



Broadcasting Decision CRTC 2022-165 and Broadcasting Orders CRTC 2022-166 and 2022-167

PDF version

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Ottawa, 22 June 2022

Canadian Broadcasting Corporation
Across Canada

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Public hearing in the National Capital Region
11 January 2021

Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals

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Summary

The Commission **renews** the broadcasting licences for the English- and French-language audiovisual and audio services of the Canadian Broadcasting Corporation (the CBC), set out in Appendix 1 to this decision, for five years, from 1 September 2022 to 31 August 2027.

The **conditions of licence**, expectations, and encouragements for these services are set out in Appendix 3.

Further, expectations, encouragements, and reporting and submission requirements for the CBC's digital media broadcasting undertakings (DMBUs) are set out in Appendix 4.

In addition, the Commission **renews** the mandatory distribution orders for the CBC's national television news services ICI RDI and CBC News Network from 1 September 2022 to 31 August 2027.

Dissenting opinions by Caroline J. Simard, Vice-Chairperson, Broadcasting, and Commissioner Monique Lafontaine are attached to this decision.

Introduction

As Canada's public broadcaster, the CBC plays a pivotal role in the country's broadcasting ecosystem and in the lives of Canadians across the country through the programming it offers across its platforms and services. As set out in its mandate in the *Broadcasting Act*, the CBC must, through its programming, reflect and serve the needs of all Canadians in both official languages regardless of where they live, as well as reflect the multicultural and multiracial nature of Canada. Its role is to continue to be a significant contributor to the cultural fabric and identity of Canada through the promotion and creation of a variety of programming that reflects and celebrates Canada and Canadians.

Since the last licence renewal for the CBC's services in 2013, significant changes have occurred in Canada and in the Canadian broadcasting environment that have forced all broadcasters, including the CBC, to rethink the means by which they connect with Canadians in the delivery of both audio and audiovisual programming.

Along with the need to adapt to Canada's evolving socio-demographic realities, the emergence of online delivery of content has resulted in new domestic and foreign online competitors within the Canadian broadcasting ecosystem, dramatically changing the way Canadians consume audio and audiovisual content and reshaping traditional business models for acquiring and monetizing programming content. Furthermore, the current COVID-19 pandemic has only served to accelerate these trends and increase the need for broadcasters to quickly adapt to these realities in order to remain relevant.

In the *Harnessing Change Report*, the Commission stated that future regulation of the broadcasting system must not only be flexible, but also nimble, innovative and continuously capable of rapidly adapting to change. It considered that to best face the challenges of the future and benefit from its opportunities, it was essential to effectively adapt to these changes and enable platforms and services to do the same. The Commission added that the tools for the future must be developed under the assumption that unforeseen changes will be the norm and must be flexible enough to continuously adapt along with them.

In 2013, when the Commission last renewed the CBC's broadcasting licences and conducted a complete examination of the CBC's broadcasting activities, the public broadcaster looked much different than it does today. The CBC's DMBUs, such as CBC GEM, CBC Listen and Radio-Canada OHdio, three key pillars of the CBC's online strategy, did not exist, or at least did not exist in their current form. ICI TOU.TV was in its nascent stages, and the CBC's programming strategy, notably in the areas of children's and youth programming and music diversity (among others certainly) were firmly anchored in the traditional broadcasting system. The Commission's regulatory framework of the time placed almost exclusive emphasis on the CBC's legacy English- and French-language conventional audio and audiovisual services.

Recognizing the need for its regulatory framework to reflect the market realities that have emerged since the last renewal of its broadcasting licences, the CBC, in its applications for the present proceeding, proposed a multiplatform approach through which it would be granted the flexibility to include some of its DMBUs within the new licensing framework for its audiovisual services. As part of its proposal, the CBC requested that it be able to count hours of content exhibited on some of its DMBUs toward meeting its overall content exhibition requirements, while requesting that its exhibition requirements on its traditional platforms be reduced in favour of higher cross-platform requirements. In the CBC's view, the proposed approach would enable it to innovate, evolve, experiment and develop toward meeting Canadians' needs in the ways that they want their needs to be met.

A modern approach to the regulatory framework for the CBC

In crafting the new regulatory framework for the CBC, the Commission weighed the realities of the public broadcaster's current mandate, along with its accountabilities and historical performance in relation to its regulatory obligations, to assess the CBC's ability to achieve a series of established outcomes, and to determine which regulatory tools would best help the CBC to achieve the outcomes set out for it during its new licence term.

The elements of the new regulatory framework can be best viewed in terms of a continuum, with more comprehensive precautionary regulation for ensuring the achievement of outcomes on one end, and little to no regulatory intervention on the other. At the latter end of the continuum are expectations related to the outcomes, which are underpinned by a transparent and public measurement framework to measure success but not necessarily specific behaviours.

The end result is what the Commission considers to be a more modern and flexible framework that extends across multiple platforms, using tools available under the current *Broadcasting Act*, designed to address key concerns expressed by Canadians and by the broadcasting industry on the record of this proceeding. The framework will also reduce certain requirements where the CBC has proven that even without conditions of licence, it would continue to meet its mandate under the *Broadcasting Act* and the outcomes set out for it by the Commission. The following is a list of the main overarching outcomes the CBC must achieve:

- balance, reflection, and relevance of programming for Indigenous Peoples and the diverse communities of Canada;
- the creation of, support for, and access to Canadian programming;

- access to verified local, regional and national news and information programming;
- accessibility of content, appropriate advisories and adherence to codes; and
- accountability and transparency through increased reporting.

Key elements of the proposed framework

In the Commission's view, a regulatory framework that combines exhibition and expenditure requirements will help to ensure that the CBC fulfils its mandate and achieves the outcomes set out for it. Key to this framework is that the expenditure requirements imposed by the Commission recognize the need for flexibility that allows for innovation and for adaptability to evolving programming business models, whereas exhibition requirements, in lieu of expenditure requirements in most cases, ensure that the CBC continues to broadcast specified amounts of certain types of programming.

As part of this flexible approach, the CBC will be permitted, for certain expenditure requirements relating to Canadian and diverse content, to count expenditures made for certain activities on its DMBUs towards fulfilling expenditure-based requirements set out by condition of licence for its licensed audiovisual services. By granting this flexibility, the Commission is acknowledging the transformations that the broadcasting system is experiencing and the need to make the new framework adaptable for the years to come.

Programming for Canada's diverse population

The Commission supports the Government of Canada's commitment to renewing the relationship with Indigenous Peoples, based on the recognition of rights, respect, co-operation and partnership. On a broader level, the Commission also recognizes that Call to Action 84 of the Truth and Reconciliation Commission and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) tie into some of the objectives of the *Broadcasting Act* in that they refer to the reflection of Indigenous Peoples in the programming broadcast by the CBC.

Although certain policy objectives of the *Broadcasting Act* specifically target the provision of Indigenous programming, the CBC is not currently subject to any conditions of licence in this regard. Further, although the CBC, under the broadcasting policy for Canada set out in the *Broadcasting Act*, must contribute to the achievement of policy objectives relating to reflection of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society, it is currently not subject to any conditions of licence relating to the broadcast of programming that is relevant to Canada's equity-seeking communities, including racialized Canadians, Canadians with disabilities, Canadians who self-identify as LGBTQ2, and women who self-identify as belonging to these communities.

As such, the Commission is imposing on the CBC the following requirements to ensure that equity-seeking communities are not only reflected in the public broadcaster's programming, but that the programming is relevant to them:

- a fixed portion of independent programming expenditures directed to programming produced by Indigenous Peoples, official language minority communities (OLMC), racialized Canadians, Canadians with disabilities, and Canadians who self-identify as LGBTQ2;
- a separate minimum threshold for expenditures on Indigenous programming in both the English- and French-language markets;
- a “woman intersectionality credit” to incentivize expenditures on productions produced by Indigenous Peoples, racialized persons, persons with disabilities, and persons who self-identify as LGBTQ2, who also self-identify as women; and
- separate expenditure requirements on independent programming from OLMCs to help ensure these communities see themselves reflected in programming that is relevant to them.

In addition, the Commission acknowledges the concerns of French-language OLMCs that an important portion of the funds earmarked for “regional programming” is being spent on Quebec regional programming and not original programming produced by OLMCs. Accordingly, the Commission is separating expenditure requirements for OLMCs and Quebec regional programming to ensure that both types of programming are better supported.

In regard to audio programming, the Commission finds that quotas for Canadian and Indigenous musical selections and French-language vocal music on radio stations are still the best way to support and promote Canadian artists.

In addition, the Commission finds that it is appropriate at this time for the CBC to provide increased support to and make discoverable Indigenous music artists across the country. As such, the CBC will be required to devote a minimum amount of the musical selections broadcast on its licensed radio stations to Indigenous musical selections broadcast in their entirety, in both English- and French-language markets.

Local programming

Canadians need to be well informed about events that affect their lives and be provided with important information during times of crisis and emergencies. The CBC is one of the key voices in Canada that is particularly well-placed to provide such services.

Canadians who live in metropolitan markets have access to multiple options when it comes to news and information audiovisual and audio programming, not only on television and radio, but also when it comes to broadband Internet services. However, many Canadians who live in remote or rural communities do not have access to the same number of options for being informed, and do not have sufficient access to adequate Internet services.

The Commission is therefore maintaining certain requirements relating to minimum thresholds for local programming in Canada’s non-metropolitan areas, and is eliminating such requirements in metropolitan markets.

News and information programming

Canadians should have access to news and information programming at the local, regional and national levels to help them participate in different spheres of civil society. Verifiable, reliable and trusted news and information produced from a Canadian perspective is of paramount importance for Canadians to engage constructively with their national institutions be they public, not-for-profit or private. The CBC plays an important role in this regard.

Accordingly, the Commission will continue to impose requirements relating to the selection of Ombudsmen by the CBC, in addition to imposing new requirements to help ensure both of the CBC's Ombudsmen are sensitive to issues surrounding Indigenous Peoples, racialized Canadians and other equity-seeking communities.

Further, the Commission is setting out new expectations regarding the CBC's Journalistic Standards and Practices (JSP) to help ensure that journalists can provide relevant feedback and that equity-seeking communities are consulted in any future review of the JSP.

In regard to the issue of branded content (a partnership between a broadcaster and an organization that seeks to enhance its brand), the Commission wants to ensure that the line between advertising and journalism is always clear to Canadians. Accordingly, the Commission is setting out expectations that the CBC clearly distinguish branded content from news and information programming at all times.

Canadian programming

For the current licence term, the CBC has exceeded various exhibition and expenditure requirements imposed through conditions of licence and has demonstrated that broadcasting Canadian content is its priority. Each of the CBC's television and radio stations are subject to exhibition requirements or broadcasting quotas at varying levels, while only certain discretionary television services are subject to expenditure requirements.

To continue ensuring that the content broadcast on the CBC's licensed audiovisual services and on its audiovisual DMBUs is predominantly and distinctively Canadian in a rapidly changing broadcasting environment, the Commission is adopting a multiplatform expenditure approach for all of the CBC's English- and French-language licensed audiovisual services. The CBC may count expenditures made for Canadian programming on its DMBUs in order to fulfill this requirement.

For the CBC's radio services, it is the Commission's view that broadcasting quotas continue to be the best way to support Canadian artists as they benefit from royalties paid for the broadcast of their music.

Children's and youth programming

The CBC has committed to serving Canadians of all ages on all platforms. While many children, including most preschoolers, continue to watch considerable amounts of content on television, children and youth audiences have been shifting for some time towards online platforms. The

CBC stated that it must therefore invest in its audiovisual and audio DMBUs to meet these audiences where they watch and listen to content.

While the CBC has exceeded the requirements, set out by condition of licence, relating to the broadcast of children's programming in the French-language markets for its audiovisual services, this is not the case in the English-language market, where the CBC has only met its requirements, rather than surpass them in a meaningful way.

Given the CBC's performance in the English-language market, the Commission has maintained the requirement relating to the broadcast of one hour per week of original first-run programming aimed at children under 13 years of age on the CBC's English-language conventional television network and stations.

Programs of national interest

In its group-based approach to the licensing of private television services (Broadcasting Regulatory Policy 2010-167), the Commission characterized programs of national interest (PNI) as key program categories that serve the national interest because they communicate Canadian history and values. Although the production of PNI helps to ensure a varied and comprehensive Canadian broadcasting system and the development of Canadian expression, they are often high-risk, high-cost programs.

The CBC's English- and French-language licensed audiovisual services are currently subject to requirements relating to the broadcast of PNI during peak audience times, and have exceeded those requirements during the current licence term.

In the context of the present licence renewal proceeding, which provides greater flexibility to the CBC to respond to Canadians' evolving programming needs, it is the Commission's view that an expenditure-based approach for PNI that includes both traditional and online platforms, with available regulatory tools, is more appropriate than exhibition-based requirements.

