



# Telecom and Broadcasting Notice of Consultation CRTC 2020-124

PDF version

Ottawa, 14 April 2020

*Public record: 1011-NOC2020-0124*

## **Call for comments – Regulations to be made under the Accessible Canada Act**

**Deadline for submission of interventions: 14 May 2020**

[\[Submit an intervention or view related documents\]](#)

*In light of its new role under the Accessible Canada Act (ACA),<sup>1</sup> the Commission will be creating new regulations regarding the accessibility reporting requirements for broadcasting undertakings, Canadian telecommunications common carriers, and telecommunications service providers. As a first step in that process, the Commission is seeking comments on (i) how to structure draft regulations and (ii) certain procedural requirements of those draft regulations. In a subsequent consultation, the Commission will seek comments on the draft regulations, which will be based on input the Commission receives in response to the present call for comments.*

*The Commission notes that the ACA does not include a mechanism for awarding costs to parties in proceedings, such as this one, taking place under that act.*

### **Background**

1. On 11 July 2019, the Accessible Canada Act (ACA) came into force, with the objective of realizing a “Canada without barriers” for persons with disabilities. The ACA furthers this objective by imposing certain reporting obligations on entities under federal jurisdiction, including broadcasting undertakings, Canadian telecommunications common carriers, and telecommunications service providers (collectively, the regulated entities).
2. The ACA grants the Commission the power to (i) make regulations prescribing the manner and form of such reporting requirements, and (ii) exempt entities or classes of entities from the application of the reporting requirements.
3. The ACA establishes a list of principles for implementing the Act. These include sections 6(f), that “persons with disabilities must be involved in the development and design of laws, policies, programs, services and structures;” and 6(g), that “the

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<sup>1</sup> SC 2019, c 10.

making of regulations must be done with the objective of achieving the highest level of accessibility for persons with disabilities.”

4. The Commission has a role as a regulator under the ACA, administering the requirements of the ACA in relation to the regulated entities under its jurisdiction.<sup>2</sup>
5. With respect to its role as a regulator, the ACA imposes on the Commission an obligation to make at least one regulation relating to broadcasting undertakings and at least one regulation relating to Canadian telecommunications common carriers and telecommunications service providers within two years of the ACA’s coming into force. The deadline for the Commission to make its first regulation is 10 July 2021.

### **Reporting obligations under the ACA**

6. The ACA establishes three main requirements for regulated entities, which are related to accessibility plans, progress reports, and feedback processes. Each of these requirements is described in greater detail below.

#### ***Accessibility plans***

7. Each regulated entity must create and publish an accessibility plan, the purpose of which is to set out a plan respecting the policies, programs, practices, and services of the entity in relation to the identification, removal, and prevention of barriers in specific areas, namely:
  - information and communication technologies;
  - the procurement of goods, services, and facilities;
  - the design and delivery of programs and services;
  - “communication”,<sup>3</sup> insofar as it relates to the procurement of goods, services, and facilities, or the design and delivery of programs and services; and
  - employment equity (if the entity is not already subject to the *Employment Equity Act*)
8. The accessibility plan must also set out a plan respecting any conditions, orders, or regulations established by the Commission that relate to the identification, removal, or prevention of barriers.<sup>4</sup>

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<sup>2</sup> Government bodies such as the Commission are also regulated entities under the ACA, although they will be subject to separate regulations to be made by the Governor in Council.

<sup>3</sup> The ACA specifies that this term includes American Sign Language, langue des signes québécoise, and Indigenous sign languages, but does not include broadcasting or telecommunications, as those terms are defined in the relevant legislation, or information and communication technologies.

9. The initial accessibility plan must be updated every three years, unless a different interval is established by regulation. Further, in preparing their plans, the regulated entities must take into account the principles set out in section 6 of the ACA.

#### ***Progress reports***

10. A regulated entity must create and publish progress reports, which must set out information on the implementation of accessibility plans, feedback received through the feedback process, and how that feedback was taken into consideration. The Commission is to be notified of the publication of the initial report and of every subsequent update.

