all licensees will be required to broadcast a minimum level of local news and to allocate a percentage of their previous year's revenues to such programming, with the exhibition and expenditure levels to be determined at licence renewal based on historical levels.*

## **Financial support for local news**

*While Canadians continue to value televised local news content, monetizing the production of quality news and analysis has become more difficult. Further, as economic pressures increase, resources may decrease, threatening the integrity of editorial decisions and weakening the ecosystem for local news gathering, production and dissemination across all Canadian media.*

*Accordingly, to help ensure that local television stations have the financial resources to continue providing high-quality local news and information and that there is no erosion of local news in the various markets, the Commission intends to rebalance the resources already present in the broadcasting system by taking the following steps:*

- licensed terrestrial broadcasting distribution undertakings (BDUs) will be allowed to devote part of their local expression contribution to the production of local news on local television stations;*
- direct-to-home (DTH) BDUs will be allowed to devote part of their contribution to Canadian programming to the production of local news on local television stations; and*
- financial support will be available to independent local television stations (i.e. stations that are not part of large vertically integrated groups) through the creation of the Independent Local News Fund, which will replace the Small Market Local Production Fund. All licensed BDUs will be required to contribute to the new fund.*

## **Community television – public access to the broadcasting system**

*The Commission also reviewed the community television framework and found that, on the whole, it remains valid and relevant. While Canadians can now share their stories directly with one another through social media, they still value community programming on television. BDUs continue to be in a position to support and provide community programming and public access to community channels.*

*As part of the flexible approach to local expression described above, licensed terrestrial BDUs serving metropolitan markets (Montréal, Toronto, Edmonton, Calgary, Vancouver) will be permitted to direct their local expression contribution to community programming in other markets and/or to designated local television stations for the*

*production of local news. Licensed terrestrial BDUs serving non-metropolitan markets will be required to devote at least 50% of their local expression contribution to community programming in their own markets and may allocate the other half to community programming in other markets and/or to designated local television stations for the production of local news.*

*This approach will allow BDUs to assess their subscribers' needs for locally reflective programming and allocate their resources accordingly.*

*Further, the community television framework requires a few adjustments to ensure that:*

- community channel operators make use of the most efficient distribution methods to focus on content rather than on facilities;*
- the services adequately reflect the population and provide Canadians with fair access to the broadcasting system as a whole; and*
- community programming is accessible to all Canadians on the most efficient platforms.*

*The adjustments include the following:*

- increasing over time the minimum proportion of local expression expenses that BDUs must allocate to direct programming costs from the current requirement of 50% to 75%;*
- requiring BDUs to create citizen advisory committees for community channels in markets with a population of over one million people;*
- clarifying what constitutes access programming;*
- encouraging BDUs and access producers to make content available on multiple platforms to all Canadians; and*
- monitoring the compliance of community channels with their regulatory requirements more often.*

## **Introduction**

1. The creation of compelling, diverse Canadian programming that reflects local communities, whether produced by the private, public or community element, remains a cornerstone of the Canadian television system. Moreover, the inclusion of news and analysis in this programming ensures that local perspectives on current events are available within the Canadian broadcasting system. Accordingly, in Broadcasting Regulatory Policy 2015-24, which resulted from the Let's Talk TV proceeding, the Commission stated its intention to expand its forthcoming assessment of the ongoing effectiveness of the Community Television Policy<sup>1</sup> to include a review of the overall state and funding of local television.

---

<sup>1</sup> See Broadcasting Regulatory Policy 2010-622.

2. The Commission launched its review of the policy framework for local and community television in Broadcasting Notice of Consultation 2015-421. In addition to hosting an online discussion forum, the Commission held a public hearing beginning on 25 January 2016 where parties had a chance to appear and make their views known. The public record for this proceeding, including the comments from Canadians received through the online discussion forum, can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca).
3. Building on determinations made during the Let's Talk TV proceeding, the Commission set out the following intended outcomes for the review in its notice of consultation:
  - locally relevant news and information is produced and exhibited within the Canadian broadcasting system;
  - Canadians have access to locally produced and locally reflective programming in a multi-platform environment; and
  - both professional and non-professional independent producers and community members have access to the broadcasting system.
4. Subsequently, in Broadcasting Notice of Consultation 2015-421-3 (the Working Document), the Commission stated that news and analysis produced and distributed through the broadcasting system are essential components of the Canadian democratic system and contribute to the trust that Canadians place in it. It also stated that the privileges granted to over-the-air (OTA) television stations to have their signal distributed on the basic service, to solicit local advertising and to request simultaneous substitution come with the responsibility to offer local programming, much of which consists of news and analysis. To ensure that Canadians in all markets are provided with a level and quality of local programming, including local news, that meets their needs and that this is carried out on the most appropriate platform, the Commission stated that it would focus on proposals leading towards a rebalancing both of the financing available to each of the broadcasting system's elements (private, public and community) and their responsibilities.
5. Accordingly, in this policy, the Commission addresses the following issues:

**A. Local programming**

- the importance of local programming and local news in particular;
- the appropriate requirements for local programming and local news;
- the definitions for local programming, local news and local presence; and
- financial support for local news.

## B. Community television

- the stewardship of the community channel by broadcasting distribution undertakings (BDUs);
- the allocation of funds to direct and indirect expenses on community programming;
- reflection of underrepresented groups;
- the definition of access programming;
- multi-platform distribution; and
- monitoring and non-compliance measures.

## A. Local programming

### Importance of local programming and local news in particular – Preserving the local news and information ecosystem

#### Background and regulatory framework

6. In Broadcasting Notice of Consultation 2015-421, the Commission stated the following:
  - **Local programming is an important part of the Canadian broadcasting system.** Through local programming, Canadians stay informed about local matters and events. They are exposed to local points of view and creative programs relevant to the community in which they live. Such programming reflects the local identity of Canadians and facilitates the democratic process.
  - **Local programming and local news in particular are important to Canadians,** as shown in a public opinion survey commissioned as part of the Let's Talk TV proceeding.<sup>2</sup>
  - **Local programming is varied,** both in terms of content and production sources.
  - **Most local conventional television broadcasters devote the bulk of their local programming to news,** which also accounts for the greater part of local programming spending.
7. Accordingly, in the Working Document, the Commission emphasized that news and analysis produced and distributed through the broadcasting system are of central importance to meeting the objectives for the Canadian broadcasting system set out in

---

<sup>2</sup> Among respondents to this survey, 53% indicated that all local programming is important, and 81% replied that local news is important. Further, according to recent Numeris data, in some markets the evening news on certain local stations accounts for as much as 20% or more of all local tuning.

the *Broadcasting Act* (the Act). Specifically, the Act states that the Canadian broadcasting system, comprising public, private and community elements, provides a public service essential to the maintenance and enhancement of national identity and cultural sovereignty (section 3(1)(b)) and that each element of the system shall contribute in an appropriate manner to the creation and presentation of Canadian programming (section 3(1)(e)).

8. Moreover, the production and broadcast of local programming, including local news, require that broadcasting undertakings use Canadian creative resources, as contemplated by section 3(1)(f) of the Act. Further, the diversity of this programming contributes to meeting the objectives set out in section 3(1)(i), which states that the programming offered by the Canadian broadcasting system should:

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes;

(ii) be drawn from local, regional, national and international sources;

(iii) include educational and community programs; and

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.

9. Finally, section 2(3) of the Act requires that it be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings.

10. Accordingly, in the Working Document, the Commission emphasized that news and analysis remain important today not only as an expression of journalistic independence and a reflection of Canadians' right to freedom of expression, but also as a key part of the Canadian democratic system and the trust Canadians place in it. Consequently, the Commission stated its intention to address the importance of the television system and its private, public and community elements in the local news and information ecosystem at the 25 January 2016 public hearing.

11. The Commission raised the following opportunities and challenges for local news in the Working Document:

- access to information from around the world is easier than ever;
- Canadians continue to value televised local news content;
- monetizing the production of quality news and analysis has become more difficult;
- as economic pressures increase, resources may decrease, threatening the integrity of editorial decisions and weakening the ecosystem for local news gathering, production and dissemination across all Canadian media;

- these challenges are exacerbated in smaller communities; and
- digital outlets present many advantages and opportunities for traditional media and innovators, but are not ready to replace traditional news sources.

### **Positions of parties**

12. As was the case in the Let's Talk TV proceeding, Canadians who participated in the online discussion forum for this proceeding emphasized that local programming, particularly local news, is of great importance to them. The majority appeared satisfied with the quantity and quality of television news. However, some stated that large broadcasting ownership groups provide insufficient local news, especially in the regions. Finally, most participants noted that they rely on television news first and foremost to stay informed about matters of public concern and only use newspapers and Internet sources to complement television news.
13. Parties who appeared at the hearing did not dispute the Commission's assessment of the opportunities and challenges for local news as set out in its Working Document. Moreover, the majority agreed that some form of regulatory intervention is needed to guarantee the presence of local programming, including local news, in the Canadian broadcasting system.
14. Most parties advocated a regulatory approach that would not be limited to news, but rather would promote a diversity of local programming. In this respect, most BDUs submitted that it would be especially inappropriate that the regulatory approach for community television focus on news because community television must provide balanced local programming. The Canadian Broadcasting Corporation (CBC), Channel Zero Inc. (Channel Zero) and Quebecor Media Inc. (Quebecor) submitted that commercial television should continue to focus its resources on the production of news.
15. At the hearing, Vice Media (Vice), which publishes a print magazine and website offering video content focused on arts, culture and news, presented innovative ways of producing in-depth informative content relevant to audiences across the country and the world. Vice noted that it is able to monetize this production through the integration of its content across its media properties and commercial partnerships with sponsors symbiotic with its brand. Vice stated that those partnerships allow it to support the creation of content without limiting its editorial freedom.
16. Finally, Groupe V Média inc. (Groupe V) and Shaw Communications Inc. (Shaw) noted that they had implemented innovative approaches to news production at their stations, namely:
  - in the case of Groupe V, a partnership with Groupe Capitales Médias, which owns many regional daily newspapers and produces local television and multiplatform content for Groupe V; and
  - in the case of Shaw, a centralized production unit, Global's Multi-Market Content (MMC), which focuses on sharing content as soon as it becomes available, with the goal of writing, editing and producing news stories and

sharing them on multiple platforms much sooner than under a traditional model. This has been rolled out in eight markets served by Global to date.

#### **Commission's analysis and decision**

17. A vibrant and dynamic news ecosystem is one of the cornerstones of any democracy, since it permits citizens to remain informed of matters of public concern and thus enables their participation in the democratic system. Television news, especially at the local level, is an important source for the gathering and production of locally relevant and reflective news.
18. Licensees have a duty to serve the public interest in return for using the public airwaves and the privilege of holding a licence. In the case of conventional television stations, privileges such as distribution on the basic service, the right to broadcast local advertising and simultaneous substitution go hand in hand with the responsibility to provide local programming. Further, given that a vibrant, free and responsible news ecosystem is a public good, licensees must ensure that the news and analysis they broadcast meets a high standard, particularly at the local level.
19. In the Working Document, the Commission also reminded large, vertically integrated (VI) ownership groups, which operate both programming and distribution undertakings, that Canadians should be able to reap the full benefits of their consolidation. Specifically, when the Commission approved the applications that led to their consolidation, it was to create entities with the critical mass to ensure the production and promotion of diverse and high-quality Canadian programming and its distribution through traditional and digital media.
20. In this respect, it is worth noting that these entities hold an asset in trust that is not available through regular commercial means, namely the public good of a vibrant, free and responsible press. Both the public and private shareholders of broadcasting assets have a duty to ensure that news reporting and analysis continues to be properly funded to ensure that Canadians, as citizens, understand events occurring around them every day.
21. While some might argue that online news services help quickly relay information about events and international facts, these services have yet to demonstrate a similar capacity for delivering accurate and timely information about local and municipal events to media consumers in smaller communities, nor for providing quality news analysis at a level of journalistic rigour advanced by professional codes of conduct developed and refined over the past 300 years.
22. Broadcasters are required to meet their obligations commensurate with the considerable privilege of holding a broadcasting licence, including delivering quality news and information to the communities they serve. As custodians of the television system as a public service, they have a special obligation to ensure that the system reflects the national identity, contributes to democracy and enhances safety and security.

23. Accordingly, in this policy, the Commission has adopted a holistic view of the resources of VI groups and how they can be leveraged to ensure that Canadians continue to have access to locally produced and locally reflective programming, including local news.
24. Although the business model for conventional television is experiencing economic pressures as a result of the rapidly evolving media environment, continued investment in high-quality local news content will help ensure that licensees have opportunities to succeed in the digital environment. In this regard, it is worth noting that online news services presently serve mainly as additional windows for news content created by traditional television and print media, thus amplifying and enhancing their reach. In other words, while online news services are having a positive impact by increasing the ways in which Canadians receive information, the evidence on the record of this proceeding indicates that these online services do not yet contribute to news gathering to the same extent as traditional media.
25. In light of the above, the Commission considers that supporting the production by conventional television stations of local news and analysis is important not only to the overall health of the broadcasting system but also to that of the local news and information ecosystem. Conversely, conventional television broadcasters have a responsibility to meet their basic local programming obligations.
26. Accordingly, the Commission has adopted measures in this policy to ensure that broadcasters continue to fulfill their responsibility to broadcast locally reflective news and that they have the resources to do so. Specifically, in keeping with its preliminary view in Broadcasting Regulatory Policy 2015-24 that there is currently sufficient funding within the system to meet this objective<sup>3</sup> but that the allocation of such funding needs to be re-examined, the Commission is giving BDUs, and in particular BDUs owned by VI groups, the flexibility to reallocate funds currently devoted to community programming to the production of local news or to community programming in other markets.