Accordingly, the Commission is imposing a new multiplatform expenditure approach for PNI on all of the CBC's English- and French-language licensed audiovisual services. The CBC may count expenditures made for PNI on its DMBUs in order to fulfill this requirement.

Accessibility

During the current licence term, the CBC has adhered to its requirements relating to the accessibility of programming to Canadians who are deaf or hard-of-hearing, and blind or partially sighted. Nevertheless, the Commission will continue to ensure that the public broadcaster makes its programming accessible to Canadians with disabilities on all platforms and services through standard conditions of licence, expectations and monitoring.

Increased measurement and reporting

As the Commission shifts its regulatory framework for the CBC to a more flexible framework that is designed to achieve the above-noted outcomes, it is also imposing a rigorous and enhanced measurement framework to ensure that the public broadcaster continues to be

accountable to the Commission and the Canadian public. As such, during the next licence term, the CBC will be required to submit multiple new reports to the Commission, including an audio programming report, an enhanced audiovisual production report, a perception and consultation report, a diversity of workforce report, and a report on parameters for self-identification and best practices surrounding privacy issues.

With these new reporting requirements, the Commission and the public will be able to monitor the CBC's performance regarding its broadcasting activities on all platforms.

Applications and public proceeding

1. The Canadian Broadcasting Corporation (CBC) filed the following applications¹ to renew the broadcasting licences for its various English- and French-language audio and audiovisual services,² which expire 31 August 2022:³

Programming services	Application number
English-language audio services	2019-0280-0
French-language audio services	2019-0279-2
English-language audiovisual services	2019-0282-5
French-language audiovisual services	2019-0281-7

2. In addition, the CBC requested that the distribution orders for the national television news services CBC News Network and ICI RDI be renewed, along with a rate increase for each service, but that the distribution order for the French-language discretionary service ICI ARTV be withdrawn.⁴
3. In Broadcasting Notice of Consultation 2019-379, the Commission announced that it would hold a hearing beginning 25 May 2020 to consider the above-noted applications. On 8 April 2020, the Commission indicated that, in light of the COVID-19 pandemic, it was postponing the hearing and would be announcing a new hearing date at a later time. On 22 June 2020, the Commission announced that the hearing would begin on 11 January 2021.

¹ Throughout this decision, the Commission has used the term "applications" in the plural, except in cases where specific reference is made to only one of these applications.

² The list of these services is set out in Appendix 1 to this decision.

³ In Broadcasting Decision 2013-263, the Commission renewed the broadcasting licences for these programming services from 1 September 2013 to 31 August 2018. The licences for these services were then administratively renewed from 1 September 2018 to 31 August 2019 in Broadcasting Decision 2017-269; from 1 September 2019 to 31 August 2020 in Broadcasting Decision 2018-407; from 1 September 2020 to 31 August 2021 in Broadcasting Decision 2020-201; from 1 September 2021 to 31 March 2022 in Broadcasting Decision 2021-266; and from 1 April 2022 to 31 August 2022 in Broadcasting Decision 2022-92.

⁴ For CBC News Network and ICI RDI, see, respectively, Distribution order 2013-265 in Appendix 10, and Distribution order 2013-264 in Appendix 9, to Broadcasting Decision 2013-263. For ICI ARTV, see Broadcasting Order 2013-375.

4. The Commission held a public consultation period from 25 November 2019 to 20 February 2020.⁵ The Commission held a second public consultation period from 22 June 2020 to 13 July 2020 regarding new financial information the CBC had submitted in regard to its digital media broadcasting undertakings (DMBUs) (Broadcasting Notice of Consultation 2019-379-3).
5. The virtual public hearing for this proceeding was held from 11 to 28 January 2021. Final submissions from interveners were due 1 March 2021 and the CBC's final reply was due and was submitted on 17 March 2021.
6. The Commission received over [10,500 interventions and a petition with over 10,400 signatures](#) during the first public consultation period, and [15 interventions](#) during the second public consultation period. Further, [71 groups and individuals](#) appeared at the public hearing and [24 final submissions](#) were sent in by interveners. The CBC filed responses to [58 undertakings](#).⁶
7. Pursuant to subsection 23(1) of the *Broadcasting Act*,⁷ the Commission has consulted with the CBC with respect to the conditions of licence set out in this decision.

Length of the licence term for the CBC's services

8. The CBC requested a five-year licence term for its various licensed audio and audiovisual services, which was the length of the licence term approved for its services in Broadcasting Decision 2013-263. In light of this request and of the general approach to licence terms for television licensees,⁸ and given the current pace of change in regard to all facets of the Canadian broadcasting industry, the Commission finds that a new licence term of five years for the CBC's services would be in the best interest of the CBC and the Canadian public. Further, the Commission has not identified any issues of non-compliance by the CBC that could result in the Commission considering a short-term renewal for the public broadcaster's services.
9. In light of the above, the Commission **renews** the broadcasting licences for the CBC's English- and French-language audio and audiovisual services, set out in Appendix 1 to this decision, from 1 September 2022 to 31 August 2027. The **conditions of licence**, expectations and encouragements for the CBC's licensed services, which are addressed in greater detail throughout this decision, are set out in Appendix 3. Further, the expectations, encouragements, and reporting and submission requirements for its DMBUs, which are also addressed in greater detail throughout this decision, are set out in Appendix 4. For ease of reference, in Appendix 2, the Commission has provided a list of definitions for terms and

⁵ As specified in Broadcasting Notice of Consultation 2019-379, the public consultation period was slated to end on 13 February 2020. However, in Broadcasting Notice of Consultation 2019-379-1, the Commission extended the deadline for the submission of interventions until 20 February 2020.

⁶ An undertaking is a question asked at the oral phase of the public hearing, to which the applicant responds after the hearing and in writing. Undertakings (if confidentiality is not requested) are made available on the public record.

⁷ "The Commission shall, at the request of the Corporation, consult with the Corporation with regard to any conditions that the Commission proposed to attach to any licence issued or to be issued to the Corporation."

⁸ See Broadcasting Regulatory Policy 2010-167.

expressions that appear throughout this decision and that apply to the above-noted conditions of licence, expectations, encouragements, and reporting and submission requirements.

General framework and considerations

The Canadian Broadcasting Corporation – Mandate and accountability

10. The CBC's mandate in regard to the programming it broadcasts on its services is set out in paragraphs 3(1)(l) and (m) of the *Broadcasting Act*:

3(1) It is hereby declared as the broadcasting policy for Canada that

- l). the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;
- m). the programming provided by the Corporation should
 - (i). be predominantly and distinctively Canadian,
 - (ii). reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,
 - (iii). actively contribute to the flow and exchange of cultural expression,
 - (iv). be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,
 - (v). strive to be of equivalent quality in English and in French,
 - (vi). contribute to shared national consciousness and identity,
 - (vii). be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and
 - (viii). reflect the multicultural and multiracial nature of Canada.

11. Although the *Broadcasting Act* sets out this specific mandate for the CBC as part of the overall broadcasting policy for Canada, the fact that the CBC is part of the Canadian broadcasting system means that the Commission, in its consideration of the public broadcaster's licence renewal applications, must also give consideration to all aspects of that broadcasting policy.

12. For example, subparagraph 3(1)(d)(iii) of the *Broadcasting Act* declares as the broadcasting policy for Canada that the Canadian broadcasting system should through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children,

including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous⁹ Peoples within that society.

13. Further, subsection 2(3) of the *Broadcasting Act* declares that this “Act shall 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.”
14. As a public institution, the CBC must continually engage in a balancing act to respond to the needs of the English- and French-language markets and a myriad of cultural forces. Further, it must reach, across all platforms, Canadians in urban, rural and remote regions, including Canada’s North, and serve an increasingly diverse and evolving Canadian population.
15. Of any broadcaster currently operating in Canada, the CBC faces the highest level of public scrutiny, given its mandate and its use of public funding through parliamentary appropriations. The CBC is accountable to the public, the Federal Government, the Auditor General and the Commission via multiple reports and policies.
16. Moreover, further to section 40 of the *Broadcasting Act*, the CBC is directly accountable to Parliament, through the Minister of Canadian Heritage, for the conduct of its affairs. This accountability is manifested in part through the appointment of its board of directors.

A changed broadcasting system

17. The ways in which Canadians interact with their public broadcaster are changing, and since the last renewal of its broadcasting licences in 2013, the CBC has been adapting its online strategy by adding DMBUs or modifying some of its DMBUs in order to fulfill its mandate and better serve Canadians. Although the CBC’s activities have evolved significantly since that time, the regulatory framework has remained the same. The net effect is that the lack of flexibility embedded in the CBC’s current requirements, which apply only to its traditional platforms, and in the associated regulatory framework may have limited the public broadcaster’s ability to adapt to the new realities of viewing and listening behaviours.
18. In its 2018 report entitled [*Harnessing Change: The Future of Programming Distribution in Canada*](#)¹⁰ (the Harnessing Change report), the Commission clearly stated that future regulation of the broadcasting system had to be more flexible and nimble to keep up with innovation. In the section of that report entitled “[**Be nimble, innovative and continuously capable of rapidly adapting to change**](#)”, the Commission stated the following:(emphasis in bold):

[...] as society and technologies change, so too must legislation and regulation. To best face the challenges of the future and benefit from its opportunities, it is essential to effectively adapt to these changes and enable platforms and services to do the same.

⁹ “Indigenous” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit. In this decision, “Indigenous” is used interchangeably with “Aboriginal,” which has been used in other Commission documents, Statistics Canada’s 2016 Census, and the current version of the *Broadcasting Act*.

¹⁰ In 2017, the Government of Canada, via Order in Council P.C. 2017-1195, dated 22 September 2017, requested that the Commission examine the future of programming in Canada. The report was published on 31 May 2018.

More than simply reacting, the objective should be to keep pace with change. Having a vibrant domestic market in the future will require developing systems and approaches that provide an environment in which innovation that benefits Canadians can thrive, creators can flourish and opportunities for creative and knowledge-based employment are optimized. **Today our legislative and regulatory approaches lag behind even current technological and social realities. The tools we develop for the future must assume that unforeseen changes will be the norm and must be flexible enough to continuously adapt along with them.**

19. The CBC will undoubtedly continue to innovate, evolve, experiment and build toward meeting Canadians' programming needs in the ways that they want those needs to be met. Where certain efforts will likely succeed, others may not, or at least not be fully successful. It is important that any regulatory framework arising from this proceeding not be so restrictive as to hinder the CBC or prevent it from evolving with its viewers and meeting its programming mandate. At the same time, it is important for the Commission to be able to monitor these changes and ensure that the public broadcaster remains accountable.

A regulatory approach that focuses on the achievement of outcomes

20. The Commission has traditionally ensured that broadcasters remain accountable for meeting certain outcomes, largely through licensing requirements such as prescriptive exhibition- and expenditure-related conditions of licence.
21. In its applications, the CBC proposed that the Commission grant it flexibility to include certain of its DMBUs under some of its content exhibition requirements.¹¹ At the hearing, the Commission discussed certain approaches with the CBC that could provide it with flexibility, while also including requirements that would hold the public broadcaster accountable to the public for its activities and help to ensure that certain outcomes are met. The Commission heard from many interveners in regard to possible regulatory options. Although most agreed it was important that the public broadcaster offer programming for Canadians on online platforms, many submitted that this must not be done to the detriment of the licensed services (i.e., television and radio). Many interveners proposed additional accountability mechanisms, including measurements and reports, to ensure that the Commission and the public are able to monitor the CBC's programming activities on all platforms over the course of the next licence term.
22. With a view to supporting the policy objectives under the *Broadcasting Act*, the Commission sets different requirements for the CBC in recognition of what the public broadcaster offers to the broadcasting system given its unique role, mandate and capacities. Although it is important to distinguish the CBC from other elements in the broadcasting system, the Commission recognizes the need to balance those requirements in such a way so as not to

¹¹ In the Exemption order for digital media broadcasting undertakings set out in the appendix to Broadcasting Order 2012-409, DMBUs are defined as undertakings that "[provide] broadcasting services delivered and accessed over the Internet," in accordance with the interpretation of "broadcasting" set out in Broadcasting Public Notice 1999-84/Telecom Public Notice 99-14.

overburden the public broadcaster's operations such that it cannot deliver on its programming mandate.

23. The Commission recognizes that the CBC's operations are held to a higher standard and level of public scrutiny compared to other broadcasters. During the current licence term, the CBC has met all of its regulatory requirements and has even surpassed a number of them. In consideration of the relative level of confidence that may be placed in the CBC, these and other factors led the Commission to focus on desired public policy results in a number of cases, without specifying the precise means of achieving them.
24. In reaching its determinations, the Commission weighed the realities of the CBC's accountabilities, as well as the behaviours in which the CBC has engaged to support its cultural objectives. The Commission also examined the CBC's ability to meet its mandate with or without certain current and proposed conditions of licence. The end result is a more modern and flexible framework that uses tools available under the current *Broadcasting Act* to ensure that the CBC continues to meet the programming needs of a diversity of Canadians, while remaining accountable. The framework also acknowledges areas where the CBC could and should improve, across all of its licensed and exempt broadcasting services.
25. Accordingly, the Commission has granted the CBC flexibility where it has demonstrated a strong record in regard to its regulatory obligations. However, the Commission has balanced this flexibility with a more robust reporting framework, and with the imposition of conditions of licence in certain areas of specific concern.

