



## Broadcasting Notice of Consultation CRTC 2017-280

PDF version

Reference: 2016-385

Ottawa, 4 August 2017

### Call for comments on measures to provide for dispute resolution between video-on-demand operators and discretionary services

*The Commission calls for comments on whether it would be appropriate to add provisions to the Discretionary Services Regulations, also issued today, in order to provide for dispute resolution between video-on-demand operators and discretionary services.*

*The deadline for filing comments is **19 September 2017**. Parties may file replies to matters raised in the initial comments. The deadline for the filing of replies is **3 October 2017**.*

#### Introduction

1. In Broadcasting Regulatory Policy 2017-279, also issued today, the Commission announced that it has made the *Discretionary Services Regulations* (the Regulations). These Regulations merge the *Pay Television Regulations, 1990* and the *Specialty Services Regulations, 1990* into a single set of regulations to reflect the Commission's determination in the Let's Talk TV proceeding to streamline the licensing of programming services.
2. The Regulations include a mechanism for the resolution of disputes between licensed discretionary services and broadcasting distribution undertakings (BDUs). As a result, where necessary, such parties can rely on the Commission's formal dispute resolution processes when conducting their negotiations regarding carriage or terms of carriage.
3. In response to Broadcasting Notice of Consultation 2016-385 calling for comments on the Regulations, TELUS Communications Inc., and 1219723 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company (TELUS), expressed concern that no such provision exists to address similar negotiations between video-on-demand (VOD) operators and discretionary services. TELUS noted that it has become commonplace for linear programming services to secure the full suite of programming rights (linear, on-demand, multiplatform) from studios and content producers for distribution in Canada. As a result, it argued that VOD services in Canada have no choice but to negotiate with the linear Canadian programming services for the rights to distribute on-demand television content. TELUS further argued that the failure to include an explicit reference to VOD services in the relevant sections of the Regulations would leave negotiations for

on-demand programming outside the scope of the Commission's dispute resolution processes.

4. The Commission notes that access to programming is important to VOD services. Further, promoting such access, particularly where rights are held by vertically integrated undertakings, would be consistent with the intent of the frameworks governing vertical integration and the growing importance of on-demand viewing. However, no other party commented on this issue. Accordingly, the Commission wishes to explore whether adding such provisions is both necessary and appropriate.
5. TELUS's intervention has been added to the public record of this proceeding.

### **Call for comments**

6. The Commission invites comments on the issues set out in this notice. The Commission will accept comments that it receives on or before **19 September 2017**. Parties may file replies to matters raised in the initial comments. The deadline for the filing of replies is **3 October 2017**.

### **Procedure**

7. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
8. The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
9. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
10. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by

screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.

11. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

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

or

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

or

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

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

### **Important notice**

15. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, etc.

16. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
17. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
18. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

### **Availability of documents**

19. Electronic versions of the interventions and of other documents referred to in this notice, are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by visiting the "Participate" section, selecting "Submit Ideas and Comments," and then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
20. Documents are also available at the following address, upon request, during normal business hours:

Les Terrasses de la Chaudière  
Central Building  
1 Promenade du Portage, Room 206  
Gatineau, Quebec  
J8X 4B1  
Tel.: 819-997-2429  
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782  
Toll-free TDD: 1-877-909-2782

Secretary General

### **Related documents**

- *Discretionary Services Regulations*, Broadcasting Regulatory Policy CRTC 2017-279, 4 August 2017
- *Call for comments on Discretionary Services Regulations*, Broadcasting Notice of Consultation CRTC 2016-385, 26 September 2016

- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010