## **Appropriate requirements for local programming and local news**

### **Background**

27. Currently, most English-language stations must broadcast at least seven hours of local programming per week in non-metropolitan markets and twice that amount in metropolitan markets.<sup>4</sup> For conventional French-language television stations, the Commission has adopted a case-by-case approach. Many licensees are required to broadcast at least five hours of local programming per week. These levels reflect the financial and economic realities in those respective markets.

---

<sup>3</sup> The Commission found in Broadcasting Regulatory Policy 2015-86 that upwards of \$4 billion is available to support the creation of programs made by Canadians.

<sup>4</sup> For purposes of this requirement, “metropolitan markets” are defined as markets with a population exceeding one million (Toronto, Montréal, Vancouver, Edmonton, Calgary and the English-language market of Ottawa/Gatineau).

28. At the hearing, the Commission asked parties to comment on its proposed definitions for local programming, local presence and local news set out in [Exhibit 1](#). Parties were also to file data regarding the levels of programming broadcast from 3 to 23 January 2016 that would have met the proposed definitions of local programming and local news and indicate the level of expenditures on such programming for the same period.

### **Positions of parties**

29. Most parties at the hearing proposed to maintain or slightly decrease the current requirements. Moreover, most parties representing commercial broadcasters, as well as the CBC, proposed exhibition and expenditure requirements that were conditional upon the Commission's acceptance of their proposed definitions or the establishment of new funding mechanisms for local news. RNC MEDIA Inc. and Télé Inter-Rives ltée (RNC) proposed to increase the broadcast of local news by one hour per week if the Commission created a local news fund.

### **Commission's analysis and decision**

30. Based on parties' submissions in response to Exhibit 1, most broadcasters would either have been close to meeting or would have met their current local programming obligations even under the proposed stringent definition of local programming. In fact, many stations belonging to large ownership groups reported that they broadcast double or triple the required level. This shows that the current exhibition requirements for local programming represent realistically attainable levels.

31. Moreover, most of the local programming broadcast consisted of local news, and local news accounted for the bulk of spending on local programming. The vast majority of Canadian programming expenditures (CPE) for conventional television stations is allocated to local programming and local news in particular. Generally, this ratio of expenditures increases as the size of the market decreases. When compared to English-language stations, this ratio is higher for third-language stations, but lower for French-language stations.

32. In light of the above, the Commission considers that it would be appropriate to maintain the following distinct requirements for licensees:

- **commercial English-language stations will continue to be required to broadcast at least 7 hours of local programming per week in non-metropolitan markets and at least 14 hours per week in metropolitan markets; and**
- **the local programming requirements for commercial French-language stations will continue to be assessed on a case-by-case basis, using a benchmark minimum of five hours of local programming per week.**

33. Further, to ensure that Canadians continue to benefit from local reflection in the form of local news, the Commission considers it appropriate to require that a minimum level of local programming be devoted to local news. Specifically, **all licensees will**

**be required to broadcast a minimum level of local news and to allocate a percentage of their previous year's revenues to such programming, with the exhibition and expenditure levels to be determined at licence renewal based on historical levels.**

34. This means that citizens in markets as diverse in terms of size as Vancouver, Saguenay and Halifax will see themselves and their communities reflected in local news programming.
35. The Commission will only count the program segments that meet the definition of locally reflective news programming set out below for the purpose of meeting this requirement.
36. This new requirement, combined with the measures to support the production of local news announced further in this policy, will help ensure that Canadians have access to local programming that reflects their needs and interests, including high-quality local news on which they rely to stay informed of matters of public concern.

## **Definitions for local programming and local news**

### **Background**

37. As set out in Broadcasting Regulatory Policy 2009-406, the current definition for local programming reads as follows:

Local programming is defined as programming produced by local stations with local personnel or programming produced by locally-based independent producers that reflects the particular needs and interests of the market's residents.

38. The Commission currently expects local television stations to maintain a local presence, which is defined in the same policy as meeting the following three key criteria:
  - providing seven-day-a-week original local news coverage distinct to the market;
  - employing full-time journalists on the ground in the market; and
  - operating a news bureau or news gathering office in the market.
39. In Exhibit 1, the Commission set out the following proposed definitions for comment:
  - Local programming – In order to be considered local, programming would need to:
    - be at least five minutes in duration (excluding commercials);

- refer directly to the community, which could be defined as the station’s contours, BDU service area, municipality, census metropolitan area or census agglomeration; and
- be produced by the personnel of the local station, independent local producers or members of the community for the local station.
- Local presence – A local presence would be defined as:
  - providing seven-day-a-week original local news coverage distinct to the community;
  - employing full-time journalists on the ground in the community; and
  - operating a news bureau or news gathering office in the community.
- Local news – Local news would be defined as categories 1 News, 2(a) Analysis and Interpretation and 3 Reporting and Actualities programs as defined in Broadcasting Regulatory Policy 2010-808<sup>5</sup> and would be considered local if it also meets the definition of local programming.

#### Positions of parties

40. Channel Zero and the Conseil provincial du secteur des communications (CPSC) were in agreement with the overall proposal, while Unifor argued for more stringent definitions and the Coalition of Small Market Independent Television Stations (SMITS) submitted that the definitions should be tailored to account for the different circumstances in which individual stations operate. The SMITS added that any new definitions should not limit reasonable efficiency opportunities, a position shared by Shaw. The Forum for Research and Policy in Communications (FRPC), by contrast, opposed the proposed definitions on the basis that they would permit “centralcasting” (that is, the practice of producing or assembling customized newscasts for broadcast by multiple stations at one central facility).

41. The positions of parties specific to each of the proposed definitions are summarized below.

---

<sup>5</sup> These categories are defined as follows in Broadcasting Regulatory Policy 2010-808. **Category 1 News** – Newscasts, newsbreaks and headlines. Programs reporting on local, regional, national and international events. Such programs may include weather reports, sportscasts, community news and other related features or segments contained within “News Programs.” **Category 2(a) Analysis and Interpretation** – Programs on various topics that include analysis or discussion, such as talk or panel shows, consumer affairs or reviews, news magazines and documentaries that do not fall under category 2(b) Long-form documentary. This category excludes programs presenting information primarily for entertainment value. **Category 3 Reporting and Actualities** – Programs focusing on the coverage of conferences, political conventions, opening/closing of events (including awards dinners) and political debates, as well as programs of a non-entertainment nature intended to raise funds.

### ***Local programming***

42. In their initial responses to Broadcasting Notice of Consultation 2015-421, BCE Inc. (BCE), Corus Entertainment Inc. (Corus), On Screen Manitoba and Shaw proposed to broaden the definition of local programming to allow for other production methods, such as centralizing production and program transmission, as well as a wider community. Conversely, Channel Zero, the CPSC, the National Campus and Community Radio Association (NCRA), the Fédération des télévisions communautaires autonomes du Québec (FTCAQ), Rogers Communications Inc. (Rogers) and Unifor proposed to tighten the definition of local programming for television by using that set out in Broadcasting Public Notice 2006-158 for commercial radio, namely “programming that originates with the station or is produced separately and exclusively for the station.”
43. The Alliance des producteurs francophones du Canada (APFC), the CBC, Cogeco Cable Inc. (Cogeco), Canadian Cable Systems Alliance Inc. (CCSA), the Fédération culturelle canadienne-française (FCCF), Groupe V, RNC, SaskTel Telecommunications (SaskTel), the SMITS and Télé Inter-Rives, however, were of the view that the current definition of local programming set out in Broadcasting Regulatory Policy 2009-406 was adequate.
44. In response to Exhibit 1, BCE, Groupe V and Rogers argued that the proposed definition was too stringent, especially with respect to duration, while Quebecor stated that the requirement that local programming be locally produced should be retained, but that the requirement that it be locally reflective was unnecessary as local news would ensure local reflection.
45. The Canadian Olympic Committee expressed the view that the coverage of local amateur sports, including in local news programming, was of vital importance to the reflection of communities and the vitality of amateur sports in Canada.

### ***Local news***

46. Channel Zero, the CPSC, Groupe V, Quebecor and Rogers agreed with the proposed definition, while BCE, the CBC and the FRPC opposed expanding the definition to include categories 2(a) Analysis and Interpretation and 3 Reporting and Actualities.

### ***Local presence***

47. Most parties were of the view that the definition of local presence was appropriate, except for the expectation to provide original news seven days a week, which they considered onerous.

## Commission's analysis and decision

48. The current definition of local programming set out in Broadcasting Regulatory Policy 2009-406 has a number of shortcomings, namely:

- it is open to interpretation as it does not define “reflection” and thus does not allow the Commission to properly evaluate how each station’s local programming reflects its market and meets the needs of its community;
- it permits minimal involvement by local station personnel; and
- it does not allow for accurate monitoring of local reflection as all local programming is logged in broad program categories.

49. More fundamentally, as suggested by the wide range of alternative definitions submitted by parties and the general lack of consensus on the proposed definitions, without clear definitions the local programming available across the system would vary greatly depending on whether broadcasters choose to focus on local relevance or local reflection. Definitions of local programming and local news that balance local relevance and reflection would ensure that the following key policy objectives are met:

- Canadians have access to locally relevant and reflective programming;
- broadcasters fulfill their social responsibility by reflecting the markets they serve; and
- broadcasters enjoy some flexibility by being allowed to count locally relevant programming as local programming.

50. To ensure that these policy outcomes are achieved and that broadcasters’ performance can be measured in the future, the definitions of local programming and local news need to be clarified. Specifically, to achieve a balance between local relevance and reflection, the Commission considers that at the very least **all local programming must be locally relevant**, while **all local news must be locally reflective**, as defined in the following sections.

### ***Local relevance***

51. Counting locally relevant programming towards meeting broadcasters’ overall local programming obligations is one way of acknowledging that communities are interested in a broad range of issues. Moreover, doing so will contribute to meeting the objective set out in section 3(1)(d)(ii) of the Act that the broadcasting system encourage the development of Canadian expression by offering information and analysis concerning Canada and other countries from a Canadian point of view. Finally, it will provide broadcasters with the flexibility to program regional, national and international news across their networks in such a way as to realize efficiencies.

52. In light of the above, the Commission considers it appropriate to adopt the following definition of local relevance, which it will apply when assessing whether broadcasters are meeting their local programming obligations:

**Programming will be considered locally relevant if it is of interest to the community or market served.**

***Local reflection and local news***

53. As noted earlier, all licensees will be required to broadcast a minimum level of local news programming and to allocate a percentage of their previous year's revenues to such programming, with the exhibition and expenditure levels to be determined at licence renewal based on historical levels.

54. Requiring that such programming be locally reflective will ensure that the following key policy objectives are met:

- the community is represented on screen, which is particularly important in the context of local news;
- while the number of station staff and methods of production remain at the broadcaster's discretion, some elements of news production stay in the local markets, contributing to meeting the objective set out in section 3(1)(i)(ii) of the Act that programming be drawn from local sources; and
- licensees continue to fulfill their social obligation to reflect the communities they serve and Canadian citizens continue to be provided with a sufficient level of high-quality local news.

55. The Commission is of the view that the new definition will ensure that local broadcasters continue to reflect the communities they are licensed to serve by covering municipal and provincial politics, local cultural events and local professional and amateur sports.

56. In light of the above, the Commission considers it appropriate to adopt the following definition of local reflection, which it will apply when assessing whether broadcasters are meeting their obligations for the exhibition of local news and related expenditures:

**News programming will be considered locally reflective if it meets all of the following criteria:**

- **the subject matter relates specifically to the market a station is licensed to serve;**
- **it portrays an onscreen image of the market by, for example, including its residents or officials or featuring coverage of its municipal or provincial government; and**

- **it is produced by the station's staff or by independent producers specifically for the station.**

57. Finally, the Commission considers it appropriate to allow broadcasters to draw from both categories 1 News and 2(a) Analysis and Interpretation to meet their local news exhibition and expenditure obligations **provided that the programs also meet the definition of locally reflective programming set out above.** The Commission is of the view that category 3 Reporting and Actualities is not conducive to offering the type of in-depth coverage and analysis expected of news and information programming and is therefore excluding this category.

58. The Commission will only count the program segments that meet this definition for the purpose of the requirements for the broadcast of locally reflective news programming set out in this policy.

#### ***Local presence***

59. The continued presence of journalists in a market is a question of credibility and trust, which are the stock-in-trade of news outlets. Accordingly, to maintain viewership and revenues, broadcasters will need to maintain a local presence.