Regulatory spectrum

26. Regulatory approaches that start with a focus on outcomes typically specify the desired results that regulated parties must achieve, rather than specifying the means by which the results must be achieved. Any consideration of such an approach requires an evaluation of the performance of the regulated entity in order to determine whether the entity is meeting outcomes.
27. In examining the CBC's activities through this lens, the Commission considered a number of factors to understand the context within which the public broadcaster operates.
28. First, the Commission considered whether the proposal put forward by the CBC was appropriate and would allow it to meet the outcomes set out for it by the Commission. It also considered what the CBC is capable of doing given its resources.
29. In regard to areas where the CBC may not be meeting outcomes or fulfilling its mandate, the Commission considered which additional requirements would further the achievement of the objectives of the *Broadcasting Act*. The Commission considered the concerns raised on the record for this proceeding, and whether those concerns are justified in relation to the CBC's performance over its current licence term.

30. Finally, the Commission considered how the CBC's performance is affected by external factors, including, among other things, the broadcaster's financing, governance and accountability, as well as societal pressures, all of which affect the decisions the CBC takes in building its programming and programming-related activities.
31. Adopting an approach focused on outcomes also requires monitoring performance through measurement, which is key to ensuring that the regulatory framework is being implemented appropriately.
32. Further, it is necessary to consider the administrative burden of an outcomes-based approach. More flexibility in regulatory requirements brings with it greater amounts of reporting, which may impose unwarranted costs. In regard to the CBC, the Commission considers that it would be preferable, where possible, to consider how increased reporting requirements fit with or could be modified versions of existing activities already being undertaken by the public broadcaster.
33. Finally, under such an approach, the Commission must set clear outcomes to be achieved so that it and the public can properly monitor "success" and compliance.

Main issues and outcomes to achieve

34. The main issues in this decision are organized under five major topics. In its discussion of each of those topics, which are summarized below, the Commission identifies the principal outcomes that the CBC must achieve, along with the regulatory and measurement tools, if applicable, that will be imposed to help the public broadcaster achieve those outcomes and allow the Commission to monitor whether they are being met.
 1. Balance, reflection, and relevance of programming for Indigenous Peoples and a diversity of Canadians
 - a. The CBC offers reasonably balanced and diverse audio and audiovisual programming on all its licensed services and DMBUs.
 - b. The CBC produces, commissions and makes available audio and audiovisual programming on all its licensed services and DMBUs that meets the needs of, is relevant to, and reflects the diverse populations of Canada, including Indigenous Peoples, official language minority communities (OLMC), racialized Canadians, Canadians with disabilities, Canadians who self-identify as LGBTQ2, and women.
 2. Creation of, support for, and access to Canadian programming
 - a. The CBC's audio and audiovisual programming is predominantly and distinctively Canadian.
 - b. The CBC supports the creation of original and original first-run Canadian content.
 - c. Canadians have access to Canadian programming that is relevant to them.

- d. The CBC creates, broadcasts, and supports the creation and production of programs of national interest¹² (PNI).
 - e. The CBC supports independent producers.
 - f. Music of Indigenous, Canadian, and French-language artists, as well as of emerging Canadian artists, is available, discoverable and promoted on the CBC's audio services.
3. Access to verified local, regional and national news and information programming
- a. Canadians in metropolitan and non-metropolitan areas, including Indigenous Peoples and Canadians in remote and rural communities and OLMCs, have access to relevant local, regional and national audio and audiovisual news and information programming.
 - b. Canadians have access to local, regional and national news during times of crisis.
 - c. All news and information content is compliant with the CBC's Journalistic Standards and Practices (JSP) via Offices of the Ombudsman that are accountable to the various stakeholders, including the public.
 - d. The principles of the CBC's JSP are upheld during every phase of the journalistic process while allowing journalists, regardless of background, to report openly and honestly, including on matters relating to race.
 - e. The public can clearly distinguish advertising from news and information content on all of the CBC's platforms and services.
4. Accessibility of content, appropriate advisories, and adherence to codes
- a. The CBC's programming is accessible to Canadians who are deaf or hard-of-hearing, and blind or partially sighted, regardless of the platform.
 - b. The CBC makes available the information viewers need to make responsible viewing and listening choices for themselves and their families regardless of the viewing platform.
5. Accountability and transparency through increased reporting
- a. The CBC's programming and programming activities are monitored through, amongst other things, the requirement to produce reports to ensure that the CBC is accountable to Canadians, as well as to the Commission.

¹² That is, certain types of programs (drama, long-form documentary, music/variety and award shows), the production of which helps to ensure the fulfilment of objectives set out in the *Broadcasting Act* relating to a Canadian broadcasting system that is varied and comprehensive, and encourages the development of Canadian expression by providing programming that reflects Canadian values and attitudes (see Broadcasting Regulatory Policy 2015-86).

Digital media broadcasting undertakings

35. As noted above, in the Commission's view, it is important that any regulatory framework arising from the present proceeding not be so restrictive as to hinder the CBC or prevent it from evolving with its audience and meeting its programming mandate. Viewing and listening habits are changing quickly and the public broadcaster needs to be able to keep up with these trends. A significant number of Canadians are viewing and listening to online content, and the CBC already operates many DMBUs to meet the evolving programming needs of Canadians.
36. The CBC's online activities are regulated through the Exemption order for digital media broadcasting undertakings (DMEO), set out in the appendix to Broadcasting Order 2012-409. Certain interveners expressed the view that the Commission should open the DMEO to "carve out" the CBC and as such, be able to fully regulate the CBC's online services. These interveners recognized the importance of the content the CBC makes available online and suggested that this would be a way to include such content in the requirements and to ensure the CBC is accountable on all platforms. Others interveners submitted that the public broadcaster's DMBUs should continue to be exempted under the DMEO.
37. The DMEO, as with other exemption orders, exempts a class of undertakings from licensing but imposes certain requirements on the exempt undertakings.
38. The Commission routinely allows undertakings to transition between being exempt under an exemption order and being licensed, as in the case of discretionary services. The key difference is that the exemption order under which certain discretionary services operate specifically provides for this transition and sets out the circumstances under which the transition would take place along with how it would take place.
39. It is not the same for services operating under the DMEO. To impose requirements on the CBC's DMBUs operating under the DMEO, the Commission would need to carve the CBC out from that exemption order, which would require a separate policy proceeding. This would involve pausing the licence renewal proceeding for the CBC's services, launching a new proceeding to open the DMEO and consider carving out the CBC's DMBUs, and then re-opening the licence renewal proceeding.
40. For the present proceeding, the Commission finds that sufficient information was filed on the public record in regard to the CBC's DMBUs and the possible inclusion of those undertakings under this licence renewal proceeding. Further, the Commission finds that using currently available tools (such as conditions of licence, expectations and encouragements) along with rigorous measurement requirements that relate to both licensed services and DMBUs would be the most expeditious way to ensure the CBC continues to provide relevant programming to Canadians and to monitor its activities to the benefit of the Canadian public.

41. Accordingly, the Commission deems it appropriate to leverage the existing licensing and exemption frameworks to achieve meaningful results. For example, it is using section 4 of the DMEO to require that the CBC report on its online activities.¹³
42. The Commission has also decided, for certain expenditure requirements, to impose conditions of licence on the licensed services while permitting the CBC to make up for these requirements through its activities on its DMBUs.

Exhibition and expenditure requirements

43. The majority of the CBC's current conditions of licence relate to exhibition requirements, with very few audiovisual services and no audio services having expenditure requirements. More specifically, in Broadcasting Decision 2013-263, in regard to the broadcast of Canadian content, children's programming, PNI, independent productions, local and regional programming and content from OLMCs, the Commission imposed specific requirements based on exhibition thresholds for the public broadcaster's television services. For the CBC's audio (i.e., radio) services, the Commission took a quota-based approach.
44. In its applications for its audiovisual services, the CBC proposed a regulatory approach that extends hourly-based programming requirements for its licensed services to its DMBUs, allowing it the discretion to make up certain expectations through the platform of its choosing. The CBC stated that online audiovisual programming would be measured on the basis of incremental hours of programming made available to the public each week (i.e., hours of programming added to the library of available content each week).
45. For its audio services, the CBC proposed to maintain its current requirements relating to the broadcast of Canadian selections and French-language vocal music selections for its radio stations. For its audio DMBUs, the CBC submitted that it would be premature to impose requirements similar to those currently in place for its radio stations, given that its DMBUs have only recently launched and are still in development. The CBC also stated that imposing requirements such as music thresholds on its DMBUs might limit opportunities for innovation. In regard to possible thresholds for the broadcast of musical selections, the CBC noted that its DMBUs offer a range of content that is much broader than music, one example being podcasts.
46. At the hearing, the CBC stated that it did not support Canadian programming expenditure¹⁴ (CPE) requirements for its audiovisual services as it considered an exhibition requirement to be the most appropriate regulatory tool given its role and mandate. In regard to its audio services, the CBC stated that it had surpassed the current regulatory requirements relating to the broadcast of Canadian content category 2 (Popular Music) and content category 3 (Special Interest Music) musical selections for all of its radio stations.¹⁵

¹³ Pursuant to that section of the DMEO, undertakings must submit information requested by the Commission regarding the DMBU's broadcasting activities in whatever manner the Commission deems necessary and appropriate to permit it to "monitor the development of broadcasting in digital media."

¹⁴ In Public Notice 1993-93, the Commission sets out the criteria used to determine the costs and expenses that are eligible to be counted as Canadian programming expenditures.

¹⁵ The content categories and subcategories for radio are set out in the appendix to Broadcasting Regulatory Policy 2010-819.

47. Following the oral phase of the hearing, at the Commission’s request, the CBC provided its views on the possibility of it being subject to cross-platform expenditure requirements for its audiovisual content, to capture programming designed to meet audience expectations as they shift to DMBUs. The CBC responded by stating that if the Commission were to adopt an expenditure-based approach, there were four areas where cross-platform expenditures would make sense: Canadian programming content; news and information; regional reflection and OLMCs; and programs contributing to a “shared national consciousness.”¹⁶
48. The CBC also stated that it still supports its initial proposal submitted in 2019, which relied on multiplatform exhibition requirements, but opposed combining it with its proposed cross-platform expenditure requirements, as this would place upon it too great of an administrative burden.
49. In its final reply, the CBC maintained its position that exhibition requirements are more appropriate than expenditure requirements for its audiovisual services. It reiterated that expenditure requirements in addition to exhibition and reporting requirements (as it proposed in its undertakings) would be counter-productive. The CBC stated that an approach for CPE based on revenues is effective for private undertakings, but argued that such an approach is not appropriate for the CBC, which is not looking to make profits. In the CBC’s view, reporting would allow the Commission to intervene if it did not respect its mandate. The CBC added that any expenditure requirement would have to be based on programming expenditures and not revenues, and any requirements would have to be multiplatform requirements.

Positions of parties

50. In the initial public consultation phase, most interveners opposed the exhibition-only approach as proposed by the CBC. Some questioned how such an approach would be measured, noting that the use of incremental exhibition hours as proposed was not appropriate for online platforms given that making hours available does not guarantee that they will be watched or discovered. The Alliance des producteurs francophones du Canada (APFC) added that the CBC’s proposal regarding an expectation that combines programming on both its licensed and online platforms for the calculation of Canadian content does not represent a proper measurement tool that is relevant, transparent, proportional or easy to communicate.
51. At the hearing, several interveners stated their preference for a model that incorporates an expenditure-based requirement particularly for audiovisual services, with many proposing that the CBC be held to a combination of expenditure and exhibition requirements. Certain interveners submitted that expenditure requirements allow for flexibility, and advocated for an approach that accounts for revenue fluctuations.

¹⁶ The CBC did not provide a clear definition for this expression.

52. Many interveners considered that exhibition requirements are not relevant for audiovisual DMBUs and that an expenditure requirement would be the best approach for digital content. Most interveners favoured a multiplatform expenditure requirement for audiovisual content that combines linear services and DMBUs.
53. Most interveners proposed that any expenditure requirement on audiovisual services be based on a percentage of revenues, based on historical expenditures. Many interveners expressed the view that expenditure requirements are the most proven, flexible and useful regulatory tool for encouraging the creation of high-quality original productions. Most of those interveners requested that the current exhibition requirements also be maintained, and many disagreed with the CBC's statement that both expenditure and exhibition requirements would be unduly burdensome. Certain interveners noted that both types of requirements are imposed on private broadcasters and considered that there is no regulatory reason why it should not also be the case for the CBC.
54. As for the CBC's radio services, most interveners supported the continuation of broadcasting quota requirements.