#### ***Feedback process***

11. A regulated entity must establish and make public a feedback process by which interested persons can communicate with the regulated entity regarding the implementation of accessibility plans and any barriers these persons have encountered in dealing with the entity.

#### ***Other requirements***

12. The ACA also creates additional reporting obligations. For instance, a regulated entity must notify the Commission of the publication of its accessibility plans, progress reports, and feedback process.
13. The remaining requirements apply only to accessibility plans and progress reports. In particular, entities are required to consult with persons with disabilities in the preparation of every version of their plan and report, and they must set out the manner in which this consultation took place.
14. Entities must also, upon request, provide any person with a copy of a plan or report in an alternative format.

#### **Scope of the Commission's regulation-making power**

15. The substantive reporting requirements are set out in the ACA itself. The Commission has been given limited scope to establish, by regulation, the specifics of the timing, manner, and form of the reporting and related requirements. The scope of the Commission's regulation-making powers in this regard is set out below. The setting of substantive accessibility requirements, goals, or standards is outside the scope of both the Commission's regulation-making power and the current proceeding.
16. The Commission may make regulations establishing

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<sup>4</sup> Unless any such condition, order, or regulation has not yet been in place for three months by the plan's required publication date.

- the date by which regulated entities must publish their initial accessibility report;
  - the timing, manner, and form of preparation and publication of initial and updated accessibility plans and progress reports;
  - the manner and form of publication of the feedback process;
  - the manner and timing of notifications of publication to be given to the Commission;
  - the manner and form that a request for an alternative format of an accessibility plan or progress report must take;
  - the alternative formats in which accessibility plans and progress reports must be made available; and
  - the time period within which a regulated entity must respond to a request for an alternative format.
17. These types of regulations deal with manner and form and are intended to be procedural in nature. In addition, the Commission has also been granted the power to impose requirements on regulated entities concerning the feedback process.
18. The Commission is of the preliminary view that in order to reduce duplication for the regulated entities and to make accessibility reporting instruments more easily understandable to accessibility stakeholders, its reporting regulations under the ACA should broadly align with the other regulatory bodies under that legislation, namely the Canadian Transportation Agency and the Governor in Council. In this regard, the Commission has taken notice of the consultations and other initiatives undertaken by these bodies to date.

### **Call for comments**

19. In light of all of the above, the Commission hereby initiates the first stage of a two-stage public consultation process to seek input on regulations to be made under the ACA. In this first stage, general comments are solicited on (i) how the regulations should be structured and (ii) the key procedural elements in the regulations. At the conclusion of this first stage of the consultation and based in part on the comments received, the Commission will prepare draft regulations. Those draft regulations will be published, and comments will be sought in the second stage of this consultation process.
20. The Commission calls for comments on the questions set out below under the themes of (i) timing, (ii) manner of publication and form of preparation, (iii) requests for alternate formats, (iv) the substance of the feedback process, and (v) general questions, as well as on the proposed templates provided in Appendices 1 and 2.

## Timing

### **Accessibility plans**

21. Comment on how much time regulated entities should be given to prepare and publish their initial plans once the regulations are finalized (e.g. 12, 18, or 24 months). When should entities that become regulated entities after the regulations come into force be required to publish their initial accessibility plans?
22. Is the three-year default period for publishing updated plans appropriate, or should the regulations prescribe a different interval?
23. Should the timing of publication be consistent with that required under any other federal laws, such as the *Employment Equity Act*?<sup>5</sup>
24. Should all regulated entities be required to publish their initial accessibility plans and updated accessibility plans on the same date?
25. Should all regulated entities be required to publish initial and updated accessibility plans separately for each brand offered in the retail market, such as ‘flanker’ brands?