60. The definitions regarding local relevance and local reflection and associated requirements set out in this policy provide a further incentive for licensees to maintain a local presence according to their respective capacities. Given the specificity of these definitions and the need to provide licensees with flexibility with respect to production, the Commission considers it unnecessary to impose a specific requirement with respect to local presence.

61. However, the Commission is of the view that the definition of local presence set out in Broadcasting Regulatory Policy 2009-406, as modified below to encompass innovative news production practices, remains appropriate as a guideline. Accordingly, the Commission considers that one of the means that local television stations may use to meet their obligation to provide locally reflective news is to maintain a local physical presence, which may include:

- **providing seven-day-a-week original local news coverage distinct to the market;**
- **ensuring that editorial decisions on content are made in the market;**
- **employing full-time journalists on the ground in the market; and**
- **operating a news bureau or news gathering office in the market.**

## **Monitoring**

62. In this proceeding, conflicting data was filed regarding local stations' exhibition and expenditure levels for locally relevant and reflective programming, including news and information. Currently, the *Television Broadcasting Regulations, 1987* do not include a key figure that could be used in program logs to accurately record the broadcast of locally relevant and reflective programming. Similarly, the annual returns filed by licensees do not itemize expenditures in a way that could allow the Commission to determine the amounts spent specifically on this type of programming. Therefore, to better monitor exhibition and expenditure levels for locally relevant and reflective programming, the Commission will issue a notice of consultation later this year to initiate a proceeding to amend Schedule I of the *Television Broadcasting Regulations, 1987*. Further, the Commission will change the forms used by broadcasters for their annual returns to require services to indicate the amount of locally relevant and reflective programming produced or acquired for each program category, as well as the associated revenues and expenses.

## **Financial support for local news**

### **Background**

63. In the Working Document, the Commission noted that the costs associated with the production of local news exceed the revenues derived from this programming, with costs estimated to have risen beyond revenues by as much as 22% from 2012 to 2015. However, it also emphasized that OTA television stations have a responsibility to offer local programming. In addition, the Commission noted that when it approved transactions that led to increased consolidation within the broadcasting industry, it was to create entities with the critical mass to ensure the production and promotion of diverse, high-quality Canadian programming and its distribution through conventional and digital media.

64. While reiterating its view that there is sufficient funding within the broadcasting system to ensure the creation of quality local programming, including local news tailored to the particular characteristics of each market, the Commission added that meeting this objective might require a rebalancing of resources and responsibilities among the various elements of the system. Finally, it stated that any approach it adopted would need to ensure that all of these elements contribute in an appropriate manner to the creation and presentation of local programming that meets Canadians' needs.

### **Positions of parties**

65. Many parties proposed reallocating all or part of (a) the contribution that BDUs are required to make to Canadian programming and/or (b) their allowable contribution to the community channel for local expression. For example, the CPSC proposed that 1% of BDU contributions to the Canada Media Fund (CMF) and certified independent production funds (CIPFs) be reallocated to local programming, while BCE proposed the creation of a local news fund through reductions in funding for

community channels by licensed BDUs and in funding for the CMF and CIPFs by Internet protocol television (IPTV) and direct-to-home (DTH) BDUs.

66. By contrast, Quebecor recommended creating a local production fund to support private local television stations, including those currently eligible for the Small Market Local Production Fund (SMLPF), by eliminating the SMLPF and the Commission policy allowing two community channels (one in each official language), as well as reducing the contributions a BDU may make to a video-on-demand-only community channel.
67. In addition to proposing different allocation formulas, parties sometimes expressed divergent views as to where the funding was most needed. For example, the Association québécoise de la production médiatique (AQPM) recommended a fund for non-news or sports-related local programming, whereas BCE and the CBC argued that any reallocation mechanism should give priority to the production and broadcast of local news.
68. At the hearing, Kirk LaPointe, vice-president of audience and business development for the Business in Vancouver Media Group and adjunct professor in ethics and leadership at the Graduate School of Journalism at the University of British Columbia, submitted that even in the age of digital abundance, the stability of the local television newscast is valued by communities as a principal source of information. As such, he was of the view that the Commission should require the allocation of funds to ensure the quality of this programming.
69. The Friends of Canadian Broadcasting (FCB) and most broadcasters, including BCE, CHEK-TV, Groupe V, Rogers and RNC Media, agreed that the reallocated funds should be devoted to providing further support for local programming in smaller markets, with both BCE and Rogers proposing increased funding by licensed BDUs for the SMLPF, as well as devoting all of the CPE of local television stations from large ownership groups to local programming. Rogers further proposed that ownership groups that operate both local stations and community channels in the three largest markets (Montréal, Toronto and Vancouver) be allowed to redirect all or part of the funding from their community channels in those markets to local television stations and community channels in other markets.
70. Shaw, however, disagreed that BDU contributions should be redistributed, while the guilds,<sup>6</sup> the Canadian Association of Community Television Users and Stations (CACTUS), the CCSA, Cogeco, the Council of Senior Citizens' Organizations of British Columbia & Public Interest Advocacy Centre (COSCO-PIAC), Making Media Public and the Communications Policy Working Group and SaskTel proposed the following as regards BDU contributions:

---

<sup>6</sup> The Alliance of Canadian Cinema, Television and Radio Artists and the Canadian Media Producers Association, the Directors Guild of Canada and the Writers Guild of Canada.

- funding to the community channel should be maintained or if there is reallocation of this funding, only VI groups' contributions should be affected;
- BDUs should not be required to fund the local programming of the local television stations or community channels of third parties; and
- contributions to the CMF and CIPFs should be maintained.

71. Several organizations related to the community programming production sector, such as CACTUS, the Community Media Policy Working Group and CSUR la télé, requested that all BDU contributions to local expression be removed from BDU control and allocated instead to an independent Community-Access Media Fund, to which community-based not-for-profit organizations could apply for operational funding to manage their community media centres and television stations.

72. Finally, many parties, including the AQPM, the Canadian Media Guild, the FCB, the Ministère de la Culture et des Communications du Québec (MCCQ) and Unifor, disagreed with the Commission's preliminary view that there is sufficient funding within the system. In support, the FCB and Unifor submitted a study by Peter Miller and Nordicity, *Near Term Prospects for Local TV in Canada*, which concluded that Canada's local television heritage is at risk of major cutbacks and station closures if no additional funding is provided.

#### **Commission's analysis and decision**

73. The evidence collected as part of the Let's Talk TV process and in this proceeding confirms that Canadians value programming that provides local reflection, and in particular local news, over all other types of Canadian programming.

74. During the proceeding, several broadcasters pointed to the Commission's data as published in its *Communications Monitoring Report* and financial summaries, which shows that conventional television stations, the primary source for the local news and information Canadians receive, are not as profitable as they were five years ago and that some may be at risk of closing. For example, this data shows that:

- profit before interest and taxes (PBIT) margins for private conventional television stations have declined from 7.1% in 2011 to an estimated -8% in 2015; and
- PBIT margins for private conventional television stations in 2015 are estimated to be at -7.6% in markets with more than one million people (large), -3.5% in medium markets and -15.9% in markets with fewer than 300,000 people (small).

75. While digital technologies are empowering individuals, allowing them to tell stories that are in the public interest and to share them instantly with millions of people and making access to news and analysis from around the world easier than ever, the evidence on the record of this proceeding indicates that online news services do not

yet have the news-gathering resources and expertise to replace traditional local news sources.

76. For these reasons, the Commission is of the view that private local television stations are in need of support if they are to continue to offer high-quality, locally reflective news. However, no private local television station was able to provide estimates of how much money it would need to continue operations. While little compelling evidence of imminent station closures was provided on the record, the Commission is concerned that if action is not taken in the short to medium term, stations may have to make difficult decisions, including reducing expenditures on news programming.
77. While private local television stations owned by VI groups and independent local television stations are confronted with the same economic realities, the Commission is of the view that they differ with respect to the resources at their disposal to cope with the situation. As noted above, due to consolidation, VI groups have the tools, resources and synergies necessary to continue operating local television stations and offering the high-quality local programming that Canadians demand.
78. On the other hand, most independent local television stations do not benefit from the synergies that come with operating as part of a network and in conjunction with other types of television services, such as Canadian discretionary services operating as national news services. Independent stations nevertheless provide much needed local programming in the markets where they operate and are often the only source of local news on television in those communities. Accordingly, the Commission's approach as set out below recognizes the operational differences between VI and independent stations.
79. For its part, as the national public broadcaster, the CBC is mandated by the Act to reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions. To meet this mandate, the CBC benefits from significant resources. This includes a dual revenue stream for its television services as a result of its ability to generate commercial revenues and it receiving parliamentary appropriations. The CBC also benefits from synergies from operating radio and television networks, as well as national news (Category C) discretionary services and websites that offer news targeting different communities across the country in both official languages. The evidence from this proceeding shows that the CBC is meeting its mandate.

#### **Current model for BDU contributions to Canadian programming**

80. Under section 34 of the *Broadcasting Distribution Regulations* (the Regulations), each licensed terrestrial BDU must contribute 5% of its gross revenues from broadcasting activities in each broadcast year to Canadian programming, less any

allowable<sup>7</sup> contribution to local expression it made in that broadcast year. At least 80% of the contribution to Canadian programming must be allocated to the CMF, while 20% may be allocated to one or more CIPFs.

81. Under section 52(1) of the same regulations, DTH BDUs must contribute 4% of their gross revenues from broadcasting activities in each broadcast year to the CMF and 1% of those revenues to the CIPFs, of which at least 0.4% must be allocated to the SMLPF.
82. Finally, BDUs that are exempted from the requirement to hold a licence under Broadcasting Order 2015-544 and that serve over 2,000 subscribers may devote all of their required 5% contribution to local expression.
83. In Broadcasting Regulatory Policy 2010-622, the Commission determined that the level of contributions to local expression at that time was sufficient to allow the community sector to meet its objectives. As a result, in Broadcasting Regulatory Policy 2012-154, the Commission set out a mechanism to ensure that the dollar value of contributions by BDUs to local expression remained at 2010 levels (adjusted for inflation).
84. Despite this mechanism, BDU contributions to local expression increased from \$119 million in 2010 (\$131 million when adjusted for inflation) to \$152 million in 2014, representing a compound annual growth rate of 6.1%. There are two main reasons why the mechanism put in place did not stop the growth of aggregate local expression contributions: first, a large number of subscribers to DTH BDUs, which do not make a contribution to local expression, migrated to IPTV-based BDUs that offer community channels and are permitted to make contributions to local expression; and secondly, the growth in terrestrial BDU revenues was slower than expected and did not trigger the mechanism put in place in the Regulations.

#### **Leveraging the resources of VI groups to support local news**

85. Since the 1970s,<sup>8</sup> the Commission has encouraged and expected BDUs to fund the production of programming that provides local reflection to their subscribers. This support has traditionally taken the form of a community channel. The Commission considers that some of the objectives met by encouraging BDUs to contribute to local expression, such as local reflection, can also be achieved by supporting the production and broadcast of local news by local stations.
86. In Broadcasting Regulatory Policy 2015-24, the Commission determined that ensuring the creation of high-quality local programming, including local news

---

<sup>7</sup> “Allowable” refers to the maximum amount that may be deducted from each BDU’s required contribution to Canadian programming for a given broadcast year. There is no regulatory limit to the amount a BDU can spend on community programming.

<sup>8</sup> See Canadian Radio-Television Commission, *Policies respecting broadcasting receiving undertakings (cable television)*, 16 December 1975.

tailored to the needs of each market, might require a rebalancing of resources and responsibilities among the various elements of the system. In the Working Document, the Commission stated that it was open to proposals for a fund that would provide incremental support for the production and broadcast of local news and information. However, based on the evidence submitted as part of this proceeding, the Commission is of the view that the synergies and efficiencies that VI groups enjoy put them in a position to support the production of local news without the need for such a fund. Due to their direct relationship with Canadians, VI groups are also well positioned to determine their subscribers' needs and allocate their resources accordingly.

87. When the Commission allowed the consolidation of broadcasting and distribution undertakings into large VI groups, it was with a view to creating synergies and efficiencies that would result in additional support for the production and distribution of all types of Canadian programming. Under the Commission's approach detailed below, VI groups will be responsible for gauging the needs of their subscribers and viewers before deciding where and how to spend all or part of their allowable contribution to local expression, depending on whether the market served by the BDU is metropolitan or non-metropolitan.
88. Canadians living in metropolitan cities with a population exceeding one million have access to many media sources on television and radio, as well as online and in print, that provide community reflection. They also tend to have greater access to high-bandwidth Internet providers, which allows them to upload the content they produce so that it can be seen both locally and globally. Finally, Canada's largest cities offer a critical mass of educational institutions and community groups that are able and willing to provide media training for volunteers. As such, citizens living in these cities have grown less reliant on the reflection provided by the BDU's community channel to meet their needs with respect to local expression and reflection.
89. The situation is different in Canada's small and medium markets, where the community channel often remains an important source of local reflection, especially with respect to municipal politics, junior sports and community organizations that might not otherwise be covered on television.
90. For these reasons, the Commission considers it appropriate to provide BDUs with the flexibility to (a) transfer their contribution from one community channel to another or (b) use all or part of their local expression contribution to fund local news programming, as follows:
  - **All independent local stations will be designated to receive contributions to local news. However, ownership groups operating both BDUs and local television stations will be required to maintain the operation of all of their local stations over the new licence period to benefit from this flexibility.** This requirement will be addressed as part of the stations' licence renewals. Additionally, licensees will be required to report annually on their use of funding flexibilities, including providing details regarding local presence.