Commission's analysis

55. In the Commission's view, the more prescriptive exhibition-based requirements should be imposed in two situations:
- where there is concern that, absent those requirements, and despite the availability of other regulatory tools, the CBC would not meet its mandate or continue its current behaviour (for example, where it was demonstrated that while the CBC may have met its existing exhibition requirements, it did so without surpassing those requirements in a meaningful way); and
 - where such requirements are the most suitable tools for ensuring the achievement of any desired outcomes, and where other tools would not be suited to the task.
56. Regarding radio services specifically, the Commission considers that broadcasting quota requirements continue to be the most efficient way to ensure continued support for Indigenous, Canadian, and French-language artists since those artists would benefit from royalties paid for the selections broadcast. Further, the broadcast of musical works on all of the CBC's radio stations contributes to the promotion and development of artists' careers by means of interviews and cross promotion on those radio stations as well as across its services. In this regard, the Commission is imposing new requirements relating to the broadcast of a minimum weekly percentage of Indigenous musical selections on its radio stations that takes into consideration the particularities and realities of the English- and French-language markets.
57. In regard to the CBC's audio DMBUs, it is the Commission's view that the public broadcaster promotes and develops Indigenous, Canadian, emerging and French-language

artists¹⁷ on these services by offering a large selection of music playlists and by offering live streaming of content from its radio stations, as well as programs available in catch-up mode, all of which gives pride of place to these artists. The CBC stated at the hearing that over 25% of the 193 playlists available on CBC Listen are made up entirely of Canadian content, and that 90% of the musical selections on the popular music playlists on Radio-Canada OHdio are French-language selections. As of the date of this decision, there are six Indigenous playlists on CBC Listen and two on Radio-Canada OHdio. In light of the CBC's offering of this content, in addition to the introduction of new requirements relating to the broadcast of a minimum weekly percentage of Indigenous musical selections on its radio stations, the Commission finds that the CBC's audio DMBUs are as well-positioned as its radio stations to meet outcomes focused on the promotion and discoverability of Indigenous, Canadian, emerging and French-language artists. The Commission also considers that the new requirement for the submission of an annual audio programming report including data on the number and percentages of musical selections made available and streamed on its audio DMBUs, as well as descriptions of the marketing initiatives and strategies used to support Indigenous, Canadian, and emerging artists, will also help the Commission to assess the desired outcomes for the promotion and discoverability of these artists on Radio-Canada OHdio and CBC Listen for the next licence term.

58. In regard to audiovisual programming, the Commission finds that exhibition requirements are not the most appropriate regulatory tool when adopting a multiplatform approach. The Commission agrees with interveners who suggested that counting hours of programming online is not the best way to make the public broadcaster accountable on its DMBUs, which operate on an "on-demand" basis. Adding a certain number of hours of content online does not necessarily make it discoverable, reflective or relevant. As such, imposing requirements to make available minimum "quantities" of content on DMBUs may not result in the achievement of outcomes. Should the Commission continue to impose exhibition requirements for certain types of programming, not only would the CBC not have the flexibilities required in an evolving broadcasting system, its ability to produce enlightening content that is relevant to and reflective of Canadians could be inhibited.
59. Where the Commission is removing certain exhibition requirements, it finds that the risk of the CBC no longer performing as it has been during the current licence term is low given the CBC's mandate. The Commission further finds that as audiences change their viewing habits, the risk of continuing to rely solely on exhibition requirements would be to the detriment of both the CBC and Canadian viewers. The Commission notes, however, that even though it is removing certain exhibition requirements, it is adding other types of requirements and expectations, along with additional safeguards in the way of new reporting requirements.
60. As such, the Commission finds that an expenditure requirement is a more adaptable and appropriate regulatory tool for certain types of programming than an exhibition requirement for providing the CBC with the flexibility it requires in order to tailor its programming

¹⁷ The CBC has separate requirements relating to the broadcast of music by Canadian artists in general and Canadian French-language artists.

strategies to the needs of evolving audiences swiftly in the years to come on multiple platforms, and for ensuring that the public broadcaster fulfills its mandate.

61. Given that the CBC's revenues are largely dependent on government funding, and given that its goal is not to be profitable in the same way most private broadcasters strive to be, the Commission finds that the best CPE approach for the CBC would be for its required expenditures to represent a percentage of total programming and production expenditures rather than be based on gross revenues of the previous broadcast year. Further, to allow the CBC to adapt its programming strategies to the evolving viewing habits of Canadians during the next licence term, the Commission is granting the CBC the flexibility to count expenditures devoted to Canadian programming made for its DMBUs in order to fulfill these expenditure requirements imposed on its licensed services.
62. Given the above, and taking into consideration interveners' comments, the CBC's position, and the flexibility required as part of the future regulatory framework to help ensure that the CBC continues to meet its mandate and achieve the desired outcomes set out in this decision, the Commission is imposing on the CBC a new regulatory framework that relies on a combination of flexible multiplatform expenditure requirements along with, where deemed most appropriate, exhibition requirements.
63. In the Commission's view, a combination of exhibition requirements for certain types of programming on licensed services and multiplatform expenditure requirements for other types of important programming would provide the CBC with the flexibility it needs to ensure that Canadians have access to diverse, and predominantly and distinctively Canadian programming on all its licensed services and DMBUs. The Commission finds that it would be appropriate, however, to exclude the discretionary national news services CBC News Network and ICI RDI from such an approach given that these news services benefit from mandatory distribution pursuant to paragraph 9(1)(h) of the *Broadcasting Act* and must adhere to the standard conditions of licence for Canadian discretionary services operating as national news services.

Flexible multiplatform expenditure requirements

64. The expenditure requirements specified in this decision (i.e., the amounts that must be spent) are imposed on the CBC's licensed audiovisual services. However, both the expenditures made for programming on the CBC's licensed services and those made for its DMBUs will be included when establishing a total amount on which to calculate these requirements. The CBC will then have the flexibility to count expenditures made on DMBUs in order to fulfill its requirements should it choose to do so. The Commission notes that if certain expenditures are made for a program or programming activities on multiple services (licensed services and/or DMBUs), they must not be double-counted.
65. Such an approach recognizes that programming decisions are largely made for an entity's undertakings as a group rather than separately for each undertaking. Program dollars may also be allocated and amortized across one or more grouped services over the course of the lifetime of the program (for example, programming expenditures for content that is broadcast on licensed services and made available on DMBUs), in recognition that programming now

flows from one service to another and from the licensed services to DMBUs, and vice versa. Allocations for programming expenditures can also be incurred for more than one service for the same program, and flexible expenditure requirements recognize this new reality.

66. Certain interveners suggested that if the Commission were to permit a flexible expenditure requirement, the amount of flexibility should be limited between the CBC's DMBUs and its licensed broadcasting services to ensure continued support for conventional television services.
67. As noted above, the Commission recognizes that programming moves freely between platforms and services. For example, a program may be purchased and broadcast in its first window on the licensed English-language network and, later, in its second window on CBC Gem. Most of the program's viewership is likely to occur in the first window, as are the majority of revenues associated with the program. The Commission notes that although a majority of the costs incurred to ensure that the program is viewed in Canada are likely to be allocated to the English-language licensed television service, some costs will also be incurred to promote the same content on CBC Gem and make it discoverable to Canadians who prefer online viewing platforms. The reverse would be true for a program that is first made available on CBC Gem and is later broadcast on the English-language licensed television service.
68. As viewers migrate to new platforms to obtain their preferred programming, so too must the CBC adapt its programming approach. The way in which the CBC allocates its spending will also need to adapt to remain consistent in the way it reports on its activities. It is the Commission's view that limiting that flexibility to meet regulatory requirements may have the adverse effect of limiting the CBC's ability to best serve Canadians. While the Commission is of the view that it must ensure that, overall, the CBC invests meaningfully in the acquisition and production of Canadian programming, the Commission will not limit the amount of flexibility between allocations of expenditures on the CBC's licensed services and DMBUs. Rather, it will be up to the CBC to tailor its programming strategies and, by extension, allocate its expenditures in the best interest of Canadian audiences.

Incorporating existing and future DMBUs

69. For the purposes of the present decision, the definition of "DMBU" is the same as that set out in the DMEQ, specifically, "[undertakings that provide broadcasting services] that are delivered and accessed over the Internet; or delivered using point-to-point technology and received by way of mobile devices." "Broadcasting" is defined in section 2 of the *Broadcasting Act* as follows:

[a]ny transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place.

70. The term “program” is in turn defined in section 2 of the *Broadcasting Act* as follows:

[s]ounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text.

71. In its applications, the CBC requested flexibility only for audiovisual content, and that only its DMBUs ICI TOU.TV and CBC Gem be included. At the time, it argued that these two services were its only audiovisual services that operated “under the DMEO.” It subsequently acknowledged that the audio services CBC Listen and Radio-Canada OHdio also fall under the DMEO.

72. As part of its undertakings, the CBC submitted a list of all its current DMBUs and the percentage of audiovisual versus alphanumeric content that each undertaking offers. The list demonstrated that many services other than CBC Gem and ICI TOU.TV (for example, Curio, Zone Jeunesse, Carbone and Rad) offer predominantly audiovisual content.

73. It can therefore be argued that the number of CBC services that operate under the DMEO is much larger than what was initially included in the CBC’s applications.

74. As noted above, the Commission is granting the CBC the flexibility to count programming expenditures made for DMBUs to fulfill the expenditure requirements imposed on its licensed audiovisual services. Also, it is the Commission’s view that it would be beneficial to Canadian audiences to grant the CBC the flexibility to count its expenditures on its DMBUs other than CBC Gem and ICI TOU.TV to meet its requirements during the next licence term. In this regard, the Commission explored an audiovisual expenditure requirement based on the CBC devoting a specific percentage of its overall programming expenditures to Canadian programming, including on its DMBUs. Under such a requirement, as the CBC’s slate of DMBUs changes or expands over time, expenditures for those DMBUs could also count towards fulfilling the expenditure requirement imposed on the CBC’s licensed services. Further, requiring that a specific percentage of expenditures, rather than specific expenditure amounts, be allocated to audiovisual programming takes into account possible revenue fluctuations that could occur during the next licence term.

75. According to the CBC, 70% of the content made available on its website cbc.ca and 90% of the content made available on its website ici.radio-canada.ca is alphanumeric content. As such, most of the content from these websites would be excluded when counting audiovisual programming expenditures on DMBUs. In the Commission’s view, it would be appropriate to include only those undertakings where content is primarily broadcasting in nature according to definitions set out in the DMEO and in the *Broadcasting Act*.

76. Accordingly, as set out in Appendix 4 to this decision, the Commission is requiring the CBC, pursuant to section 4 of the DMEO, to submit to the Commission, by no later than 1 September of each year:

- a list of all its services that operated as audio or audiovisual DMBUs in the last broadcast year (using the definitions set out in the DMEQ and in the *Broadcasting Act*, as noted above); and
- for each of these services, to file, by no later than 30 November of each year, financial statements that outline those services' revenues and expenditures in a manner similar to what the CBC currently does for all its licensed services.

Monitoring the achievement of outcomes

77. Measuring performance is a means by which the Commission can ensure accountability while allowing flexibility to meet outcomes. Public reporting is key to any framework that seeks to leverage public accountability to ensure that desired outcomes are being met. As noted above, the CBC is the most publicly accountable broadcaster in Canada, and its activities are under constant scrutiny. Part of any flexible approach for the CBC would therefore acknowledge the opportunity afforded by that public scrutiny to help the Commission ensure that the public broadcaster meets its mandate.
78. The Commission has, through a series of reporting requirements that focus on monitoring the strategies chosen by the CBC to meet its mandate and the outcomes set for it by the Commission, established a measurement strategy to allow for greater accountability. The Commission's measurement strategy is based on metrics related to consumption, quantity and perception.
79. Consumption data generally comes from third-party measurement services or internal data. However, the availability of such data could vary by service or platform (television, radio and DMBUs).
80. Quantity output is measured by the amount of certain types of content or the percentage of programs of certain genres (for example, Canadian programming, PNI, and programming for children and youth).
81. Finally, depending on the specific case, perception is a measure of appreciation (for example, in terms of relevance, reflectiveness, diversity and regional representation) in relation to, among other things, the fulfilment of a public broadcaster's mandate, its value to community/individuals, and its interaction with the audience. Surveys can be conducted with a sample of Canadians representative of the overall population, with specific groups representing equity-seeking populations or with the general audience, and the frequency of such surveys varies.
82. Given the CBC's public mandate to meet the needs and interests of all Canadians, the manner in which Canadians view the public broadcaster is sometimes of greater importance than the amount of programming they consume based on ratings obtained for each program. Since the CBC is a cultural institution, audience success for certain types of programming in a commercial sense is not necessarily of paramount importance. In building a measurement framework, the Commission has therefore focused most heavily on obtaining quantity and perception-based data to assess whether the CBC is successful at meeting its mandate.

