



Broadcasting Notice of Consultation CRTC 2020-324

PDF version

Ottawa, 4 September 2020

Public record: 1011-NOC2020-0324

Call for comments on low-motion programming

The Commission calls for comments on the how to best deal with low-motion programming. Specifically, the Commission seeks to determine whether it should amend the existing exemption order relating to still image services to include low-motion programming and the services offering such programming.

*The deadline for receipt of interventions is **5 October 2020**. Only parties that file interventions may file a reply to matter raised during the intervention phase. The deadline to file replies is **20 October 2020**.*

Introduction

1. In order to meet the objectives on the *Broadcasting Act* (the Act) and provide Canadians with a diversity of programs made by Canadians, the Commission has a number of tools. In particular, the Commission has the ability to issue licences subject to such conditions as it deems appropriate for the implementation of the broadcasting policy. The Commission also uses exemption orders pursuant to section 9(4) of the Act, which states that the Commission shall exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in section 3(1).
2. In the context of discretionary services, pursuant to section 3(1)(3) of the Act, the Commission imposes regulations and conditions of licence on licenced television services to ensure that they participate significantly in the creation of Canadian programs. These requirements include Canadian programming expenditures, incentives for the creation of programming produced by official language minority communities and Indigenous producers, exhibition requirements and accessibility requirements.
3. Further, in Broadcasting Regulatory Policy 2015-96, the Commission indicated that independent services are an important source of diversity in the system as they often offer niche programming targeted to narrower audiences. They also must contribute significantly to the production of Canadian programming. Accordingly, independent discretionary services benefit from certain regulatory protections pursuant to the *Broadcasting Distribution Regulations* (the Regulations).

4. Pursuant to section 19 of the Regulations, vertically integrated broadcasting distribution undertakings (BDU) are required to distribute one English-language and French-language independent discretionary service (i.e., a service that is not owned by a vertically-integrated entity) for each related English-language or French-language that they distribute (1:1 ratio). For example, a BDU that distributes five related English-language discretionary services must offer five English-language independent discretionary services to its subscribers. This measure was put in place to ensure that a diversity of voices is offered to Canadians.
5. However, the Commission exempted certain services from these obligations pursuant to section 9(4) of the Act. For example, the exemption order relating to still image programming services, set out in Public Notice 2000-10, applies to “television undertakings [that] provide distribution undertakings with programming consisting of still images, (including graphic images) with or without an audio component, and with or without a fee being charged to any distribution undertaking receiving the service”.
6. For example, services currently operating under the exemption order relating to still image programming services include « The Fireplace Channel » and « Aquarium ».
7. Unlike discretionary services, still image programming services have few requirements with respect to programming, as their contribution to the Canadian broadcasting system is limited.
8. While still image programming services benefit from an exemption order, some services offering low-motion programming, consisting of extended coverage of an ordinary event or scene with no or limited video editing or camera movement, are licensed and are operated as independent discretionary services. Accordingly, they benefit from certain regulatory protections, such as the 1:1 ratio. The Commission implemented this ratio to strike an appropriate balance between ensuring continued programming diversity and providing BDUs with some flexibility. Many BDUs distribute low-motion programming services as part of their 1:1 ratio. As such, these services can benefit from the regulatory protection offered by the ratio despite their limited contribution to the Canadian broadcasting system. When services are exempt under the exemption order relating to the still image programming services, they do not benefit from the 1:1 ratio protection, as the definition of discretionary services set out in section 19 of the Regulations does not include still image programming services.

Call for comments

9. The still image exemption order has not been reviewed for 20 years. There have been many changes in technology, in the Commission’s regulations and in the way that television programs are produced and consumed.
10. In light of the above, the Commission considers it appropriate to call for comments on the best way to deal with low-motion programming. Specifically, the Commission will examine if amendments to the regulatory regime are required for low-motion

programming and if it should expand the existing exemption order for still image services to include low-motion programming and the services offering such programming.

11. The Commission proposes to amend the current exemption order to include a definition of low-motion television programming. If this order is amended, BDUs could not count still image programming services including low-motion programming services toward meeting their 1:1 ratio requirement.

12. In light of the above, the Commission calls for comments on the following issues:

- Would it be appropriate to amend the current exemption order relating to still image programming services undertakings, set out in Public Notice 2000-10, to include low-motion programming?

If so, is the following definition of that programming appropriate? If not, what other definition should be used?

A program that features extended coverage of an ordinary event or scene with no or limited video editing or camera movement.

- Please explain if low-motion programming services should benefit from regulatory protections that are similarly offered to independent discretionary services.

Procedure

13. 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.

14. The Commission invites interventions that address the issues and questions set out above. The Commission will accept interventions that it receives on or before **5 October 2020**. Only parties that file interventions may file a reply to matters raised during the intervention phase. The deadline for the filing of replies is **20 October 2020**.

15. 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.

16. 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.
17. 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.
18. 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

19. 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.
20. 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.
21. 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

22. 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, 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 fax numbers, etc.
23. 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.
24. 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.
25. 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

26. 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 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.
27. 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 TTY: 1-877-909-2782

Secretary General

Related documents

- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Let's Talk TV*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Final revisions to certain exemption orders*, Public Notice CRTC 2000-10, 24 January 2000