- **Licensed terrestrial BDUs serving metropolitan markets (Montréal, Toronto, Edmonton, Calgary and Vancouver) will be permitted to direct their allowable local expression contribution to community programming in other markets and/or to designated local television stations for the production of local news.**
- **Licensed terrestrial BDUs serving non-metropolitan markets will be required to devote at least 50% of their allowable local expression contribution to community programming in their own markets and may allocate the other half to community programming in other markets and/or to designated local television stations for the production of local news.**

91. Therefore, for example, the Rogers terrestrial BDU serving Toronto will have the option to reduce its contributions to community programming in Toronto in order to redirect its allowable contribution to local expression to support the creation of either (a) community programming by other Rogers community channels or (b) local news by City or OMNI local stations in Toronto or elsewhere. However, the Videotron terrestrial BDU serving the city of Québec will need to continue to devote at least half of its maximum allowable contribution to local expression to community programming in the city of Québec as it operates in a community with a population under one million. It will have the option to reduce its contributions to community programming in the city of Québec in order to allocate the other half of its allowable contribution to local expression to support the creation of either (a) community programming by other Videotron community channels or (b) local news by TVA local stations.

92. This approach will allow BDUs to assess their subscribers' needs for locally reflective programming and allocate their resources accordingly, whether towards community channels or local stations. The Commission estimates that over \$65 million will be available for reallocation by BDUs each year. VI groups will be responsible for determining where and how that money is to be used to better serve the public interest.

93. Further, the Commission is of the view that this flexible approach, where VI groups maintain a significant level of control over the amounts allocated to local news, is in line with section 2(3) of the Act, which requires that it be construed and applied in a manner that is consistent with the freedom of expression and journalistic independence.

#### **Supporting independent voices**

94. The economic realities facing local stations have an even more severe impact on the capacity of independent stations to continue offering locally reflective news and information and, in some cases, threaten their survival. Because these stations do not benefit from the resources and synergies available to VI stations, the Commission considers it appropriate to provide direct support for the creation of locally reflective news and information by these stations by increasing the resources and redefining the purpose of the SMLPF.

95. The SMLPF's contributions to small-market independent television stations began as a means to offset competitive inequities by compensating private stations operating in markets with fewer than 300,000 people for lost revenues as a result of a lack of carriage by DTH BDUs and for the program overlap created by BDUs that distributed the distant signals of stations and networks.<sup>9</sup>
96. However, much has changed since the creation of the fund in 2003. For the most part, recipient stations are now distributed by DTH BDUs and the degree of program duplication in the markets they serve has been reduced. For this reason, the Commission will replace the SMLPF with the Independent Local News Fund or ILNF as of 1 September 2017, with the objective of supporting the production of locally reflective news and information by private independent television stations.
97. Moreover, at the hearing, the SMITS emphasized the immediate need for additional funding, without which they claimed some stations that currently offer the only televised local reflection in their markets would close. Accordingly, as an interim measure, effective 1 September 2016, the Commission will make all stations belonging to VI ownership groups ineligible to receive funding from the SMLPF<sup>10</sup> and require the fund to redistribute the funding currently received by those stations among the remaining recipients, according to the SMLPF's current allocation method. The Commission considers that those local television stations that operate under the ownership of VI groups should have access to sufficient resources, including the possibility of financial support as a result of the regulatory flexibility provided by this policy, to continue to offer locally reflective programming without funding from the SMLPF.
98. In light of the above, effective 1 September 2017, all private OTA television stations that offer locally reflective news and information and that do not belong to a VI ownership group will be eligible to receive funding from the ILNF. This means that the following stations that were excluded from the SMLPF will become eligible for funding from the ILNF:
- the Channel Zero station CHCH-DT Hamilton;
  - the RNC stations CHOT-DT and CFGS-DT Gatineau; and
  - the Groupe V stations CFJP-DT Montréal, CFAP-DT Québec, CFRS-DT Saguenay, CFKS-DT Sherbrooke and CFKM-DT Trois-Rivières.

---

<sup>9</sup> The fund was established in Broadcasting Public Notices 2003-37 and 2003-38 and certified in December 2003.

<sup>10</sup> The local television stations that currently receive funding from the SMLPF but will be excluded as of 1 September 2016 are CFTK-TV Terrace and CJDC-TV Dawson Creek, British Columbia (BCE); CHEX-DT Peterborough, CHEX-TV-2 Oshawa and CKWS-DT Kingston, Ontario (Corus); and CJBN-TV Kenora, Ontario (Shaw).

99. As set out in the following section, the ILNF will be funded by contributions from licensed terrestrial and DTH BDUs, which will contribute 0.3% of their previous year's broadcast revenues. This should ensure that the fund will be in a position to distribute approximately \$20 million per year to support the creation of locally reflective news and information by independent stations. The SMLPF's current administrator, the Canadian Association of Broadcasters, will administer the ILNF. Consistent with other funds where the administrator is an association that includes beneficiaries, none of the contributions received from BDUs shall be spent on fund administration.

100. The ILNF funds will be allocated using the following straightforward allocation method and based on numbers provided by the Commission:

- **two thirds will be distributed in proportion to each eligible station's share of total expenditures on locally reflective news and information over the previous three years;**
- **one third will be distributed in proportion to the total number of hours of locally reflective news and information broadcast by each eligible station over the previous three years; and**
- **no station or group of stations operated by the same licensee in a given market will receive more than 10% of the funding in any given year.**

101. Further details about the ILNF are set out in Appendix 1 to this policy.

#### **A new model for BDU contributions to Canadian programming**

102. The Commission has heard evidence in this proceeding about the emergence of technological and social trends providing Canadians with new opportunities to achieve the objectives traditionally met by the community element of the broadcasting system. Though exempted from the requirement to hold a licence, ubiquitous online video sharing sites form part of the broadcasting system and now allow Canadians to share their stories more easily than ever. While access to these online tools is not the same across the country and challenges remain with the bandwidth and data consumption associated with their use, the Commission is of the view that many Canadians can use these tools to obtain immediate and individual access to the broadcasting system.

103. Similarly, the objective of reflecting communities, and particularly underrepresented communities, in the broadcasting system can now be met on a number of platforms. Canadians in larger centres have access to many media sources providing community reflection and forums for community discussion, be it in the form of television and radio stations, community newspapers or online social media groups. The Commission recognizes that the situation may be different in smaller communities that do not have the critical mass to support major media outlets.

104. Traditionally, the community channel has been tasked with training Canadians to use the cameras, editing equipment and other material required to create community programming. However, given the evolution and increasing availability of the tools required for production (many Canadians now carry an HD camera in their pocket in the form of their smartphone), they are now simpler to use than ever. Further, the Commission has heard evidence at the hearing that various groups, such as neighbourhood community groups and municipal libraries, have started offering media training to Canadians interested in participating in program creation.
105. The Commission considers that complementary platforms, taken together with the community channel, provide Canadians with a wide range of access opportunities to the system. Further, the efficiencies and cost reductions made possible by advancements in technology allow for a repurposing of funding.
106. For the reasons outlined above and consistent with its view that it should only regulate where there is a demonstrated need, the Commission considers that the community channel does not require the same level of funding as it did in the past to achieve the objectives of community access and reflection.
107. Specifically, the Commission announces that it will replace the BDU contribution regime currently set out in the Regulations by the following:

For licensed terrestrial BDUs:

- **in each broadcast year, each BDU will contribute to Canadian programming the equivalent of 5% of its gross revenues from broadcasting activities in the previous broadcast year, less its required contribution to the ILNF and any allowable contribution to local expression over the current broadcast year;**
- **the required contribution to the ILNF will be set at 0.3% of the previous year's broadcast revenues;**
- **the allowable maximum contribution to local expression will be set at 1.5% of the previous year's broadcast revenues;<sup>11</sup> and**
- **at least 80% of the total amount to be contributed to Canadian programming under the preceding formula will be devoted to the CMF, while the remainder may be contributed to one or more of the CIPFs.**

---

<sup>11</sup> As a result of the replacement of the current formula by the new allowable contribution to local expression, BDUs will no longer be permitted to include an additional contribution directed to closed captioning as currently provided in section 34(7) of the Regulations. However, requirements for closed captioning by community channels remain the same.

For DTH BDUs:

- **in each broadcast year, each BDU will contribute to Canadian programming the equivalent of 5% of its gross revenues from broadcasting activities in the previous broadcast year, less its required contribution to the ILNF and any allowable contribution to local news over the current broadcast year;**
  - **the required contribution to the ILNF will be set at 0.3% of the previous year's broadcast revenues;**
  - **the allowable maximum contribution to local news will be set at 0.6% of the previous year's broadcast revenues; and**
  - **no more than 0.5% of the contribution to Canadian programming will be made to one or more CIPFs, with the remainder to be directed to the CMF.**
108. This change to the BDU contribution model is the result of the Commission's determinations in this policy regarding the diminishing need for funding for the community channel and the increasing need for funding for news programming.
109. BDUs that are exempted from the requirement to hold a licence under Broadcasting Order 2015-544 and that serve over 2,000 subscribers will continue to be allowed to devote all of their required 5% contribution to local expression.
110. The Commission expects to have these changes in place by 1 September 2017.

## **B. Community television**

111. The current framework for community television has a dual objective: citizen access and community reflection.
112. Community programming allows for **citizen access** to the Canadian broadcasting system. Access programming aims to turn the passive viewer into an active participant. As such, it plays a role in fostering a greater diversity of voices and alternative choices by facilitating expression at the local level. Encouraging and fostering access to the broadcasting system for citizens includes the offer of training, in order to help them express themselves, and outreach, to ensure that they are aware of the tools and resources at their disposal. Public access programming has been the cornerstone of the Commission's Community Television Policy since 1971 and continues to ensure the distinctiveness of this element of the Canadian broadcasting system.
113. Community programming is an important source of **community reflection** on television. Community programming, whether it be access programming or produced by the BDU, provides a reflection of local realities that few other television services currently provide. It is key in supporting the activities of thousands of community and

amateur sport associations across Canada. It is also a source of information about municipal politics outside major centres, which is essential to full democratic participation.

114. There currently exists a diversity of broadcasting methods and distribution models for community programming on television in Canada. Canadians can receive community programming on linear community channels, independent OTA community stations as well as through various video-on-demand (VOD) offerings. More and more, community programming is also being offered online by traditional community channel operators, as well as directly by independent community groups and individuals. The Commission considers that this proliferation of methods and models does not hinder the achievement of the objectives of the Act and should be encouraged. This includes the objective of reflecting communities, and particularly underrepresented communities, in the broadcasting system, which can now be met through various platforms.
115. Many Canadians expressed their attachment to traditional linear community channels throughout the proceeding. These Canadians submitted that linear channels are still seen as anchors around which the community can organize itself to produce, broadcast and discover locally relevant content, especially in smaller communities, and that they do not feel the same attachment to online video portals.
116. In the “Financial support for local news” section above, the Commission stated that many objectives traditionally fulfilled by the community element are now being met through other means, such as the use of online platforms and other technological and social trends to access the broadcasting system. The objective of reflecting communities, and particularly underrepresented communities, in the broadcasting system is being met on a number of platforms: Canadians have access to countless media sources providing community reflection and forums for community discussion, be it in the form of television and radio stations, community newspapers or online social media groups.
117. Another objective, that of providing training to Canadians to create community programming, has become less onerous given that the tools required for production are more readily available and simpler to use. As a result, community channels do not need the same level of funding as they did in the past in order to achieve these objectives.

## **BDU stewardship of community channels**

### **Background**

118. Since its inception in the 1970s, Canada’s community television framework has been structured mainly around BDUs. BDU subscribers provide funding for community channels through a contribution taken from their subscription fees. BDUs act as stewards of this contribution to local expression and administer the funds to support the production of programming that is in the public interest. As licensees, BDUs that elect to offer community programming are accountable for the content the community

channels broadcast and ensure that the programming is of high quality and meets certain standards.

119. There are also independent community voices that distribute their programming through OTA stations or online, without BDU support and intervention.