Further, rather than focusing strictly on consumption in the traditional sense, the Commission has also incorporated measures of content discoverability and promotion. The details of the measurement framework are presented in the section of this decision entitled “Measurement framework and reporting requirements”.

Programming for and by a diversity of Canadians

Achieving balanced programming for diverse audiences

83. The CBC proposed to maintain its current condition of licence relating to a balanced programming schedule,¹⁸ which reads as follows:

The licensee shall present a reasonably balanced schedule drawn from diverse categories of programming. Programming broadcast during the broadcast day and in prime time (7 p.m. to 11 p.m.) shall consist of original programs, programs from independent producers and programs originating from and reflecting all regions of Canada, including official language minority communities.

84. At the hearing, the CBC was questioned on this condition of licence, with the goal that it be better defined and include more content to reflect contemporary Canada. Subsequently, the CBC proposed to amend that condition of licence as follows (amendments in bold):

The licensee shall present a reasonably balanced schedule ~~drawn from diverse categories of programming~~. Programming broadcast during the broadcast day and in prime time (7 p.m. to 11 p.m.) shall consist of original programs, programs from independent producers and programs originating from and reflecting all regions of Canada, including official language minority communities **and programs reflecting contemporary Canada**.

85. Paragraph 3(1)(l) of the *Broadcasting Act* sets out that the CBC must provide a wide range of programming that informs, enlightens and entertains. Paragraph 3(1)(m) specifies eight cultural objectives that the CBC must achieve in its programming. The CBC must therefore balance many different programming objectives. In the Commission’s view, the imposition of a general condition of licence for the CBC requiring a balanced programming schedule would be appropriate given the multiple objectives for the public broadcaster’s programming set out in the above-noted paragraphs of the *Broadcasting Act*, and should be retained as part of the new regulatory framework imposed on the CBC. Further, the Commission finds that both the notion of what constitutes “balanced programming” and the undertakings to which that notion applies should be expanded to include a diversity of types of programming for all Canadians across all regions.

86. In light of the above, the Commission finds that it would be appropriate to require the CBC to offer reasonably balanced audio and audiovisual programming drawn from diverse categories of programming for a diversity of listeners and viewers. A **condition of licence** to that effect is set out in Appendix 3 to this decision. Programming must include original Canadian programming (such as original first-run Canadian programming), PNI, and

¹⁸ See condition of licence 1 set out in Appendix 3 to Broadcasting Decision 2013-263.

Canadian selections from multiple music categories. In-house and independent programming must originate from, reflect and be relevant to all regions of Canada as well as Indigenous Peoples living in Canada, OLMCs, and Canadians in all their diversity. This balanced diverse audio and audiovisual programming must be discoverable and promoted on all licensed audio and audiovisual services.

87. Further, the Commission expects the CBC to make available reasonably balanced programming offered on all the audio and audiovisual DMBUs it operates, consistent with that set out in the above-noted condition of licence for its licensed services.
88. This condition of licence and this expectation articulate the general approach that the Commission expects of the CBC. The achievement of this overall result will be measured through reporting requirements and other conditions of licence and expectations imposed on all the CBC's licensed services, and through reporting requirements and expectations for its DMBUs.

Programming by and for Indigenous Peoples, OLMCs, racialized Canadians, Canadians with disabilities, Canadians who self-identify as LGBTQ2, and women who self-identify as belonging to these communities

89. Up to now, the CBC has had no specific obligations to support Indigenous and diverse programming, with the exception of those relating to OLMC programming and programming reflecting the regions of Canada. While the CBC has stated its commitment to better serve Indigenous Peoples and members of diverse communities in the future, including women, OLMCs, racialized Canadians, Canadians with disabilities, and Canadians who self-identify as LGBTQ2, the Commission finds that the issue of diversity and the relevance of the CBC's programming has taken on more pressing importance and that the public broadcaster has a key role to play in ensuring that Canada's broadcasting system meets the programming needs of Indigenous Peoples and of Canadians in all their diversity.
90. As noted above, subparagraph 3(1)(d)(iii) of the *Broadcasting Act* states that the Canadian broadcasting system should, through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous Peoples within that society.
91. Paragraph 3(1)(o) of the *Broadcasting Act* states that programming that reflects the Indigenous cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose. As Canada's public broadcaster, the CBC must be a key element of the broadcasting system that can be used to ensure that this broad policy objective is met. The Commission notes that the CBC is currently not held to a specific and comprehensive set of requirements that relate to serving or providing programming that is relevant to Indigenous Peoples living in Canada.

92. Several interveners at the hearing noted the important place of Indigenous Peoples within Canadian society but also noted the relative lack of programming provided by the CBC that is designed to support Indigenous creators or is intended to be specifically relevant to Indigenous audiences.
93. Subparagraph 3(1)(m)(viii) of the *Broadcasting Act* relates to the CBC’s mandate to reflect the multicultural and multiracial nature of Canada. To date, the CBC has not been held to any programming-related requirements to ensure that Indigenous Peoples, as well as Canada’s racialized communities, Canadians with disabilities, Canadians who self-identify as LGBTQ2 and women are supported through its activities and its programming.
94. The *Broadcasting Act* sets out that the programming provided by the CBC should reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions (subparagraph 3(1)(m)(ii)); be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities (subparagraph 3(1)(m)(iv)); and strive to be of equivalent quality in English and in French (subparagraph 3(1)(m)(v)). However, as set out in paragraph 3(1)(c) of the *Broadcasting Act*, English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements. Therefore, in regard to issues relating to diversity, the Commission has considered the distinctions between the official language markets and whether the approaches for the CBC’s English-language services and French-language services are responsive to the realities of each market.
95. In regard to the above, the following table sets out the overarching desired outcome for the CBC to achieve, the tools to be used to achieve this outcome, and the tools to be used by the Commission to measure whether it is being achieved:

Specific outcome to achieve (audio and audiovisual services)	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved¹⁹
The CBC produces, commissions and makes available audio and audiovisual programming on all of its licensed services and DMBUs that meets the needs of, is relevant to, and reflects the diverse populations of Canada, including Indigenous Peoples, Canadians from	Expenditure requirements for audiovisual programming produced by Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2 Intersectionality credit for women who self-identify as belonging to	Annual returns Audiovisual production report Audio programming report Perception and consultation report

¹⁹ Where appropriate for the various desired outcomes set out in these tables throughout this decision, details on the audiovisual production report, the audio programming report, the perception and consultation report, the report on diversity of workforce who have an impact on programming decision making, and the report on consultations regarding parameters of self-identification are set out in the section of this decision entitled “Measurement framework and reporting requirements”.

<p>OLMCs, racialized Canadians, Canadians with disabilities, Canadians who self-identify as LGBTQ2, and women who self-identify as belonging to the above communities.</p>	<p>the following communities: Indigenous Peoples, racialized Canadians, Canadians with disabilities, and/or Canadians who self-identify as LGBTQ2</p> <p>Broadcasting quota requirements for Indigenous music</p> <p>Expectation for the CBC to maintain and offer internal training programs for Indigenous Peoples, OLMCs, racialized persons, persons with disabilities, and persons who self-identify as LGBTQ2</p> <p>Encouragement for the CBC to continue its initiatives in the areas of training and internships, and to develop new initiatives to allow more people to participate</p>	<p>Consultations with Indigenous Peoples, OLMCs and other equity-seeking communities every two years to better understand the programming needs of various communities</p> <p>Report on diversity of workforce who have an impact on programming decision-making</p> <p>Report on consultations regarding parameters of self-identification</p>
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Expenditure versus exhibition requirements

- 96. Although the CBC has committed to better serve members of various equity-seeking communities during the next licence term, many interveners submitted that the CBC has misrepresented or underrepresented some of these communities in the programming it broadcasts.
- 97. In the Commission’s view, imposing targeted expenditure requirements on the CBC’s audiovisual services would have the practical effect of fostering diversity in the production sector and would help to ensure the production of programming for Indigenous Peoples, OLMCs and other equity-seeking communities, where members of such communities would be directly involved in creating and developing programs. Such requirements would also create greater certainty that some of the CBC’s plans (such as those set out in its three-year plan and in its Diversity and Inclusion Plan) would come to fruition. They would also serve to increase investments towards a diversity of programming, which in turn would help build capacity. As such, programming reflective of and relevant to all Canadians could thrive, thereby allowing the CBC to build on its successes and increase the amount of such programming to be provided in the years ahead.
- 98. Imposing exhibition requirements (i.e., ensuring the broadcast of minimum hours of programming) on the CBC’s audiovisual services, on the other hand, could have the opposite effect as they would not necessarily ensure that the programming provided by the public broadcaster is reflective of or relevant to Indigenous Peoples or equity-seeking communities, as those communities may not be involved in the conception, creation and production of such programming.

99. Further, imposing exhibition requirements in a multiplatform environment does not guarantee that the programming produced will be reflective of or relevant to these communities as quantity does not necessarily equal quality. Being required to adhere to minimum exhibition thresholds could result in the CBC spreading out certain investments, which could reduce the relevance of certain programming to the audiences served. As such, the Commission does not consider that it would be appropriate to include any such exhibition requirements to reach the desired outcomes.
100. In light of the above, that Commission finds that, for the CBC's English- and French-language audiovisual services, the imposition of minimum overall expenditure requirements on programming created by Indigenous Peoples, OLMCs and Canada's various equity-seeking communities would be beneficial both to these communities and to Canadian viewers.
101. In regard to whether the Commission should set these expenditure requirements on the CBC's total programming budgets or on its independent programming budgets, setting expenditures on total programming budgets could, in the Commission's view, make it challenging to measure the CBC's internal performance separately from the supports it provides for independent producers. In the context of this proceeding, the CBC indicated that the vast majority of its in-house programming consists predominantly of news, sports and information programming. Expenditures for in-house programming are more difficult to track as they may be allocated to and from different departments or bureaus. As well, employees from different equity-seeking communities may be assigned to different projects such that the workforce on any given program may be fluid. Having to track this for a diversity expenditure purpose would increase administrative burden and uncertainty.
102. Alternatively, placing the focus on independent productions would make it easier to define the production companies or to identify producers working within these production companies. Such an approach would be consistent with many of the CBC's current requirements, including those relating to programming sourced from OLMC independent producers, as well as with the CBC's own mandate, commitments and intentions for the upcoming licence term, which include spurring the growth of a diverse independent production sector.
103. In light of the above, the Commission finds that any required expenditures for the CBC's programming originating from Indigenous producers and producers from Canada's equity-seeking communities should be based on total expenditures for Canadian independent programming and directed to Canadian independent productions, from producers or production companies led by the members of these communities.
104. In regard to the diversity of in-house programming, the Commission notes that it is imposing new reporting requirements to measure the diversity of the CBC's programming-related workforce, including staff who have decision-making responsibilities for in-house programming. Details on this new reporting are set out in the section of this decision entitled "Measurement framework and reporting requirements".

Establishing definitions

105. One of the challenges identified by the CBC in establishing requirements for productions by production companies led by members of equity-seeking communities relates to the lack of certain definitions. In regard to OLMC programming, many OLMC interveners commented that, currently, “regional programming” expenditures included both OLMC and Quebec regional programming (outside Montréal). According to many interveners, putting these two types of programming in the same expenditure requirement is to the detriment of OLMC productions.
106. The expenditure requirements for “the regions and OLMCs” in the 2013 licence renewal of the CBC’s services are worded such that they apply based on where the producer resides (i.e., in a minority market located in the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec [excluding Montréal]). However, in Broadcasting Information Bulletin 2019-304, the Commission adopted a different definition of “OLMC producer.” According to this new definition, to be considered an “OLMC producer in Canada,” “a production company must: if it produces original programs in English, have its head office in Quebec and be owned and operated by a resident of Quebec; and if it produces original programs in French, have its head office outside Quebec and be owned and operated by a resident outside Quebec.” As discussed later in this decision, the Commission acknowledges OLMC interveners’ concerns regarding the amalgamation of OLMC and Quebec regional programming into one requirement. As such, the Commission has adopted the definition for “OLMC producer”²⁰ set out in Broadcasting Information Bulletin 2019-304. A new separate requirement for Quebec regional programming will also be addressed later in this decision.
107. Adopting this new definition for “OLMC producer” from Broadcasting Information Bulletin 2019-304 and having a separate OLMC programming requirement for the next licence term will result in dubbed programming (as original French-language programming excludes dubbed programs) and programming from the Quebec regions not being included in the OLMC expenditure requirement.
108. As for the definition of “Indigenous producer” adopted in the context of this decision, it is based on a producer or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identifies as Indigenous. Further, the Commission has applied the model for the current definition of “Indigenous producer” to other equity-seeking communities (specifically, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2). In the Commission’s view, this approach is consistent with putting the onus on the individual and/or controlling interest of a company to self-identify as belonging to any of these communities, should that individual and/or controlling interest choose to do so. The complete definitions can be found in Appendix 2 to this decision.