### **Progress reports**

26. Comment on when the first progress reports related to the accessibility plan should be published. When should entities that become regulated entities after the regulations come into force be required to publish their first progress reports?
27. How frequently should progress reports be required thereafter (e.g. every year, every two years, or every three years)?
28. Should all regulated entities be required to publish progress reports separately for each brand offered in the retail market, such as ‘flanker’ brands?

### **Feedback processes**

29. Comment on whether a description of the feedback process should be published on the same date as the initial accessibility plan. When should entities that become regulated entities after the regulations come into force be required to publish such a description?
30. How frequently should an updated description be required thereafter (e.g. every year, every two years, or every three years)?

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<sup>5</sup> Entities regulated under the *Employment Equity Act* must file reports with Employment and Social Development Canada by 1 June each year. Other potentially relevant dates include the 30 November annual deadline for the filing of broadcasting annual returns with the Commission, and the 31 March annual date by which certain telecommunications service providers must file data forms with the Commission.

## **Manner of publication and form of preparation**

31. Comment on what the publication requirements should be. For example:
- Should the initial and updated accessibility plans, progress reports, and feedback process descriptions be published in a prominent location, such as on a website, mobile website, or mobile application? In what other ways can the publication requirements ensure that relevant accessible information can be easily found by the public?
  - Should a telephone number, email address, and a telephone number for TTY/IP Relay be provided, to enable persons with disabilities to contact regulated entities regarding the publications?
  - Should the Commission prescribe additional formal specifications, such as font size, file type, or others? For example, should electronic publications be required to adhere to generally accepted accessibility guidelines, such as those published by the World Wide Web Consortium?
32. Comment on when and how regulated entities should be required to notify the CRTC of the publication of a document. Should it be on the same day the document is published, by providing the URL and link?
33. Comment on whether alternative or additional forms of publication, other than on a website or mobile application, should be required (e.g. for a regulated entity without a website). If so, what would be acceptable alternative or additional methods of publishing a document?

## **Requests for alternate formats**

34. Comment on what, if any, rules should apply to how a person can request that a document be provided in an alternate format.
35. Comment on whether the Commission should prescribe specific alternate formats that must be provided upon request (e.g. formats that are compatible with adaptive technologies, audio formats, visual formats, etc.).
36. Comment on how much time a regulated entity should be given to provide a document in an alternate format.

## **Substance of the feedback process**

37. Comment on what steps a regulated entity's feedback process should include to help ensure that persons with disabilities have an opportunity to provide regulated entities with meaningful feedback on their accessibility plans and on the barriers that they have encountered.

38. When regulated entities receive feedback, how should they respond, and within what time period? Should regulated entities be able to respond collectively to a common concern? Appendix 3 to this notice sets out additional considerations with respect to the feedback process.

## **General questions**

### ***Classes of and possible exemptions for regulated entities***

39. Comment on whether it would be appropriate for the Commission to distinguish among different classes of regulated entities in its regulations. If so, on what basis (e.g. number of employees, level of revenues, eligibility for exemption from certain other regulatory obligations, etc.)?
40. Comment on whether it would be appropriate for the Commission to issue orders exempting any regulated entity or class of regulated entities from the reporting obligations under the ACA at this time. If so, what entity or classes of entities should be exempted and on what terms? For example, should any of the broadcasting undertakings currently subject to an exemption order issued under section 9(4) of the *Broadcasting Act* also be exempted under the ACA? Similarly, should any of the telecommunications service providers currently falling under the scope of the exemption from the reseller registration obligation established in Telecom Regulatory Policy 2019-354 also be exempted under the ACA?

### ***Guidance documents***

41. Comment on whether it would be helpful if the Commission were to provide guidance material to assist in the implementation of planning and reporting obligations and ensure that documents are relevant for persons with disabilities.
42. Although the use of a template is not mandatory, it can help to promote efficient, consistent reporting and support comparisons by consumers. Consistent templates could reduce the regulatory burden for regulated entities and promote ease of use by individuals and groups interested in understanding and comparing these documents.
43. Comment on whether you agree with the Commission's view that it is appropriate to provide templates to regulated entities for reporting on accessibility plans and providing progress reports. If so, provide your comments on the proposed templates for accessibility plans and progress reports, set out in Appendices 1 and 2 respectively.