#### **Positions of parties**

120. Some parties called for the Commission to make changes to the current community television framework by reducing or eliminating the control exercised by BDUs over community programming.
121. CACTUS, supported by several parties, proposed that all BDU contributions to local expression be reallocated to an independently run Community-Access Media Fund (CAMF), which would be responsible for the distribution of funds to independent Community Media Centres (CMCs) across the country, in replacement of BDU-operated community channels.
122. Under the CACTUS proposal, CMCs would be located within a radio and television broadcast area authorized by the Commission and would own and operate multimedia broadcasting facilities that generate community media on a multiplatform basis. CMC production facilities would generate radio, television, online and local gaming content. CACTUS also proposed that the Commission require terrestrial BDUs (licensed and exempt) to distribute the linear service of any CMC as part of its basic service at a minimum throughout the area reached by the OTA signals or the service area for the CMC authorized by the Commission, whichever is greater.
123. At the hearing, CACTUS committed to provide a model for a trial of its CMCs in the event that the Commission decided not to immediately implement the fund. CACTUS suggested that the Commission allow a three-year trial period to determine and demonstrate the effectiveness of its proposed CMC model. The funding for trial CMCs would be deducted from the amounts that BDUs currently allocate to local expression. CACTUS proposed that the annual contribution percentage be set at 0.1% of BDU gross revenues and that this amount be paid by all BDUs (exempt and licensed, terrestrial and DTH). This would represent an annual contribution of approximately \$9 million.
124. Telus, Cogeco and the CCSA were of the view that redirecting funds currently allocated to local expression to support CACTUS members would have a negative impact on customers who choose to subscribe to BDU services. They also argued that CACTUS's fund and trial market proposal is unjustified and unnecessary and that BDUs are best equipped to make the most efficient use of the contributions to local expression. In their view, BDUs already have the infrastructure, experience, resources, community relationships and marketing support in place to ensure that their financial contributions produce the maximum amount of local and community programming.

125. Rogers opposed the creation of the CAMF for the following reasons:
- CACTUS made a similar third-party fund proposal during the last community review and it was rejected by the Commission. The same rationale for denial applies for its current proposal;
  - the evidence demonstrates that Canadians are extremely satisfied with the local programming offered on their current BDU-operated community channels;
  - the CACTUS model is a complete departure from the community television system that has existed in Canada for the past 47 years and would cause significant disruption;
  - the CACTUS model would result in BDUs shutting down their community channels. This would occur despite the fact that BDUs have collectively invested hundreds of millions of dollars in developing community channels and operating them over many years; and
  - the result of the CACTUS model would be that recipients of the funding would, in most cases, have little or no experience in operating a community television undertaking.
126. Shaw was opposed to the CACTUS model as it would ultimately expropriate community channels and argued that the proposed approach would be met with strong opposition by the vast majority of its customers. BCE expressed concern over the redirection of significant funds to different, unproven community groups in each community across Canada.
127. Many Canadians who provided comments during the online consultation indicated their support for the current community channel framework and felt well served as subscribers, volunteers and access producers. Some were opposed to the CACTUS model and argued that community groups, such as CACTUS members, have not proven that they are sufficiently accountable to manage such sums. Some argued that community channels should not be managed by volunteer groups.
128. Some individuals expressed support for the CACTUS trial model and stated that libraries, as information hubs in their local region, are a natural fit for community television. Some also stated that CMCs managed democratically by access producers would benefit the broadcasting system and Canadians.

#### **Commission's analysis and decision**

129. The CACTUS proposal for the CAMF and related proposal to replace BDU community channels by 200 or more CMCs across the country is similar to a proposal made in 2010 by CACTUS when the Commission last reviewed the Community Television Policy.

130. At the time, the Commission stated that it recognized the important role BDUs play in promoting local expression through their contributions to community channels. The Commission added that there had to be a balance between interveners' concerns while not unduly harming community channels or negatively impacting viewers who appreciate community programming services. The Commission therefore considered that it could not justify withdrawing all of the BDU contributions to local expression from the community channels to fund a new form of independently run access programming service.
131. The Commission is of the view that no new evidence was brought forward during this proceeding that significantly alters the position it took in 2010.
132. Additionally, the scope of the CMCs far surpasses the boundaries of community television. A significant portion of capital and operational expenditures would be used for the operation of community radio and locally reflective computer games, as well as brick-and-mortar community spaces. While these objectives are laudable, there exists little policy rationale to use money generated from BDU subscriptions to fund these projects.
133. The Commission considers that the stewardship of BDUs over community channels remains an appropriate model. In the Commission's view, BDUs continue to be in a position to support and provide community television programming:
- the vast majority of stakeholders are pleased with the local coverage provided by their community channels;
  - BDUs are licensed or operating under an exemption order, giving the Commission a mechanism for overseeing their activities; and
  - they are subject to industry codes regarding violence, equitable portrayal and advertising to children.
134. In the Commission's view, the Community Television Policy as set out in Broadcasting Regulatory Policy 2010-622-1 remains valid and relevant. However, the Commission considers that the policy requires a few adjustments to ensure that:
- community channel operators make use of the most efficient distribution methods to focus on content rather than on facilities;
  - the services adequately reflect the population and provide Canadians with fair access to the broadcasting system as a whole; and
  - community programming is accessible to all Canadians on the most efficient platforms.
135. In addition, the Commission is mindful of the concerns raised by some citizens and community groups regarding BDUs' control over funding and programming that could hinder the achievement of the Community Television Policy's objectives.

136. Accordingly, the Commission addresses the following issues:

- allocation of funds to direct and indirect expenses on community programming;
- reflection of underrepresented groups in community programming and the creation of citizen advisory committees;
- support for independent groups producing access programming;
- definition of access programming;
- multi-platform distribution;
- deductions for two community channels in one market;
- monitoring the compliance of community channels with their regulatory requirements;
- non-compliance measures; and
- local advertising on community channels.

137. The complete text of the Community Television Policy, as revised, is set out in Appendix 2 to this regulatory policy.

### **Allocation of funds to direct and indirect expenses on community programming**

#### **Background**

138. Currently, BDUs are required to allocate a preponderance (over 50%) of their contributions to local expression to direct programming costs incurred by community channels.
139. In Circular No. 426, the Commission defined direct and indirect expenses with regard to community channel expenditures as follows:
- a) Direct expenses are those expenses solely attributable to the acquisition or production of programming. This includes, for example, salaries and benefits paid to staff who work exclusively in the programming department, non-staff talent fees, films, tapes, props, sets, program vehicle operating costs, and any other program-related materials and supplies.
  - b) Indirect expenses are those expenses that are not attributable in full to the acquisition or production of programming, but which are nevertheless necessary for the acquisition or production of programming. This includes, for example, a percentage of heat, light and hydro costs related to the building in which the programming facilities are located, a percentage of salaries and benefits paid to

staff who do not work exclusively in the programming department, but are, at least on occasion, directly involved in its operation, programming equipment maintenance, and other costs for such things as office cleaning and entertainment related to the community programming department.

- c) Licensees are allowed to claim as direct expenses, in the calculation of their financial contribution to local expression, the depreciation or lease payments, whether on account of capital or operating leases, for equipment used to provide a community channel.

#### **Positions of parties**

- 140. Positions varied significantly on the percentage of the contribution to local expression that BDUs should allocate to direct and indirect costs for community channels.
- 141. The CCSA submitted that small community channels in particular should be able to claim legitimate indirect costs.
- 142. BCE and On Screen Manitoba submitted that more than 60% of local reflection contributions should go directly to programming. On Screen Manitoba submitted that the cost of equipment continues to decrease, thereby providing an opportunity for community channels to adapt to lighter infrastructure models.
- 143. The MCCQ submitted that 100% of contributions from BDUs should go to programming.
- 144. At the hearing, TELUS stated that it would support a proposal to establish stricter rules on how much can be allocated to indirect costs versus direct costs, should the Commission decide to implement such a rule. TELUS added that it currently allocates approximately 96% of its local expression programming expenditures to direct costs.

#### **Commission's analysis and decision**

- 145. On average, BDUs currently allocate approximately 60% of local expression contributions to direct programming costs and 40% to indirect costs. However, these percentages vary greatly from one BDU to another. This may indicate that some community channel operators have adopted more efficient practices, which have allowed them to allocate a greater proportion of contributions to the acquisition and production of community programming.
- 146. Also relevant is the model of community channel that a BDU has chosen to offer: linear channels tend to have more overhead indirect costs than VOD community services. This means that a smaller proportion of their expenditures can be dedicated to direct programming expenses. The Commission considers that imposing on all BDUs a level of direct expenses over 90%, such as is being reported by some VOD-based community offerings, would be the equivalent of requiring all BDUs to abandon linear community channels and operate exclusively as VOD community services. Linear community channels should continue to be an option for BDUs given

that Canadians see value in them. Any requirement related to direct expenses should not be so stringent as to effectively render linear channels unviable.

147. The Commission considers that it would be appropriate to gradually increase the minimum proportion of local expression expenses that BDUs must allocate to direct programming costs from the current requirement of 50% to 75%. **The minimum percentage to be allocated to direct programming expenses for community channels operated by licensed BDUs will ramp up as follows:**
- **60% for the broadcast year ending 31 August 2018;**
  - **65% for the broadcast year ending 31 August 2019;**
  - **70% for the broadcast year ending 31 August 2020; and**
  - **75% for all subsequent broadcast years.**
148. This requirement does not prevent BDUs from spending more than 25% on indirect costs. The costs beyond that threshold will simply no longer be credited towards local expression contributions.
149. This approach will incent BDUs that currently allocate a smaller proportion of their contribution to direct costs to adopt more efficient practices. As a result, a larger percentage of the BDUs' contributions to local expression will be spent on the acquisition or production of local expression programming.

### **Reflection of underrepresented groups in community programming and the creation of citizen advisory committees**

#### **Background**

150. The Community Television Policy specifies that community programming should reflect the communities served and that community channels should reflect the official languages, ethnic and Aboriginal composition of the community.
151. In Broadcasting Decision 2015-31, the Commission found Videotron in non-compliance with regulatory requirements relating to local reflection, specifically with regard to linguistic and ethnocultural minorities and Aboriginal communities, for its community channel MATv. In that decision, the Commission directed Videotron to take concrete steps to bring MATv into compliance, such as forming a citizen advisory board that would take into account all members of the community, including volunteers, to determine the mix, scope and types of programs that would best serve the needs and interests of the greater Montréal community. The Commission expressed the view that the creation of such a board could enhance the programming of MATv by more accurately reflecting the community in which it is broadcast.

## **Positions of parties**

152. Members of minority groups were critical of the lack of cultural, linguistic and ethnic diversity on screen.
153. COSCO-PIAC, the English-Language Arts Network (ELAN), the Quebec English-language Production Council, as well as other parties, proposed the implementation of advisory committees that would be independent from BDUs for programming-related decisions.
154. Rogers, Shaw and Videotron, which already have citizen advisory committees in place, supported the expansion of this initiative to all community channels, so long as BDUs maintain control over programming. They stated that the committees are effective sounding boards that allow them to provide programming that meets the needs of the audience they serve.
155. ELAN pointed to the success of the citizen advisory committee recently established for the community channel MAtv as a result of Broadcasting Decision 2015-31. ELAN was satisfied with the positive changes that have occurred at MAtv since the Commission directed Videotron to take concrete steps to bring the channel into compliance, particularly with respect to the reflection of official language minority communities (OLMCs) and with the creation of an advisory committee. ELAN argued for the broader application of advisory committees to other community channels.
156. CACTUS and Independent Community TV (ICTV) were of the view that an elected advisory council should assess BDUs' compliance with the requirements set out in the policy on official languages, concerning the representation of ethnic groups and First Nations, and citizen access and participation. CACTUS suggested that community channels should be governed through open management. To do this, CACTUS proposed that an advisory board be set up in each market. The board would be responsible for managing the community channel and would be composed of members representing key institutions, such as the municipality, public library, local educational institutions and not-for-profit community organizations.

## **Commission's analysis and decision**

157. Local reflection and reflection of underrepresented groups—in particular OLMCs, ethnocultural minorities and Aboriginal peoples—is a central element of the objectives set out for community channels.
158. As such, community programming could be enhanced with greater cultural, ethnic and linguistic diversity and a diversity of voices, particularly with respect to access programming selections. To achieve that local reflection, citizens need to have a say in the community channels' decision-making and be able to influence the programming selections.

159. In Broadcasting Regulatory Policy 2010-622, the Commission stated that community channels should provide feedback mechanisms, such as advisory boards, to encourage viewer response to the range and types of programs aired.
160. A consultation obligation would promote a more open and equitable decision-making process and would provide greater transparency in the management of community channels and funds while BDUs would still be able to maintain full control over the community channels.
161. Citizen advisory committees could be consulted for the selection of access projects. They could also ensure that underrepresented groups are reflected in the programming, as their needs would be defended by members representing them on the committee.
162. In light of the above, **the Commission will require licensed BDUs to establish citizen advisory committees for community channels operating in markets with a population of over one million people.** These markets are generally more diverse and could benefit the most from the committees. Each BDU licensee in those markets will be required to set up, for each undertaking, an advisory committee that is representative of the communities it serves. Based on the current environment, ten advisory committees would be required:
- Toronto: Rogers, BCE
  - Montréal: Videotron, BCE
  - Vancouver: TELUS, Shaw
  - Calgary: TELUS, Shaw
  - Edmonton: TELUS, Shaw
163. Each committee must include members of the various Aboriginal, cultural, linguistic and ethnic groups within the community. To ensure that the control of the committee stays with the community members, BDU representatives cannot represent more than a third of the committee. Specific committee membership will be left to the discretion of the BDUs. BDUs will be required to report to the Commission in their annual report on the members sitting on the committee and the groups or organizations they represent.
164. In light of the positive impact the advisory committee formed by Videotron had on the English-language OLMCs in the Montréal market, the Commission is of the view that this new requirement constitutes a positive measure that will enhance the vitality of OLMCs and support and assist their development.
165. This requirement will be implemented by way of a condition of licence to be imposed at licence renewal with an effective date of 1 September 2017 for most BDUs.