²⁰ An “OLMC producer” is defined as follows: “a company that meets the definition of ‘independent production company’ and that, if operating in the Province of Quebec, produces original English-language programming, or if operating outside of the Province of Quebec, produces original French-language programming.”

109. Furthermore, the Commission acknowledges that the *Broadcasting Act* recognizes the differences between the English- and French-language markets. For example, paragraph 3(1)(c) declares that “English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different meanings.” Pursuant to paragraph 3(1)(m)(iv), the programming provided by the CBC should be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities. Further, paragraph 5(2)(a) declares that the Canadian broadcasting system “should be regulated and supervised in a flexible manner that is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate”.
110. Given the above, the Commission finds that any expenditure requirements for productions from Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2 should apply separately to the CBC’s English- and French-language services given the differences of these two linguistic markets in terms of both demographics and the infrastructure of their respective production sectors.
111. In this regard, the Commission acknowledges that separating requirements by language of service would allow the broadcaster to determine how funds would be allocated based on the needs of Indigenous Peoples, OLMCs and the equity-seeking communities within each of the English- and French-language markets, and would provide more certainty as to the level of funds that can be expected for producers doing business with those services. As such, the Commission is setting minimum overall expenditure requirements for independent productions from Indigenous producers, OLMC producers, and producers from equity-seeking communities separately for CBC’s English- and French-language services.

Setting the appropriate levels of overall spending requirements on independent productions from Indigenous producers, OLMC producers, and producers from equity-seeking communities

112. As noted above, the CBC is currently not subject to any specific requirements to support programming from and for Indigenous Peoples and equity-seeking communities. At the oral phase of the hearing, the CBC submitted that it was premature to earmark specific amounts for specific communities, noting that determining how to divide the budgets in an equitable manner would present certain challenges. It also noted challenges relating to definitions given the diversity of Canada’s cultural and racialized communities, and argued that setting a percentage for each of these communities would essentially lead to programming by mathematics.
113. In regard to applying levels of support (for example, baseline expenditures) for the creation and production of content by independent Indigenous producers and independent producers from Canada’s equity-seeking communities that would be similar to the support required by condition of licence for the production of OLMC content, the CBC noted that it would have to be careful not to get itself overprescribed into categories that are not reflective of the industry, or of what is desired by those particular communities.

114. When questioned at the hearing on the possible imposition of an expenditure requirement relating to programming produced by Indigenous Peoples and equity-seeking communities, the CBC noted that it had shown a willingness to report on how it allocates resources. In its view, and as long as it can demonstrate that equity-seeking communities are being served, either through public perception surveys or in terms of who is being hired to fill key leadership roles, it would be accomplishing the objectives regarding programming for and by Indigenous Peoples and equity-seeking communities.

Positions of parties

115. On Screen Manitoba (OSM), Women in Film & Television (WIFT) Vancouver, and the Indigenous Screen Office (ISO) noted the role of creators and producers of audiovisual content from the respective equity-seeking communities in ensuring a diversity of voices in the Canadian broadcasting system. In their joint appearance, the Quebec Community Groups Network (QCGN), the Quebec English-Language Production Council (QEPC) and the English-Language Arts Network of Quebec (ELAN) noted that OLMC productions seen across the country help all Canadians understand the realities of these communities.

116. Many interveners including the ISO, the Community Media Advocacy Centre (CMAC), Eagle Vision Inc. (Eagle Vision), the Public Interest Advocacy Center (PIAC) and the National Pensioners Federation argued in favour of imposing expenditure requirements. Some suggested basing such requirements on the proportion of the population.

117. Multiple interveners representing equity-seeking communities and those who appeared at the oral phase of the hearing stressed the need for more support from the CBC in sharing their stories.

Commission's analysis

118. The public record of this proceeding has little or no data on how much programming produced by Indigenous and diversity producers is broadcast on the CBC's licensed services and made available on its DMBUs, in regard to both expenditures and exhibition. As such, to set a minimum expenditure requirement for Indigenous and diverse productions, the Commission first considered the percentage that each of these communities represents out of the total Canadian population as well as the percentage that each of these communities represents out of the total populations of the English- and French-language markets, while keeping in mind that there are many non-demographic factors that should also be considered.

119. According to "[Aboriginal peoples in Canada: Key results from the 2016 Census](#)" on the 2016 Statistics Canada website, for that census year, Indigenous Peoples accounted for approximately 5% of Canada's population. When separating the census data by first official language spoken in private households by people who self-identified as having an "Aboriginal identity,"²¹ 88% specified English as their first official language spoken and

²¹ As specified in "[Aboriginal Population Profile, 2016 Census](#)" on the Statistics Canada [web page](#), "'Aboriginal identity' includes persons who are First Nations (North American Indian), Métis or Inuk (Inuit) and/or those who are Registered or Treaty Indians (that is, registered under the *Indian Act of Canada*) and/or those who have membership

11.5% specified French, with 0.5% indicating “neither French nor English.” Broken down by the language markets in Canada, 6% of people who specified English as their first official language spoken self-identified as having an “Aboriginal identity” and 2% of people who specified French as their first official language spoken self-identified as having an “Aboriginal identity.”

120. In regard to racialized Canadians, the 2016 Census refers to “visible minorities” and uses the definition set out in the [Employment Equity Act](#): “persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.”²²
121. According to the 2016 Census, for that census year, 22.3% of Canadians were from “[visible minorities](#)” and more than one in five Canadians (21.9%) were [foreign-born individuals](#) who came through the immigration process. Broken down by [language markets](#), 83% of “visible minorities” specified English as their first official language spoken and 10% specified French as their first official language spoken. In addition, 25% of people who specified English as their first official language spoken self-identified as a “visible minority,” and 10% of people who specified French as their first official language spoken self-identified as a “visible minority.”
122. In regard to Canadians with disabilities,²³ according to Statistics Canada’s web page “[Persons with and without disabilities aged 15 years and over, by age group and sex, Canada, provinces and territories](#),” in 2017, 22.3% of the Canadian population 15 years and over had a disability.
123. The Commission notes that Statistics Canada does not collect data about individuals who self-identify as LGBTQ2. In fact, the [Canadian Community Health Survey - Annual Component \(CCHS\)](#), accessible through the Statistics Canada website, was the first Statistics Canada survey to include a question on sexual orientation. According to the information collected during this survey (available on the web page “[Same sex couples in Canada in 2016](#)”), 1.7% of Canadians aged 18 to 59 reported themselves to be homosexual (gay or lesbian) and 1.3% reported themselves to be bisexual. The Commission acknowledges that several concepts can be used to measure sexual orientation and identification, and that there are many factors that may affect one’s preference to self-identify and to report their identity either to Government in the context of the CCHS or in a professional arena such as in the context of an employee survey, even if such surveys are anonymous.

in a First Nation or Indian band. Aboriginal peoples of Canada are defined in the *Constitution Act, 1982*, section 35(2) as including the Indian, Inuit and Métis peoples of Canada.”

²² For the purposes of this decision, the Commission has used the expression “racialized persons” (and variants thereof), which it considers to be a more inclusive expression than “visible minority” but is nevertheless functionally equivalent with the use of “visible minority” in the *Employment Equity Act* and in the 2016 Census.

²³ The Canadian Survey on Disability identifies persons with disabilities using the Disability Screening Questions (DSQ), which are based on the social model of disability. The DSQ first measure the degree to which difficulties are experienced across 10 domains of functioning, then ask how often daily activities are limited by these difficulties. Only persons who report a limitation in their day-to-day activities are identified as having a disability. For more detailed information on the DSQ, please see the [Canadian Survey on Disability, 2017: Concepts and Methods Guide](#).

124. In this regard, the Commission also notes that “[LGBTQ2+²⁴ Inclusiveness – Toolkit for Inclusive Municipalities in Canada and Beyond](#)”, a report written for the Canadian Commission for UNESCO in 2019, states that “[s]tatistics on LGBTQ2+ population remain unclear and difficult to measure; however, Statistics Canada estimates 3% of Canadians aged 18-59 identify as homosexual or bisexual. This is expected to be a gross underrepresentation and should be considered the minimum percentage of Canadians identifying as homosexual or bisexual. Other studies indicate over 5% of Canadians identify as LGBT and still others argue as many as 14% of students identify as LGBTQ.”
125. In regard to OLMCs, the Statistics Canada web page “[Population by first official language spoken and geography, 1971 to 2016](#)” reports that Francophones living outside Quebec with French as their mother tongue represented 3.1% of the Canadian population, and Anglophones living in Quebec with English as their mother tongue represented 2.1% of the Canadian population. Further, the percentage of Canadians living in French-language OLMCs who reported French as the first official language spoken was 2.9%, whereas those in English-language OLMCs who reported English as the first official language spoken was 3.2%.
126. In regard to Indigenous women and women from the equity-seeking communities, according to the Statistics Canada document “[Women’s History Month 2021](#),” almost one in four women are designated as “visible minorities.” In the same year, Indigenous women made up 5% of the [total population of women and girls in Canada](#).
127. In the Commission’s view, these percentages provide useful guidance on potential overall requirements relating to expenditures on independent productions from Indigenous Peoples and the various equity-seeking communities that could at least ensure some measure of proportional representation.
128. In addition, in considering a percentage of expenditures on diverse programming, the Commission also took into account intersectionalities, that is, the intersection of identities for people who are members of more than one of the identified communities.
129. The Commission also took into consideration potential challenges that the CBC could face in adjusting its programming strategy to accommodate new expenditure requirements for independent productions by Indigenous Peoples and equity-seeking communities, and understands that time will be needed for the CBC to shift programming schedules and ongoing productions. In addition, given that programming strategies and commitments are generally planned on a multi-year horizon, the CBC may require time to incorporate any new expenditure requirements into its current strategy.
130. Furthermore, the Commission is mindful of the potential for capacity issues for productions from Indigenous Peoples and equity-seeking communities. In this regard, certain communities may currently lack production capacity, and it could take a certain amount of time for the CBC to find producers from those communities who have the capacity to create

²⁴ The Commission notes that some government agencies and departments use LGBTQ2, others use LGBTQ2+ and some use 2SLGBTQ+. The Commission has used “LGBTQ2” throughout this process but notes that it captures all people who self-identify as being a part of this community.

new programming projects. The Commission also acknowledges that the French-language market faces greater capacity issues in this regard, which is further affected by the small size of most Indigenous, racialized or other diverse production companies. In addition, the demographic realities for the French-language market are markedly different from those of the English-language market in regard to Indigenous Peoples and other equity-seeking communities (as demonstrated in the statistics provided above).

131. Given the above, in accordance with paragraph 3(1)(c), subparagraph 3(1)(m)(iv) and paragraph 5(2)(a) of the *Broadcasting Act*, the Commission acknowledges that the CBC’s English- and French-language services require different thresholds and different ramp-up schedules in order to reach certain expenditure requirements by the end of their licence term in a realistic and attainable way.
132. Finally, time will be needed for the CBC to hold consultations with Indigenous Peoples and equity-seeking communities (discussed below) to help the CBC in achieving the Commission’s desired outcomes. In the Commission’s view, it would be appropriate to allow sufficient time for the initial consultations to take place so that any feedback received can be integrated into the CBC’s programming strategy.
133. In light of the above, the Commission finds that for the 2022-2023 broadcast year, it would not be appropriate to impose an expenditure requirement for all communities combined.
134. However, for the 2023-2024, 2024-2025 and 2025-2026 broadcast years, the Commission will require the CBC’s English-language services to make overall expenditures on Canadian independent programming produced by Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2 of not less than 30% of all its programming expenditures allocated to Canadian independent productions. In addition, beginning 1 September 2026 (for the 2026-2027 broadcast year), the Commission finds that it would be appropriate to increase that minimum expenditure level to 35%.

English-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
All producers combined*	n/a	30.0%	30.0%	30.0%	35.0%

* Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2

135. Finally, for the 2023-2024 broadcast year, the Commission will require the CBC’s French-language services to make overall expenditures on Canadian independent programming produced by Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2 of not less than 6.7% of all its programming expenditures allocated to Canadian independent productions.

For the 2024-2025 broadcast year, this level will be increased to 9%, and for the 2025-2026 broadcast year, it will be increased to 12.3%. Finally, beginning 1 September 2026 (for the 2026-2027 broadcast year), the Commission finds that it would be appropriate to increase that minimum expenditure level to 15%.

French-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
All producers combined*	n/a	6.7%	9.0%	12.3%	15.0%

* Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2

136. In Appendix 3 to this decision, the Commission has set out **conditions of licence**, applicable separately to the CBC’s English- and French-language services, relating to the above-noted overall expenditures to be made towards independent productions by Indigenous producers, OLMC producers, and other producers from equity-seeking communities over the course of the next licence term.