### ***Other matters within the Commission's regulation-making authority***

44. Comment on whether there are any other matters within the Commission's regulation-making authority under the ACA that should be addressed in the regulations.

## Procedure

45. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the 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 at [www.crtc.gc.ca](http://www.crtc.gc.ca), 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.
46. The Commission has the jurisdiction to award costs for participation in proceedings under the *Telecommunications Act*. Parties may also claim costs for participation in proceedings relating to the *Broadcasting Act* from the Broadcasting Participation Fund. The Commission is conducting the current proceeding under the ACA, which does not include a mechanism for awarding costs to participants. **Parties should be aware that there may be no authority for the Commission to consider costs for participation in this proceeding.**
47. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **14 May 2020**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
48. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
49. All documents required to be served on parties to the proceeding must be served using the contact information contained in the interventions.
50. All parties may file replies to interventions with the Commission by **29 May 2020**.
51. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), for additional information that they may find useful when preparing their submissions.
52. 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.

53. 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 enable 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.
54. Persons with disabilities who require assistance in filing their interventions may contact the Commission's [Public Hearings](#) group, which can provide individualized assistance to file an intervention.
55. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

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

or

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

or

**by fax to**  
819-994-0218

56. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service 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 or served. The Commission advises parties who file or 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.
57. 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.
58. 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.
59. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.

## **Important notice**

60. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, 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 includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and fax numbers.
61. 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.
62. Documents received electronically or otherwise will be posted 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.
63. 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 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**

64. Electronic versions of the interventions and 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 using the public record number provided at the beginning of this notice or by visiting the "Consultations and hearings – Have your say!" section, then selecting "our applications and processes that are open for comment". Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice. The Rules of Practice and Procedure also provide a mechanism for parties to request alternative formats of documents from other parties.<sup>6</sup>
65. 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  
Gatineau, Quebec

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<sup>6</sup> Additional information on this mechanism can be accessed at paragraph 118 of the [Rules of Practice and Procedure](#).

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Tel.: 819-997-2429

Fax: 819-994-0218

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

Toll-free TTY: 1-877-909-2782

Secretary General

### **Related documents**

- *Review of the reseller registration obligation*, Telecom Regulatory Policy CRTC 2019-354, 24 October 2019
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

# **Appendix 1 to Telecom and Broadcasting Notice of Consultation CRTC 2020-124**

## **Accessibility plan template**

All plans must reflect the ACA principles, one of which is barrier-free access to full and equal participation in society. Regulated entities must look at all the barriers relevant to them and create plans that (i) indicate what they will do to address each barrier, and (ii) take into account consultations with persons with disabilities. Plans should be detailed enough to show that the regulated entity was thorough when looking for barriers and consulting on the plan.

The elements that a template could have are set out below. Where the elements relate to manner and form, regulations could require the regulated entities to include these in their plans.

### **Cover page**

This would include

- a title,
- the name of the regulated entity,
- the time period covered by the plan, and
- the publication date.

### **Plan details (the barriers being addressed)**

This section would describe

- how the regulated entity consulted with persons with disabilities to develop the plan and addressed the input it received;
- the feedback received and how it is addressed by the plan;
- how the plan has taken into account the principles of the ACA;
- the types of barriers the plan covers (e.g. service barriers, or barriers in a policy, program, or practice);
- the regulatory obligations imposed by the Commission on the regulated entity with respect to barriers (e.g. conditions of licence or exemption, conditions of service, regulations); and
- where each barrier is found. Relevant areas could include
  - programs and services for persons with disabilities (including design and delivery);
  - procurement (goods, services, facilities);

- information and communication technologies (IT and CT); and
- communications about the above areas.