166. The Commission encourages the creation of advisory committees by all BDUs. It may require the creation of advisory committees for community channels in other markets where the Commission has evidence, at licence renewal, that the objective of local reflection is not achieved.

### **Support for independent groups producing access programming**

#### **Background**

167. According to section 31(2)(c) of the Regulations, a BDU must make available up to 20% of the programming broadcast by a community channel each broadcast week to community television corporations for access programming, if one or several of the corporations operate in a licensed area.
168. BDUs are also subject to access expenditure requirements: they must devote 50% of their community channel expenditures to access programming. However, there is no requirement that BDUs compensate independent groups for the broadcast of their programming.

#### **Positions of parties**

169. Several independent groups operating in the two linguistic markets explained at the hearing that, in the absence of equitable compensation for their programming, it is difficult for them to benefit from real access to community channels. It is also difficult for them to have the necessary means to produce quality programming. For example, Tri-Cities Community Television Society and NewWest.tv stated that, while they provide community programming to Shaw, they do not receive funding from BDUs.
170. Le regroupement des TCA de la couronne de Montréal was of the view that the Commission should impose regulatory measures requiring BDUs to disburse funds in a fair and equitable manner to community television corporations who provide programming. It further proposed that the funding be proportional to the number of subscribers in a given licensed zone, or that the allocation rely on the number of hours of programming provided by the independent community service. It also suggested that the minimum access requirements for programming produced by community television corporations be increased from four hours to eight hours of original programming per week.
171. Moreover, the group argued that the funding allocation is unfair as Videotron does not offer the same amount on an hourly basis for community television corporations in Montréal as it does in other regions of Quebec. With respect to distribution, Le regroupement des TCA de la couronne de Montréal stated that its content is seldom broadcast in peak viewing hours by Videotron.

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

172. The Commission is of the view that the exhibition and expenditure requirements for access programming currently in place are sufficient to ensure that an appropriate amount of this type of programming is distributed by community channels. Similarly,

the Commission considers the requirement that a BDU offer a portion of its programming aired on a community channel each broadcast week to community television corporations is sufficient to ensure meaningful access by these groups.

173. The Commission is not convinced that more regulatory measures are required to support the access of these groups to the broadcasting system, especially in light of the availability of other methods, including various digital platforms, to showcase access programming.

## **Definition of access programming**

### **Background**

174. The Regulations define community access television programming as “programming produced by an individual, group or community television corporation residing within the licensed area of a cable distribution undertaking.”

175. In Broadcasting Regulatory Policy 2010-622, the Commission set out the following key criterion for defining access programming:

...creative control is in the hands of a community member, i.e. an individual or group residing within the licensed area of a terrestrial BDU. Creative control consists of two elements:

1. The idea for an access program must originate from a community member not employed by a BDU; and
2. The community member must be involved in the production team:
  - a) in an on-camera role (e.g., a personality or actor that appears in a predominant portion of the production); and/or
  - b) as a creative member of the production crew (e.g., directing, producing, writing).

When a project meets these criteria, the Commission will consider that creative control is in the hands of the community member and consequently that the project qualifies as access programming.

At any time, the BDU may assist in training and supporting community members in the production and distribution of access programming.

In addition to the access programming produced by community members, the Commission will consider programming produced by independent community services and programming produced by local not-for-profit community television corporations (TVCs) as access programming.

## Positions of parties

176. Some parties requested that the definition of access be expanded to give community channels more operational flexibility. BDUs were generally in favour of improving regulatory flexibility to increase the number of programs defined as access programming.
177. Others sought to restrict the definition to minimize the risks of professionals or specialists participating in access programming. Groups such as CACTUS and ICTV proposed to limit access programming to what is strictly produced by non-professionals.
178. In the online consultation, many stated that community channels help them promote their community organizations and the projects in their communities. They were generally pleased with the programming on their BDUs' community channels.
179. Some individuals argued that it would be best to limit television professionals' involvement to guiding volunteers to increase the diversity of voices.

## Commission's analysis and decision

180. The Commission considers that the definition of community access television programming currently set out in the Regulations remains appropriate and will maintain it. However, to provide greater clarity on how this definition should be interpreted, **the Commission is providing the following criteria to aid in determining whether a program qualifies as access programming:**

The primary criterion for access programming is that creative control is in the hands of a community member (i.e. an individual or group residing within the licensed area of a terrestrial BDU).

The community member's participation must have the potential to truly and effectively influence programming content, either by having an on-camera role (e.g. personality or actor who appears in a predominant portion of the production) or as a creative member of the production crew (e.g. directing, producing, writing).

An access program must originate from a community member who is neither employed by a BDU nor a media professional who is known to the public or who already has access to the broadcasting system. Furthermore, the program should not be of a commercial nature, to the benefit of the person requesting access or a sponsor.

181. To the extent that a program meets these criteria, the Commission will consider that creative control is being exercised by a community member and that, consequently, the program qualifies as access programming.

182. Consequently and for greater clarity, vox pop-type programs that are creatively controlled by professionals employed by a BDU do not qualify as access programming. They may nevertheless qualify for local community programming if they provide reflection of the community served by the community channel.
183. Conversely, programs produced with Canadians that are professionals in areas other than media (e.g. yoga instructors, hunting and fishing experts, astrologers) may qualify as access programming as they allow people who have no access to the broadcasting system to share their passions on screen. That said, these types of programs must comply with the sponsorship rules in place to ensure that they do not become infomercials for the business of the person requesting access.
184. Programming produced by independent community services or local not-for-profit community television corporations continue to qualify as access programming.
185. The Commission is of the view that this interpretation will have a positive impact on communities that will be granted a greater creative role in the creation and distribution of access programming on community channels.

## **Multi-platform distribution**

### **Positions of parties**

186. In the online consultation, while many Canadians discussed the positive impact of using other platforms to broadcast community programming in addition to television, they also acknowledged that digital media have not yet acquired the same relationship with audiences or the same credibility as linear channels. Some pointed out that linear community television channels play a key role in remote areas since not everyone may have access to computers or to the Internet.
187. At the hearing, the majority of parties argued that owing to the nature of community programming, linear channels remain the most appropriate broadcasting method to ensure visibility. However, some parties argued for the importance of having other platforms that complement linear channels to increase the visibility of this programming.
188. BDUs were generally in favour of enhancing multi-platform programming.
189. Some parties suggested that the Commission should encourage or incent a multi-platform approach with on-demand options for community programming.
190. Community groups such as ICTV, the FTCAQ, Télévision communautaire Frontenac and Le regroupement des TCA de la couronne de Montréal argued that independent groups should have the right to broadcast their programming on the platform and BDU of their choice without losing their funding or the distribution granted to them by the BDUs. They argued that without the Commission's intervention, funding from BDUs to independent groups is conditional on content being broadcast on their own channel, which is preventing content from being broadcast on other platforms and BDUs.

Allowing community television corporations and independent groups to broadcast their programming on all platforms could help those that have difficulty accessing the airwaves to find a window for their programming.

191. CACTUS and ICTV proposed that funds allocated for BDUs' community channels be used to create multimedia centres that would allow citizens to be involved in the creation of programming and to broadcast it on various platforms.
192. NewWest.tv, Tri-Cities and CSUR la télé proposed the creation of an Internet portal where all community programming distributed by BDUs could be offered and made available to all Canadians. The portal could also be used to share ideas among access producers.

#### **Commission's analysis and decision**

193. As set out in section 3(1)(k) of the Act, the Commission has the duty to ensure that a range of broadcasting services in English and in French are extended to all Canadians as resources become available.
194. The Commission considers that Canadians should have access to community programming on the platform of their choice. Further, greater use of multiple platforms would mean that community programming could enjoy greater visibility and reach a younger and more diverse audience.
195. **The Commission therefore encourages BDUs to make their community programming available on all platforms, including online to all Canadians, free of charge.**
196. The Commission considers that a flexible approach is better suited to the diversity of the current BDU offerings on traditional platforms (linear channel, VOD) and online (streaming, online VOD, etc.). Further, this approach retains the ability of BDUs to offer a linear channel, a platform that is appreciated by Canadians.
197. In the Code of Best Practices for Community Television Access Programming (the Code of Best Practices) published in Broadcasting Regulatory Policy 2012-481, the Commission set out the following principles regarding the programming rights of access programming on which an eventual arbitration may be based:

The production of access programming involves close cooperation between the independent access producer and the local BDU. Most access productions are intended for distribution only by the local BDU. Nevertheless, there may be circumstances where an access production could be made available to another distributor or programming undertaking, or on another platform other than that controlled by the local BDU. In such circumstances, the following principles should be adhered to:

- Access producers should retain all rights to their work.
- The contributions made by a licensee to an access production—whether financial or in kind—do not confer on the licensee any rights to the production other than the right to make it available to the public on its community channel(s) for unlimited broadcast or on its community video-on-demand platform for unlimited play.
- The access producer should have the right to exhibit the production on any other platform without restriction, including other platforms that may provide service to viewers in the BDU's local service area.
- The licensee should not have the right to broadcast an access program on any affiliated television programming undertaking without the permission of the access producer.
- Any revenues earned by a licensee in relation to an access program should be invested in local expression within the same service area.

198. Therefore, according to the Code of Best Practices, access producers should be able to make use of their broadcast rights to access programming to broadcast the programming as widely as possible, through free online video services, on their own website or through other methods. BDUs should accordingly confer the right to access producers to broadcast their access programming on the platform of their choice.

### **Deductions for two community channels in one market**

#### **Background**

199. Some BDUs are authorized to double the maximum allowable contribution to local expression in order to operate two community channels (one in each official language) in the same market. Currently, Rogers operates two community channels, one in each official language, in the markets of Moncton and Ottawa, and BCE is authorized to reallocate up to 2% of its gross annual revenues to each of its community channels through VOD in English and in French in various Quebec and Ontario markets.
200. Recently, when Videotron applied for authorization to launch a separate English-language community channel in Montréal, the Commission denied the request that it be allowed to use double the maximum deduction as it considered that the contribution to local expression currently allocated by Videotron to MATv represented a more than adequate amount of money to serve all of the diverse elements and members of the Montréal community, as is required by the Community Television Policy. The Commission also considered that allowing Videotron to double its contributions would unduly disrupt the funding of the CMF and CIPFs.<sup>12</sup>

---

<sup>12</sup> See Broadcasting Decision 2015-32.

### Positions of parties

201. Quebecor argued for the removal of the possibility for a BDU to double the maximum allowable contribution. They proposed to redirect this amount to a fund to support the production of local news.
202. ELAN stated that the Anglophone community in Montréal is enthusiastic about the space that the MATv community channel now gives it as a result of Broadcasting Decision 2015-31. ELAN stated that the establishment of an advisory board for Videotron's community channel was very positive, even though the board has no decision-making power. ELAN stated that this initiative is a great step forward for its community, and that other community television channels outside Montréal should operate the same way.

### Commission's analysis and decision

203. All BDUs operating community channels have a responsibility to reflect the communities they serve in their entirety, including minority groups. To that end, the Commission considers that the creation of citizen advisory committees will help ensure that OLMCs and other underrepresented groups are better reflected in the programming offered by community channels.
204. Furthermore, the new possibility for BDUs to allocate funds between community channels will ensure that BDUs are able to allocate financial resources according to established needs. Therefore, **the Commission will no longer authorize BDUs to double the maximum allowable contribution for local expression to operate two community channels (one in each official language) in the same market.** This approach will also ensure the stability of CMF revenues.
205. BDUs that are currently authorized to double their maximum allowable contribution for local expression can maintain their double contribution at least until licence renewal. The Commission will evaluate BDUs' performance in regard to the reflection of OLMCs at licence renewal to determine if maintaining the exception is necessary to achieve the objectives of the Act.

### Monitoring the compliance of community channels with their regulatory requirements

#### Positions of parties

206. In its intervention, CACTUS alleged that, following an analysis of community channels' programming grids, it had found that the majority of community channels are in non-compliance with regard to their broadcasting requirements.
207. CSUR la télé argued that there is a lack of transparency in the Commission's procedures for analysis of potential non-compliance situations, particularly in the community sector.

208. ICTV stated that the Commission does not verify the compliance of community channels outside of the renewal processes of BDU licences. It proposed that the Commission:
- implement measures to guarantee transparency, accuracy and consistency in terms of reviewing programming; and
  - act in cases of non-compliance with regard to broadcasting requirements and expenditures.