137. For the purposes of calculating the above-noted requirements, the denominators (i.e., the total amounts on which to base requirements) include total expenditures on Canadian independent programming for the CBC’s licensed television services (networks, all television stations and all discretionary services listed in Appendix 1 to this decision, excluding CBC News Network and ICI RDI) and the audiovisual DMBUs that the CBC operated in the reported broadcast year. The requirements are imposed on the above-noted licensed television services (networks, television stations and discretionary services, excluding CBC News Network and ICI RDI). These amounts will be calculated separately for the CBC’s English- and French-language services.

138. Although the requirements are imposed on licensed services only, the Commission finds that it would be appropriate to permit the CBC to count the above-noted expenditures made for the acquisition of or investment in French- and English-language Canadian independent Indigenous, OLMC and diverse programming by the DMBUs that it operates towards fulfilling the separate requirements set out in each of those conditions of licence.

139. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.

Expenditures on independent productions from Indigenous producers

140. Even though Indigenous productions are included in the overall diversity expenditure requirements set out above, the Commission recognizes the importance of ensuring that Indigenous Peoples across the country have access to relevant and reflective programming that meets their needs and that Indigenous producers are given increased opportunities to exhibit their work. As such, the Commission is establishing minimum thresholds for Indigenous productions within the overall diversity expenditure requirements.

141. Throughout the present proceeding, both the Commission and the CBC placed special emphasis on programming produced for and by Indigenous Peoples. Reconciliation is one of the Government of Canada's commitments to renewing relationships with Indigenous Peoples, based on the recognition of rights, respect, co-operation and partnership. As part of its role, the Commission upholds the Government of Canada's commitment to engage with Indigenous Peoples towards reconciliation. The Commission has completed Phase 1 of the co-development of a new Indigenous broadcasting policy proceeding.²⁵ Although that proceeding is separate from the CBC licence renewal proceeding, parallels between the two can be drawn on many issues raised, especially in light of the overall need for equity. On a broader level, [Call to Action 84 of the Truth and Reconciliation Commission](#) and the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP), which were referred to by multiple interveners, tie into objectives set out in paragraph 3(1)(o) of the *Broadcasting Act* in that they refer to the reflection of Indigenous Peoples in the programming broadcast by the CBC.

Positions of parties

142. Various associations at the oral phase of the hearing argued that additional support for Indigenous-created programming is needed in light of long-standing inequalities, misrepresentation or non-representation.
143. Certain parties to the proceeding expressed concerns relating to the reflection of Indigenous Peoples on the programming broadcast by the CBC on its services. For example, the ISO expressed the view that small Indigenous-language communities should be served as directly as possible, and that it would be relevant to all Indigenous communities to see other Indigenous Nations have their languages preserved. It added that where there has not been the presence of Indigenous content, what could appear as an over-representation would actually be a historical correction of years of misrepresentation or non-representation. In the ISO's view, there is a need for greater and sustained investment in underrepresented and marginalized communities to achieve a measure of equality. For its part, the Aboriginal Peoples Television Network (APTN) noted the importance of Indigenous Peoples being reflected on screen for who they are and not only to represent Indigenous issues.
144. In regard to support for independent productions from Indigenous producers, the ISO acknowledged that it had seen an increase in support for Indigenous content on the CBC's English-language services, but not for such content on its French-language services. When questioned on equal representation at the hearing, the ISO noted that cultural policy typically looks at the Indigenous population base and assigns resources on that basis. It further argued, however, that this is not a corrective method as it only ensures a *status quo* rather than attempting to rectify long-standing inequalities. WIFT Vancouver echoed the ISO's concerns, questioning whether such an approach would be appropriate given how Indigenous Peoples have historically been suppressed through "cultural genocide." CMAC added that the majority of Indigenous-languages programming aired on the CBC's English-language platforms is concentrated in CBC Radio North and online, and that the situation is worse for the CBC's French-language services.

²⁵ See Broadcasting Notice of Proceeding 2019-217.

145. The ISO submitted that an appropriate investment would be between 7% and 9% of the CBC's programming budget allocated to independent productions made by Indigenous producers, a view that was supported by PIAC and OSM. This view is similar to that expressed by Eagle Vision, who proposed that 8% of the CBC's development and programming budgets should be devoted to Indigenous content.
146. Certain interveners proposed exhibition requirements for Indigenous programming that exceed the percentage of the Canadian population that Indigenous Peoples represent.
147. In its final reply, in regard to support for programming from Indigenous communities, the CBC proposed measurement and reporting requirements similar to those for OLMCs. It added that if the Commission finds that it would be appropriate to impose new expenditure requirements relating to programming created by Indigenous independent producers, such requirements should be calculated based on a percentage of programming and cross-platform expenditures.

Commission's analysis

148. The Commission notes that there is no detailed data on the public record for this proceeding in regard to exhibition levels of Indigenous programming. However, it acknowledges the need for and importance of relevant and reflective Indigenous programming content.
149. In light of the above, based on the record for this proceeding and in recognition of the public broadcaster's role in contributing to the policy objectives set out in the *Broadcasting Act* relating to the need to provide programming reflective of the special place of Indigenous Peoples in Canada, and given the Commission's intent to uphold the Government of Canada's commitment to renewing the relationships with Indigenous Peoples, the Commission is setting minimum expenditure requirements specifically for programming from independent Indigenous producers on both the CBC's English- and French-language services. These expenditure requirements will be encompassed within the previously discussed combined expenditure requirements on Indigenous, OLMC and diverse Canadian independent productions.
150. In the Commission's view, such requirements constitute an appropriate and effective means of helping to achieve the desired outcomes as they relate to the audiovisual programming broadcast by the CBC's English- and French-language services that is produced by and that reflects Indigenous Peoples.
151. Furthermore, in order to provide the CBC with time to expand relationships with Indigenous Peoples and Indigenous producers across the country through the consultation process, the Commission finds that it would be appropriate for the new expenditure requirements to start 1 September 2023 (the beginning of the 2023-2024 broadcast year).
152. Finally, the Commission notes that there are important differences between the English-language and French-language markets when it comes to Indigenous Peoples and the production of programming. As noted previously, the majority of Indigenous Peoples identify English as their first official language spoken. As such, the Commission is imposing higher thresholds for Indigenous programming for the CBC's English-language services, which serve the majority of this population.

153. For the 2023-2024 broadcast year, the Commission will require the CBC’s English-language audiovisual programming services to make overall expenditures on independent programming produced by Indigenous producers of not less than 6% of all its programming expenditures allocated to Canadian independent productions. Starting with the 2024-2025 broadcast year and for the remainder of the licence term, this level will be increased to 8% per broadcast year.

English-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
Indigenous producers	n/a	6.0%	8.0%	8.0%	8.0%

154. Further, for the 2023-2024 and 2024-2025 broadcast years, the Commission will require the CBC’s French-language audiovisual programming services to make overall expenditures on independent programming produced by Indigenous producers of not less than 1% of all its programming expenditures allocated to Canadian independent productions. For the 2025-2026 and 2026-2027 broadcast years, this level will be increased to 1.8% per broadcast year. The amounts take into consideration the differences between the language markets as specified above.

French-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
Indigenous producers	n/a	1.0%	1.0%	1.8%	1.8%

155. For the above-noted requirements, the total amounts on which to base the calculations include total expenditures on Canadian independent programming for the CBC’s licensed television services (networks, all television stations and all discretionary services listed in Appendix 1 to this decision, excluding CBC News Network and ICI RDI) and the audiovisual DMBUs that the CBC operated in the reported broadcast year. The requirements are imposed on the above-noted licensed television services (networks, television stations and discretionary services, excluding CBC News Network and ICI RDI). These amounts will be calculated separately for the CBC’s English- and French-language services.

156. As well, in line with the Commission’s decision regarding the new overall expenditure requirements, the Commission finds that it would be appropriate to permit the CBC to count the expenditures made on its DMBUs for the acquisition of or investment in independent productions by Indigenous producers towards fulfilling the requirements set out in each of the conditions of licence relating to Indigenous productions.

157. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.

Expenditures on independent productions from OLMCs

158. Currently, the CBC is subject to conditions of licence²⁶ requiring it to ensure that:

- for its licensed English-language television network and stations, at least 6% of the current broadcast year's programming expenditures on Canadian programming from independent production companies, averaged over the licence term, is devoted to the acquisition of or investment in Canadian programming by independent production companies from the Province of Quebec; and
- for its licensed French-language television network and stations, at least 6% of the current broadcast year's programming expenditures on Canadian programming from independent production companies is devoted to the acquisition of or investment in Canadian programming by independent production companies from the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec (excluding Montréal).

159. In its applications, the CBC proposed maintaining most of the current requirements for its English- and French-language audiovisual services that aim to ensure the adequate reflection of OLMCs through the programming broadcast on those services, including the above-noted expenditure requirements. When questioned at the oral phase of the hearing on the continued appropriateness of these requirements, the CBC stressed their importance, noting that it wishes to maintain the partnerships it has established with producers across the country.

160. The CBC also proposed an amendment to the condition of licence applicable to its licensed French-language ICI TÉLÉ television services. Specifically, the CBC proposed that it be required to devote at least 3% (i.e., half of the above-noted 6%) of its expenditures on independent productions to independent productions from outside Quebec. For the purpose of this condition of licence, the CBC confirmed that it would use the definition of "OLMC producer" set out in Broadcasting Information Bulletin 2019-304.

Positions of parties

161. Various interveners commented on the CBC's current condition of licence requiring that 6% of programming expenditures be devoted to the acquisition of or investment in Canadian programming by independent producers from the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec (excluding Montréal). The Fédération des communautés francophones et acadienne du Canada (FCFA) proposed that this condition of licence be amended to refer to productions "outside Quebec" rather than "outside of Montréal" in order to ensure that OLMCs outside the province of Quebec are adequately supported. However, the Association québécoise de la production médiatique (AQPM) supported maintaining the 6% threshold for French-language productions "outside Montréal" given that, in its view, the situation faced by producers in the province of Quebec outside of Montréal is just as difficult as for OLMC producers outside the province of Quebec.

²⁶ Conditions of licence 23 and 16, respectively, set out in Appendix 3 to Broadcasting Decision 2013-263.

162. According to the APFC, the current 6% requirement falls short of what has been done in the past given that average historical expenditures on independent regional programs (both for the English- and French-language OLMCs and the Province of Quebec excluding Montréal) amounted to 9% of total expenditures on independent productions, 60% of which was devoted to programs produced by OLMC producers. In the APFC's view, the minimum threshold for OLMC programming and programming from the regions of Quebec (outside Montréal) should be closer to historical thresholds. It proposed that the 6% minimum be increased to 8%, and that a specification be added that at least 60% of this amount must be spent on productions outside Quebec. At the hearing, OSM and the Fédération culturelle canadienne-française (FCCF) generally supported this proposal.
163. The QEPC stated that the CBC's English-language OLMC independent production requirement must be increased from 6% to at least 10% of its English-language services' programming expenditures.
164. For its part, the Office of the Commissioner of Official Languages (OCOL) stated that expenditures on English- and French-language OLMC independent productions should be allocated to independent producers at a rate that would eventually match or exceed the sizes of OLMCs relative to the total population of Anglophones or Francophones. Finally, the FCCF stated that the thresholds imposed on traditional platforms should be the same for digital platforms.
165. Although certain interveners including the Association acadienne des artistes professionnels du Nouveau-Brunswick (AAAPNB), OSM and Comité SOS-CBEF Windsor (SOS-CBEF) acknowledged in their interventions and at the hearing that progress had been made as a result of the current measures, they still raised concerns that, among other things, OLMCs are not sufficiently represented in the content, and requested an increase in the CBC's independent production expenditure requirements relating to OLMCs.
166. The Alliance québécoise des techniciens et techniciennes de l'image et du son (AQTIS), the Association des réalisateurs et réalisatrices du Québec (ARRQ), the Société des auteurs de radio, télévision et cinéma (SARTEC) and the Union des artistes (UDA) (collectively, AQTIS-ARRQ-SARTEC-UDA), in a joint intervention, submitted that the CBC's French-language television programming constitutes an important part of the broadcasting landscape in Canada and that it enlightens viewers through the importance it places on "cultural diversity," serving as a point of reference for other country-wide broadcasting services.
167. The QCGN, the QEPC and ELAN submitted that OLMC productions seen across the country help all Canadians understand the realities of these communities. However, many of the organizations representing Francophone and Acadian OLMCs, including the FCFA, the Assemblée de la francophonie de l'Ontario (AFO), the Fédération acadienne de la Nouvelle-Écosse (FANE), the FCCF, the Fédération de la jeunesse canadienne-française (FJCF) and the Société Nationale de l'Acadie (SNA), noted a perceived lack of relevant and reflective programming on the national network, and notably the "Montréalization" or "Quebecization" of programming.

168. In its final reply, in regard to French-language OLMC programming, the CBC submitted that the proposed floor of 3% in expenditures allocated to Canadian independent productions from outside Quebec remains appropriate, and agreed to adopt the new definition for “OLMC producer” as specified in Broadcasting Information Bulletin 2019-304 (i.e., it should only include programming produced in French and would therefore exclude English-language programming dubbed in French). The CBC also submitted that the current floor of 6% in regard to expenditures on Canadian independent productions from “outside Montréal” remains appropriate.