## **Conclusion**

This would include

- where people can find or ask about the plan (contact information, or links to the regulated entity’s website or social media accounts);
- links to alternate formats that are accessible to people with disabilities, or information on how to request these formats; and
- a time frame for providing the alternate formats that people request.

## **Other**

The template could include additional instructions for regulated entities. For example, it could tell them to put information about plans in a font that is large and easy to read. It could also refer to the Commission’s existing guidelines on “[Creating Accessible Documents](#)”, such as by requiring regulated entities to

- use text-based file formats to support the use of screen-reading technology,
- include text descriptions of images, and
- include formatting features to organize the document.

# **Appendix 2 to Telecom and Broadcasting Notice of Consultation CRTC 2020-124**

## **Progress report template**

The purpose of the progress reports is to report on the implementation of a regulated entity's accessibility plans. Regulated entities must review the elements of their plans and create reports that (i) describe their progress in addressing the identified barriers and (ii) take into account consultations with persons with disabilities.

The elements that a template could have are set out below. Where the elements relate to manner and form, regulations could require the regulated entities to include these in their plans.

### **Cover page**

This would include

- a title,
- the name of the regulated entity,
- a clear reference to the accessibility plan being reported on, and
- the publication date.

### **Introduction**

This section would describe

- how the regulated entity consulted persons with disabilities,
- the feedback received through those consultations and through the regulated entity's feedback process, and
- how the regulated entity considered the feedback.

### **Progress updates**

This section would cover each barrier set out in the regulated entity's accessibility plan and describe progress made in identifying, removing, or preventing each of the barriers.

### **Conclusion**

This would include

- where people can find or ask about the report (contact information, or links to the regulated entity's website or social media accounts);
- links to alternate formats that are accessible to persons with disabilities, or information on how to request these formats; and
- a time frame for providing the alternate formats that people request.

## **Appendix 3 to Telecom and Broadcasting Notice of Consultation CRTC 2020-124**

### **Considerations regarding the feedback process**

*This document is intended to assist parties in formulating comments regarding the matters set out in paragraphs 37 and 38 of this notice.*

#### **Information about the process**

The ACA requires regulated entities to publish a description of their feedback process. Regulations could tell them to

- write the description in plain language, and
- make the description available in alternate formats.

A guide could suggest that regulated entities

- make the description easy to find through their websites and mobile applications, and
- make the description available by other means, if the entity has no website or Internet access.

#### **Point of contact**

Regulations could require regulated entities to

- put someone in charge of the feedback process, who would be the point of contact for people who use the process;
- include the contact's name, email, phone number, and other information in the description of the feedback process; and
- take other steps to make it easy to find the contact's name and information.

#### **Timing**

Regulations could require regulated entities to

- have their feedback process in place by a specific date, such as the same day they publish their first accessibility plan;
- open the process on a recurring basis (e.g. once a year or once every six months) to collect comments on the plan; and

- make sure the process is always open for people's comments about barriers they have encountered when using the entity's programs or services.

### **Ways to give feedback**

A guide could suggest that regulated entities enable people with disabilities to give their feedback

- at meetings with the entity (in person or by tele- or videoconference),
- by email,
- through the entity's website or social media accounts, or
- by mail or phone, especially if the entity has no website or reliable Internet.

A guide could recommend that large entities set up feedback committees with representatives of the disability community. It could suggest how often the committee should meet (e.g. once a year).

### **Dealing with feedback**

The ACA requires regulated entities to deal with the feedback they receive. A guide could suggest that entities

- keep a record of all comments they receive and retain the record for a certain length of time,
- keep a record of what they do to address comments,
- summarize the input that identifies barriers,
- track accessibility complaints that come through other means,
- break down all complaints by number and type, and
- summarize the input they receive about the accessibility plan and how it is being implemented.

### **Alternate formats**

Regulations could require entities to make any documents for the feedback process available in alternate formats compatible with adaptive technologies, audio formats, visual formats, etc. This could include a requirement to put all documents in a font that is large and easy to read.