#### **Commission's analysis and decision**

209. Currently, the Regulations require that community channels keep logs of distributed programs for one year and that they submit them to the Commission on request. The same regulations also require community channels to keep an audio-visual recording of programs for four weeks after they are broadcast. The Commission may request logs and recordings from a licensee if it receives a complaint regarding a BDU's compliance with broadcasting requirements on its community channel.
210. The Commission considers that **the community television sector would benefit from a more systematic and standardized evaluation of compliance by community channels with their requirements.** The Commission will therefore require BDU licensees to submit logs and audio-visual recordings periodically. The Commission will select a sample of community channels and analyze their logs and financial returns. This approach is similar to that used to assess the compliance of radio stations.
211. The Commission will implement this mechanism on a trial basis for a period of three years to assess its effectiveness.

#### **Non-compliance measures**

##### **Background**

212. The Community Television Policy currently allows community groups to apply for a community programming undertaking licence in situations where the terrestrial BDU does not provide a community channel or does not operate a community channel in accordance with the provisions of the policy. A community programming undertaking licensed under this provision would then be accorded mandatory carriage as part of the basic service and the BDU would be required to allocate its contribution to local expression to it.

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

213. ICTV argued that current community channel licences should be transferred to not-for-profit organizations and that existing community television corporations or not-for-profit local community television corporations should be able to obtain community channel licences. In its intervention, ICTV proposed itself as ready to take over Videotron's community television operation in Montréal, in replacement of the MAtv

channel. It argued that the 2% funding should go directly from contributing BDUs to community television stations and that unclaimed contributions should continue to be transferred to eligible production funds.

214. Rogers proposed that the metropolitan market BDUs that have both conventional television and a community channel in a given market be allowed to eliminate or reduce funding for the community channel and reallocate the rest of the 2% among community channels operating within other Canadian markets. Rogers suggested that those BDUs should be exempt from section 34 of the Regulations. It argued that a BDU should not be required to allocate the full 2% of its contribution to local expression to another organization, if it chooses to cease operating a community channel in order to redistribute the contribution to other potentially underfunded community channels, for example.

#### **Commission's analysis and decision**

215. The original intent of this measure, that Canadians have access to community programming offered in compliance with the Community Television Policy, is commendable and remains important. However, the Commission considers that allowing an independent company to be allocated funding from a BDU, despite BDUs being regulated and accountable entities, introduces a destabilizing element into the broadcasting system. The intent of this measure was not to put into question the stewardship of BDUs over community channels.
216. The Commission considers that the existing methods as well as the new compliance monitoring methods and the creation of citizen advisory committees announced above are sufficient to ensure that BDUs operate their community channels in compliance with policies and regulations.
217. For these reasons, **in cases where BDUs are operating community channels in non-compliance, the Commission will not consider redirecting contributions to local expression to an independent community channel and granting mandatory distribution to that channel on the basic service.** In the event of alleged non-compliance, the Commission's usual processes, that is, an examination at the time of licence renewal or at a show cause proceeding, will continue to apply.
218. However, the Commission retains the option to direct contributions to local expression to an independent community channel where a BDU does not distribute its own community programming on a community channel. BDUs operating in metropolitan markets that elect to allocate all of their contribution to local expression to OTA stations or other community channels will be exempted from the application of this option.

#### **Local advertising on community channels**

219. In the Working Document, the Commission stated that it was prepared to explore allowing the broadcast of local advertising on community channels to encourage them to offer local news. The Commission will not move forward with this idea in light of

the supports for local news it is putting in place and given that conventional television stations continue to be in the best position to offer professional quality local news to Canadians.

Secretary General

## Related documents

- *A review of the policy framework for local and community television programming – Working document for discussion*, Broadcasting Notice of Consultation CRTC 2015-421-3, 12 January 2016
- *A review of the policy framework for local and community television programming*, Broadcasting Notice of Consultation CRTC 2015-421, 14 September 2015
- *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2015-543 and Broadcasting Order CRTC 2015-544, 9 December 2015
- *English-language community channel in Montréal*, Broadcasting Decision CRTC 2015-32, 4 February 2015
- *Complaint by Independent Community TV against Videotron G.P. and its community channel MATv*, Broadcasting Decision CRTC 2015-31, 4 February 2015
- *Over-the-air transmission of television signals and local programming*, Broadcasting Regulatory Policy CRTC 2015-24, 29 January 2015
- *Code of Best Practices for Community Television Access Programming*, Broadcasting Regulatory Policy CRTC 2012-481, 7 September 2012
- *Revised approach regarding contributions by broadcasting distribution undertakings to local expression*, Broadcasting Regulatory Policy CRTC 2012-154, 15 March 2012
- *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010
- *Community television policy – Correction*, Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010
- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

- *Contributions to Canadian programming by broadcasting distribution undertakings*, Broadcasting Public Notice CRTC 2003-38, 16 July 2003
- *Direct-to-home (DTH) broadcasting distribution undertakings – simultaneous and non-simultaneous program deletion and the carriage of local television signals in smaller markets*, Broadcasting Public Notice CRTC 2003-37, 16 July 2003
- Circular No. 426, 22 December 1997

# Appendix 1 to Broadcasting Regulatory Policy CRTC 2016-224

## Independent Local News Fund

### Objective

The Independent Local News Fund (ILNF), which will take effect 1 September 2017, is a fund available to support the production of locally reflective news and information by private independent television stations.

### Eligibility

All private conventional television stations that provide locally reflective news and information and that do not belong to a vertically integrated group<sup>13</sup> will be eligible to receive funding from the ILNF.

### Allocation method

Funds are to be allocated in the following manner:

- two thirds will be distributed in proportion to each eligible station's share of total expenditures on locally reflective news and information over the previous three broadcast years;
- one third will be distributed in proportion to the total number of hours of locally reflective news and information broadcast by each eligible station over the previous three broadcast years; and
- no station or group of stations operated by the same licensee in a given market will receive more than 10% of the funding in any given broadcast year.

### BDU contributions

All licensed BDUs will be required to contribute 0.3% of their gross revenues from broadcasting activities in the previous broadcast year to the ILNF.

### Governance and administration

The ILNF will be administered by the Canadian Association of Broadcasters.

---

<sup>13</sup> As set out in *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011, "vertical integration" refers to the ownership or control by one entity of both audiovisual programming and distribution undertakings or both audiovisual programming undertakings and production companies.

## **Accountability**

The ILNF will be accountable to the Commission. Recipients of funding will be accountable to the fund and to the Commission.

## **Reporting**

By 30 November of each year, the ILNF will file and make publicly available on its website reports detailing:

- the amounts received and distributed; and
- all other information that may be requested by the Commission.

By 30 November of each year, fund recipients will file and make publicly available on their websites reports detailing how the funds received have been used to meet the ILNF's objectives.

## **Evaluation**

The ILNF will be evaluated after five years.

During the fourth year of operation, an evaluation of the ILNF will be conducted by a third party in line with Treasury Board program evaluation methods and best practices.

During the fifth year of operation, the Commission will launch a public process to seek comments on the evaluation of the ILNF in order to determine whether the fund is still necessary to achieve the objectives of the *Broadcasting Act* and whether changes are required to its operation to better achieve those objectives.

## **Appendix 2 to Broadcasting Regulatory Policy CRTC 2016-224**

### **Community television policy**

#### **General**

This policy replaces the *Community Television Policy* in the Appendix to Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010.

#### **Objectives**

The Commission has established the following objectives for its Community Television Policy:

- to ensure the creation and exhibition of more locally produced, locally reflective community programming.
- to foster a greater diversity of voices and alternative choices by facilitating new entrants at the local level.

#### **Standards and codes**

Where appropriate, licensees will be expected to adhere to the following industry codes as conditions of licence:

- the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission;
- the Canadian Association of Broadcasters' *Code Regarding Violence in Television Programming*, as amended from time to time and approved by the Commission;
- the *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission; and
- *Cable television community channel standards*, Public Notice CRTC 1992-39, 1 June 1992 (Public Notice 1992-39).

#### **Section A – Community channels operated by broadcasting distribution undertakings**

This section applies to all community channels operated by broadcasting distribution undertakings (BDUs). Licensed BDUs will be expected to fulfil all the applicable provisions of the policy set out below. The performance of licensees in this regard will be examined at the time of licence renewal.

The Commission expects BDUs that are exempted from the obligation to have a licence under *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2015-543

and Broadcasting Order CRTC 2015-544, 9 December 2015, as amended from time to time, to abide by the applicable provisions of the policy set out below.

### **Role and objectives**

The role of the community channel should be primarily of a public service nature, facilitating self-expression through free and open access by members of the community.

The community channel should:

- engender a high level of citizen participation and community involvement in community programming;
- actively promote citizen access to the community channel, provide related training programs and promote their availability;
- provide feedback mechanisms, such as advisory boards, to encourage viewer response to the range and types of programs aired;
- seek out innovative ideas and alternative views;
- provide a reasonable, balanced opportunity for the expression of differing views on matters of public concern;
- reflect the official languages, ethnic and Aboriginal composition of the community;
- provide coverage of local events; and
- publicize the program schedule.

### **Local community television programming**

If a licensee elects to distribute community programming services, it shall devote not less than 60% of the programming aired during each broadcast week to the broadcast of local community television programming.

For the purpose of this policy, the Commission considers local community television programming to consist of programs, as defined in the *Broadcasting Act* (the Act), that are reflective of the community and produced by the licensee in the licensed area or by members of the community from the licensed area. Programs produced in another licensed area within the same municipality will also be considered local community television programming.

The licensed areas of terrestrial BDUs are set out in the licence in effect as of the date of this policy. Where a terrestrial BDU obtains the Commission's approval for a regional licence, the Commission will generally retain the existing licensed area set out in the terrestrial BDU's licence prior to obtaining approval for the regional licence and require

that local community television programming continue to be reflective of the community within that licensed area.

Exempt terrestrial BDUs may utilize alphanumeric bulletin boards to achieve the 60% threshold for local community television programming.

### **Community programming**

Pursuant to the *Broadcasting Distribution Regulations* (the Regulations), licensees that elect to distribute community programming shall not distribute on the community channel any programming service other than those set out in section 30(1).

Licensees are not permitted to distribute non-Canadian or commercial programs on the community channel.

Licensees are not permitted to receive financial payment in exchange for the distribution of an information program funded by and produced for a federal, provincial or municipal government or agency or a public service organization.

Licensees are expected to adhere to the principle that local community television programs be given scheduling priority.

### **Professional major league sports programming**

The broadcast of programs featuring professional major league sports, produced by companies generally engaged in the production of such programs, does not fulfil the objectives of this policy and will generally not be allowed on the community channel.

For greater clarity, the broadcast of programs featuring amateur sports, including those covering the activities of major junior leagues such as the Canadian Hockey League and its constituents, are permitted.

### **Community television programming in Toronto, Montréal and Vancouver**

Licensees that provide community programming in the greater Toronto, Montréal and Vancouver areas are expected to set out their plans and commitments at licence renewal as to how they will reflect the various communities within their licensed areas.

### **Citizen advisory committees**

Licensees should consult members of the community to determine the mix, scope and types of programs that best serve the community's needs and interests.

Licensees offering community programming in markets with a population of one million people or more will be required by condition of licence to form a citizen advisory committee that is representative of the communities it serves, including volunteers.

The Commission will require the creation of advisory committees for community channels in other markets where the Commission has evidence, at licence renewal, that the objective of local reflection is not achieved.

Each committee must include members of the various Aboriginal, cultural, linguistic and ethnic groups within the community. To ensure that the control of the committee stays with the community members, BDU representatives cannot represent more than a third of the committee. Specific committee membership will be left to the discretion of the BDUs.

BDUs will be required to report to the Commission in their annual report on the members sitting on the committee and the groups or organizations they represent.

### **Funding of community programming**

Effective 1 September 2017, licensed terrestrial BDUs may deduct from their required 5% contribution to Canadian programming up to 1.5% of the previous year's gross revenues derived from broadcasting activities for contributions to local expression.

Licensed terrestrial BDUs operating in markets with a population of over one million people may allocate all or a portion of this contribution to local expression to community programming made in other markets or to the creation of locally reflective news programming by television stations.

All other licensed terrestrial BDUs may allocate up to 50% of their contribution to local expression to community programming made in other markets or to the creation of locally reflective news programming by television stations. The remainder may only be counted for community programming made in the BDU's market.

Exempt terrestrial BDUs may allocate all of their required 5% contribution to Canadian programming for contributions to local expression.

### **Access programming**

For the purpose of this policy, access programs are programs produced by members of the community served by the undertaking, either assisted or unassisted by the licensee.

### **Criteria for access programs**

The primary criterion for access programming is that creative control is in the hands of a community member (i.e. an individual or group residing within the licensed area of a terrestrial BDU).

The community member's participation must have the potential to truly and effectively influence programming content, either by having an on-camera role (e.g. personality or actor who appears in a predominant portion of the production) or as a creative member of the production crew (e.g. directing, producing, writing).

An access program must originate from a community member who is neither employed by a BDU nor a media professional who is known to the public or who already has access to the broadcasting system. The program should not be of a commercial nature, to the benefit of the person requesting access or a sponsor.

At any time, the licensee may assist in training and supporting community members in the production and distribution of access programming.

In addition, the Commission will consider programming produced by independent community services or local not-for-profit community television corporations (TVCs) as access programming.

### **Exhibition**

Licensees shall devote a minimum of 50% of the programming aired during each broadcast week to the broadcasting of access programs.

Where there is one or more TVC in a given licensed area, up to 20% of the programming aired by the community channel during each broadcast week by the licensee shall be made available for access programs from these TVCs. Where more than one TVC is in operation in a licensed area, each must be guaranteed a minimum of four hours of access programs per broadcast week, upon request. This 20% is considered part of the access program requirements set out above.

For the purpose of this policy, TVCs are defined as:

Not-for-profit corporations, incorporated under a provincial or federal charter which provides that the primary activity of the corporation is to produce community television programming and/or operate a community television channel that is reflective of the community they represent. Board members must be drawn from the local community and the corporation must hold an annual meeting where all members of the corporation are invited to participate and to vote.

Access programming should be scheduled in a reasonable manner throughout the broadcast day, including the peak viewing period (7 p.m. to 11 p.m.), and the ratio of original to repeat programs should generally be the same for access programs as it is for other community programming.

### **Expenditures**

Licensees shall devote the following minimum percentages of expenditures related to the offer of community programming to direct expenditures, as defined by the Commission in Circular No. 426, 22 December 1997.

- **60%** for the broadcast year ending 31 August 2018;
- **65%** for the broadcast year ending 31 August 2019;

- **70%** for the broadcast year ending 31 August 2020; and
- **75%** for all subsequent broadcast years.

At least **50%** of all programming-related expenditures shall be directed to access programming.

The access expenditure requirement will apply to the programming portion of community expenditures only. As such, technical, sales, promotion, administration and general expenses will not be included.

Expenditures for volunteer training and development and community outreach to generate access programming will be considered as eligible access programming expenditures.

The Commission will grant up to 5% flexibility per year on required access expenditures, as follows:

In each year of the licence term, excluding the final year, a licensee may expend an amount on access programming that is up to 5% less than the minimum required expenditure for that year; in such case, the licensee shall expend in the next year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's underspending.

### **Code of best practices on access programming**

Licensees are expected to abide by the Code of Best Practices for Community Television Access Programming, as approved in Broadcasting Regulatory Policy CRTC 2012-481, 7 September 2012, and as amended from time to time.

### **Promotion of access opportunities**

Licensees are expected to actively promote citizen access to the community channel, provide related training programs and promote their availability. All licensees are expected to distribute a billing insert describing the availability of access programming and methods by which proposals can be made. Such billing inserts should be distributed annually. The Commission will review the efforts of licensees in this regard as part of the licence renewal process.

The Commission recognizes that licensees publicize access programming opportunities in other ways, such as through on-air announcements, website, social media, participation at community events and visits to schools, colleges and universities. Licensees are encouraged to use these alternative methods to promote access opportunities.

### **Distribution on digital media**

The Commission encourages licensees to make their community programming available on all platforms, including online to all Canadians, free of charge.

**Accountability and reporting****Annual returns**

Licensed and exempt BDUs with more than 2,000 subscribers shall report the following information related to local expression as part of their annual returns.

***Exhibition***

Total hours broadcast and produced

- Produced by the licensee
- Produced by community members (access programming)
- Produced by TVCs and independent community services (access programming)
- Produced by other licensees (non-access)
- Alphanumeric messages
- Other (to be specified)

***Expenditures***

1. Programming expenses (direct and indirect)
  - Produced by the licensee
  - Produced by community members (access programming—can include volunteer training and community outreach expenses)
  - Produced by TVCs and independent community services (access programming)
  - Produced by other licensees (non-access)
  - Alphanumeric messages
  - Other (to be specified)
2. Technical expenses
3. Sales and promotion expenses
4. Administration and general expenses
5. Depreciation
6. Total broadcasting-related revenues (basic and non-basic revenues)

7. Total community television expenditures as a percentage of total broadcasting revenues

***Volunteer participation and development***

- Total number of volunteers
- Total hours worked by volunteers
- Total training hours received by volunteers
- Total volunteer training expenses (can be included in applicable access programming expenditures)

***Community outreach***

- Total expenditures on community outreach (can be included in applicable access programming expenditures)

**Report on access programming**

Licensed BDUs that operate community channels shall file a report with their annual returns containing the following, based on a reporting year.

***Community outreach initiatives***

- Number of meetings with the public
- Communication tools used to promote access opportunities (e.g., billing inserts, website, on-air announcements, participation at community events, visits to schools/colleges/universities, social media)
- Number of training sessions offered to volunteers

***Access programming initiatives***

- Number of hours of access programming broadcast during the broadcast day and in peak hours
- Percentage of access programming broadcast
- Number of requests for access programs by individuals and groups representing official language minority communities

***Access programming available on other platforms***

- Number of hours of access programming available on video-on-demand (VOD), website, etc.

These reports, to be filed each year, will be made available on the Commission's website.

### **Report on video-on-demand and digital media**

Licensed BDUs are required to report the following as it relates to the use of VOD and digital media as platforms for local expression.

#### ***Video-on-demand***

- Program hours made available through VOD during the reporting year
- Expenditures related to community programs broadcast through VOD (can be included in applicable programming expenditures)

#### ***Digital media***

- Program hours broadcast on digital media during the reporting year
- Expenditures related to community programs broadcast on digital media (can be included in applicable programming expenditures)

### **Service to persons with disabilities**

#### **Closed captioning**

Licensed BDUs either are or will be required, by condition of licence, to caption 100% of original licensee-produced programming by the end of their licence term. Further, licensed BDUs are or will be expected to ensure that 100% of original access programming is captioned by the end of their licence term.

#### **Audio description**

Licensed BDUs that operate a community channel either are or will be required, by condition of licence, to provide audio description for all of their information programs and news programming (that is, the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen).

### **Advertising and sponsorship**

Community channels will continue to be limited to sponsorship advertising as prescribed under section 30 of the Regulations.

In accordance with *Sponsorship messages on the community channel*, Circular No. 348, 27 July 1988, words promoting goods or services are not acceptable and descriptions that promote a favourable image of the sponsor will be examined on a case-by-case basis to determine if they depart from what is permitted in the Regulations.

Licenses must not deny, restrict or reduce access opportunities if a member of the community is unable or unwilling to attract a sponsor.

Under no circumstances should a licensee charge a fee for providing access programs, or insist that access programs have sponsorship.

All revenues generated by sponsorship advertising must be reinvested in the operation of the community channel. Licensees must identify these revenues and associated expenditures separately when reporting their community programming expenses to the Commission.

Revenues associated with the rental of production facilities for external commercial and industrial productions should also be reinvested in the community channel, thus avoiding the requirement for cost separation procedures.

### **Promotional messages**

Consistent with the Regulations, except as otherwise provided in sections 30(2) and 30(3) or under a condition of its licence, a licensee must limit the broadcast of promotional messages on the community channel to two minutes per hour.

Further, the Regulations require that the time allocated for promotional messages be divided as follows:

- At least 75% of promotional time during each broadcast week must be made available for use by non-related Canadian programming undertakings for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements.
- A maximum of 25% of promotional time during each broadcast week may be made available for the promotion of related programming undertakings, discretionary programming services and programming packages, customer service information, channel realignments, cable FM service and additional cable outlets.

For the purpose of this policy, a related programming undertaking is defined as one in which a BDU licensee or an affiliate, or both, controls more than 10% of the total shares issued and outstanding.

## **Section B - Independent community services**

### **Independent community programming undertakings**

Terrestrial BDUs have the option of distributing a community channel as part of their distribution licences. Community groups may apply for a community programming undertaking licence in situations where the terrestrial BDU does not provide a community channel. In the case of a BDU operating in a market with a population of over one million people, community groups may only apply for a community programming undertaking

licence in situations where the terrestrial BDU does not provide a community channel and does not make an allowable contribution to local news or to other community channels.

In order to obtain a community programming undertaking licence, applicants will have to demonstrate that the proposed undertaking would be a not-for-profit organization, the structure of which provides for membership, management, operation and programming primarily by members of the community. Applicants should also demonstrate that the undertaking would be operated in accordance with this policy, the relevant provisions of the Regulations and Public Notice 1992-39.

Pursuant to the Regulations, community programming undertakings licensed under this provision will be accorded mandatory carriage as part of the basic service. The Regulations also specify the applicable percentage of the terrestrial BDU's gross revenues from the previous year to be allocated to the community programming undertaking.

### **Community-based television programming undertakings: low-power and digital services**

In addition to independent community programming undertakings that can be licensed where a BDU does not offer community programming, there are two subcategories of independent community-based television programming undertakings:

- community-based low-power television undertakings
- community-based digital services

### **Objectives**

Community-based television programming undertakings will provide a high level of locally-produced, locally-reflective programming that complements the programming provided by conventional television and community channels. Such services should enrich the variety of local and community programming available to the public, as well as provide opportunities for new voices to participate in the Canadian broadcasting system.

Community-based television programming undertakings should not replicate the programming offered by existing television services.

### **Licensing criteria**

In its assessment of applications for community-based television programming undertakings, the Commission will take into consideration the number of community-based services already licensed in the proposed service area, the availability of over-the-air channels and/or the available capacity of the affected BDUs and the impact on local radio and television licensees operating in small markets.

**Ownership**

The Commission will consider applications by both for-profit and not-for-profit applicants to operate community-based television programming undertakings.

The Commission does not intend to grant this class of licence to established licensees to extend their reach or to provide additional types of service. In assessing applications for community-based television programming undertakings, the Commission will give preference to locally-based new entrants.

**Canadian content**

Licensees of community-based television programming undertakings shall devote not less than 80% of the broadcast year to the broadcast of Canadian programs.

**Local programming**

Licensees of community-based television programming undertakings shall devote not less than 60% of the broadcast year to the broadcast of local programming.

For the purpose of this policy, local programming means station productions or programming produced by community-based independent producers that reflects the particular needs and interests of residents of the area that the community-based television programming undertaking is licensed to serve.

In the case of a community-based low-power television programming undertaking, this area will be defined by the Grade B contour of the antenna. In the case of a community-based digital service, the Commission will require a detailed description of the geographic area to be served, which will form part of a condition of licence on the nature of service.

**Service to persons with disabilities*****Closed captioning***

The Commission encourages independent community services to caption as much programming as possible. The Commission may impose requirements for closed captioning as conditions of licence where circumstances warrant.

***Audio description***

Consistent with the Accessibility Policy, the Commission intends to impose conditions of licence requiring independent community services to provide audio description for all of their information programs and news programming (that is, the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen).

**Citizen participation**

Licensees of community-based television programming undertakings are encouraged to:

- facilitate citizen access to the production of programming; and
- provide training to those within the community wishing to participate in the production of programming.

### **Advertising and financing**

Licenses of community-based television programming undertakings shall not broadcast more than 12 minutes of local advertising material in any clock hour in a broadcast day.

### **Policies specific to community-based low-power television undertakings**

#### ***Definition of low-power television***

The Department of Industry (the Department) defines low-power analog television stations in Part IV of its Broadcasting Procedures and Rules as those stations operating with a transmitter power of 50 watts or less on the VHF band or 500 watts or less on the UHF band. Due to their limited effective radiated power, their Grade B service contour does not exceed 12 kilometres in any direction from the antenna site. The coverage that they provide is therefore much more limited than that of regular class television stations.

The Department defines low-power digital television stations in Part X of its Broadcasting Procedures and Rules as those stations with service not extending beyond a distance of 20 kilometres in any direction from the antenna site.

The Department considers low-power television stations as secondary assignments and establishes them on an unprotected basis with respect to the frequency band that they occupy. This means that they have no protection from interference by primary assignments (e.g. regular class stations). However, in the event that a secondary assignment causes interference to a primary assignment, the secondary assignment could be required to change its assigned channel or to cease operation if no replacement channel can be found. Secondary assignments are, however, entitled to protection from other secondary assignments that are established at a later date.

#### ***Carriage by broadcasting distribution undertakings***

Consistent with the Regulations, BDUs are required to distribute the programming service of a community-based low-power television station to the subscribers of the distribution undertaking whose residence or other premises are located within the service area of that station.

#### ***Remote stations***

The provisions of this policy apply to both urban and remote community-based low-power television undertakings.

However, the Commission will be prepared to allow relief from the logging requirements set out in section 10 of the *Television Broadcasting Regulations, 1987*, the Canadian content and local programming requirements set out in this policy and the requirement to operate at a low power upon application from licensees of community-based television undertakings serving remote areas, to the extent that their operation is consistent with the Commission's policies regarding the transition to digital television.

The Commission will expect terrestrial BDUs operating in remote areas to carry any remote community-based television programming undertaking licensed to serve that area on their analog basic service.

For the purpose of this policy, a remote community-based television station is defined as a community-based television programming undertaking serving a community that has no competing regional or local television service or local community channel.

#### **Policies specific to community-based digital services**

##### ***Carriage by broadcasting distribution undertakings***

Consistent with the Regulations, BDUs are required to distribute the programming service of a community-based digital undertaking to the subscribers of the distribution undertaking whose residence or other premises are located within the service area of that undertaking.

##### ***Nature of service and proposed service area***

In order to clearly define the proposed community or communities to be served, applications for a community-based digital service licence must include a detailed description of the nature of the proposed service and the geographic area to be served.