Commission’s analysis

169. As a federal institution, the Commission must take into consideration the objectives set out in section 41 of the *Official Languages Act* when examining and applying existing policies. In Broadcasting Decision 2013-263, the Commission recognized the different needs and challenges of OLMCs and imposed or re-imposed a number of measures to support the production of programming by and for OLMCs.

170. Pursuant to its current conditions of licence, the CBC has been required to devote each broadcast year at least 6% of overall programming expenditures to the acquisition of English-language OLMC content and at least 6% of overall programming expenditures to the acquisition of French-language content from the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec (excluding Montréal). The actual yearly average expenditures in this regard over the licence term amounted to 8.4% of overall programming expenditures by the CBC’s English-language services and 8.6% of overall programming expenditures by its French-language services.²⁷ According to past expenditures, the CBC has exceeded both thresholds (for English- and French-language programming) during the current licence term.

171. However, the Commission acknowledges concerns expressed by certain interveners that programming needs for OLMCs and regions of Quebec are different, and that putting regional programming from Quebec in the same requirement as for OLMC programming might not be to the benefit of communities outside Quebec. As such, the Commission is making an important change to the requirement relating to French-language “regional programming” expenditures, by carving out programming produced in Quebec (excluding Montréal) from this requirement (see below for analysis and decisions regarding programming from the regions of Quebec). With this important change, the Commission is acknowledging that programming needs for audiences in OLMCs and regions of Quebec (including the North of Quebec) can be quite different.

172. In addition, the Commission notes that by adopting a new definition of “OLMC producer” (through which dubbed programming would no longer be included), the average amount of expenditures for French-language OLMC productions is affected. Moreover, as the Commission has decided to separate Quebec regional programming from OLMC programming, past expenditures to be considered when setting a threshold for the next licence term must be broken down before being considered. As such, when using the new

²⁷ In regard to the data included in this decision for the CBC’s services, the current licence term refers to the 2013-2014 through 2019-2020 broadcast years. In regard to financial data for the 2020-2021 broadcast year, it was submitted to the Commission in November 2021, after the close of the record for this proceeding.

definition for OLMC producer (excluding dubbed programming and excluding Quebec regional programming), the average expenditures for the 2016-2017 through 2020-2021 broadcast years was 3.4%.²⁸ From the 2016-2017 through 2019-2020 broadcast years, the average expenditures for French-language Quebec regional programming (outside Montréal) was 3.3%.

173. The Commission acknowledges that OLMCs may have different programming needs than Francophones living in the province of Quebec. Although the Commission has not imposed any overall expenditure requirements for all equity-seeking communities combined for the 2022-2023 broadcast year, it considers that since the CBC already has expenditure requirements for OLMC productions (currently identified as the OLMC and regions expenditure requirement) and has been meeting them, a continued level of support for independent producers from OLMCs starting 1 September 2022 (for the 2022-2023 broadcast year) would help the CBC to meet its mandate related to these communities.
174. Given the above and to help achieve the outcomes relating to English-language OLMC programming, the Commission is imposing on the CBC’s English-language services a requirement whereby not less than 6% of overall programming expenditures on Canadian independent programming is devoted to programs produced by English-language OLMC producers.

English-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
English-language OLMC producers	6.0%	6.0%	6.0%	6.0%	6.0%

175. Furthermore, given the adoption of a new definition of “OLMC producer” and the removal of Quebec regional programming from the French-language “regional programming” requirement, to help achieve the outcomes relating to French-language OLMC programming, the Commission is imposing on the CBC’s French-language services a requirement that includes a ramp-up. For the first broadcast year of the next licence term (i.e., 2022-2023), the CBC’s French-language services will be required to devote not less than 3% of overall programming expenditures to Canadian independent programming produced by French-language OLMC producers. This minimum percentage will ramp up yearly (3.5% for the 2023-2024 broadcast year, 4% for the 2024-2025 broadcast year, and 5% for the 2025-2026 broadcast year) and culminate in the 2026-2027 broadcast year, when the CBC’s French-language services will be required to devote not less than 6% of overall programming expenditures to Canadian independent programming produced by French-language OLMC producers.

²⁸ The Commission notes that this information includes the 2020-2021 broadcast year as it was submitted by the CBC after the hearing as part of an undertaking.

French-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
French-language OLMC producers	3.0%	3.5%	4.0%	5.0%	6.0%

176. For the above-noted requirements, the total amounts on which to base the calculations include total expenditures on Canadian independent programming for the CBC’s licensed television services (networks, all television stations and all discretionary services listed in Appendix 1 to this decision, excluding CBC News Network and ICI RDI) and the audiovisual DMBUs that the CBC operated in the reported broadcast year. The requirements are imposed on the above-noted licensed television services (networks, television stations and discretionary services, excluding CBC News Network and ICI RDI). These amounts will be calculated separately for the CBC’s English- and French-language services.
177. Finally, the CBC will be permitted to count expenditures made for OLMC independent productions on DMBUs that it operates in order to fulfill these requirements.
178. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.

Summary of new expenditure requirements relating to independent productions from Indigenous producers, OLMC producers, and producers from other equity-seeking communities

179. In the Commission’s view, the new expenditure requirements set out above will ensure continued and enhanced support for OLMC programming, ensure new minimum expenditures on independent productions by Indigenous producers, and create conditions that favour greater diversity in the creation of programming that meets the needs of the diverse Canadian population.
180. The Commission will be able to monitor the CBC’s performance relating to these expenditure requirements through the annual financial returns filed by the CBC, as well as through the CBC’s filing of the audiovisual production report, which is described in greater detail in the section “Measurement framework and reporting requirements”.
181. The following table summarizes the new expenditure requirements relating to independent productions from Indigenous producers, OLMC producers, and producers from other equity-seeking communities, from the 2022-2023 to 2026-2027 broadcast years (i.e., the new licence term).

English-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
English-language OLMC producers	6.0%	6.0%	6.0%	6.0%	6.0%
Indigenous producers	n/a	6.0%	8.0%	8.0%	8.0%
All producers combined*	n/a	30.0%	30.0%	30.0%	35.0%

* Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2

French-language audiovisual services

Expenditures (of total expenditures on independent Canadian programming)	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
French-language OLMC producers	3.0%	3.5%	4.0%	5.0%	6.0%
Indigenous producers	n/a	1.0%	1.0%	1.8%	1.8%
All producers combined*	n/a	6.7%	9.0%	12.3%	15.0%

* Indigenous producers, OLMC producers, racialized producers, producers with disabilities, and producers who self-identify as LGBTQ2

Under-expenditures and over-expenditures, and eligibility for independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2

182. To allow the CBC to better manage its expenditures, especially when production costs are spread over several years, the Commission will permit the CBC to avail itself of flexibility in regard to its under-expenditures and over-expenditures relating to Canadian independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2. Specifically, the CBC will be permitted to make under-expenditures on such independent productions of up to 10% during each broadcast year of the next licence term, with the exception of the final broadcast year.

183. Further, where the CBC expends an amount for a year of the licence term on such independent productions that is greater than the minimum required expenditures calculated in accordance with the appropriate conditions of licence relating to expenditures on independent productions, it may deduct that amount from the total minimum required expenditures in one or more of the remaining years of the licence term. Notwithstanding the above, the CBC will be required, over the course of the licence term, to spend on such independent productions, at a minimum, the total of the minimum required expenditures calculated in accordance with its conditions of licence relating to independent productions.

184. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.

Programming from Quebec (excluding Montréal)

185. As noted above, the updated OLMC expenditure condition of licence for the CBC’s French-language audiovisual services will not apply to programming produced in the Province of Quebec. To address concerns regarding the “Montréalization” of programming and to ensure that French-language programming from outside Montréal continues to be produced, the Commission is creating a separate requirement for Quebec regional programming.

186. As such, beginning in the 2022-2023 broadcast year and for the remainder of the new licence term, the CBC will be required to allocate at least 3% of the total amount it spends on French-language independent productions on its television network and stations as well as on its discretionary services ICI ARTV and ICI EXPLORA to French-language productions from Quebec (including northern Quebec) excluding Montréal (i.e., the Montréal Census Metropolitan Area as defined by Statistics Canada). A **condition of licence** to that effect is set out in Appendix 3 to this decision. This amount is comparable to the average total programming expenditures that have been devoted to Quebec regional independent productions during the current licence term.

187. Further, the CBC will be permitted to count expenditures made for the acquisition of or investment in Canadian independent programming by French-language DMBUs that it operates towards fulfilling the requirements. A **condition of licence** to that effect is set out in Appendix 3.

Women in production and intersectionality

188. In regard to women (who represent 51% of the population), the CBC submitted at the hearing that it has done extremely well in creating opportunities in production roles, and that it has now shifted its focus to other equity-seeking communities. The CBC acknowledged that much remains to be done to ensure that it is inclusive, not only of white women, but of all women in production roles. Based on this, the issue of gender parity appears to be less a question of whether women are represented in the CBC’s workforce in a variety of roles and capacities, and more about whether there is diversity within that segment of the CBC’s workforce.

Positions of parties

189. When discussing intersectionality in regard to women at the hearing, WIFT Vancouver noted that having multiple identities (racial, ethnic, cultural, disabilities or sexual orientation) results in compounding effects on women. It considered that from this perspective, the proposed expenditure condition of licence has the potential to address the needs of women who also self-identify as Indigenous or as part of an equity-seeking community. WIFT Vancouver also emphasized the need to have media for women and made by women, along with a robust reporting framework.

Commission's analysis

190. In June 2019, the CBC released data on gender parity in key television production roles for the 2018-2019 broadcast year. These data demonstrated that for 62% of the productions it had commissioned from independent producers during that broadcast year, two-thirds of key creative positions were held by women.
191. The Commission acknowledges the progress that the CBC has made regarding women in production and agrees with the public broadcaster that it needs to shift its focus towards Indigenous and diverse women in the near future.
192. As such, for the next licence term, the Commission will grant the CBC a 50% incentive credit against its independent production expenditure requirements for expenditures on productions produced by Indigenous Peoples, racialized persons, persons with disabilities, and persons who self-identify as LGBTQ2, who also self-identify as women (the “women intersectionality credit”). A **condition of licence** to that effect is set out in Appendix 3 to this decision.
193. In the Commission's view, this credit could help the CBC achieve the established expenditures thresholds, as described above, while encouraging underrepresented types of programming by producers and incentivizing greater diversity in programming. It is a means to both integrate women into the framework and support the advances the CBC has made with respect to women in production, while promoting production opportunities for Indigenous and diverse women producers.

Requested withdrawal of the mandatory distribution order for ICI ARTV

194. As specified in condition of licence 2 set out in Appendix 6 to Broadcasting Decision 2013-263, in regard to the French-language discretionary service ICI ARTV (formerly ARTV), the CBC must provide a national, French-language arts specialty television service that reflects the unique character of Quebec culture and the needs and circumstances of French-language communities in other parts of Canada. Pursuant to Broadcasting Order 2013-375 and paragraph 9(1)(h) of the *Broadcasting Act*, ICI ARTV benefits from mandatory distribution on a digital basis by licensed terrestrial broadcasting distribution undertakings (BDU) in Anglophone markets in Canada. Broadcasting Order 2013-375 requires BDUs to offer the service to all subscribers, but does not require them to distribute it as part of the basic service.
195. As part of the present licence renewal proceeding, the CBC requested the withdrawal of the mandatory distribution order for ICI ARTV, which it described in the new required definition for discretionary services as a French-language discretionary service offering a full spectrum of culture and entertainment programming that features a broad range of talent in all fields of creation, past and present.
196. The CBC stated that the mandatory distribution order for ICI ARTV did not result in increases in either revenues from or subscribers to the service in English-language markets. It noted that ICI ARTV was one of many services offered on a pick-and-pay basis and that such services are typically offered at a higher retail rate in the secondary market (in this case, outside Quebec).

197. The CBC added that the service would still be available to subscribers in French-language OLMCs, even without the distribution order, including on satellite and on its DMBU ICI TOU.TV. Further, it noted that subscribers must pay to access ICI ARTV as it is a discretionary service, and that for the next licence term, it would be required to negotiate with BDUs over access to the service in a “pick-and-pay” universe characterized by declining subscriptions. The CBC nevertheless expressed its intention to maintain the genre, which focuses on culture, noting that cultural content is also broadcast on its service ICI TÉLÉ, which is available at no cost across Canada. It further noted that although much of the ICI ARTV content is behind the paywall on ICI TOU.TV EXTRA, the cultural content is also eventually shown on its licensed television service ICI TÉLÉ and, therefore, will ultimately be available on its DMBU ICI TOU.TV at no cost.

Positions of parties

198. Intervenors including the AFO, the AAAPNB, OCOL, OSM, the APFC and the FCCF opposed the CBC’s request to withdraw the mandatory distribution order for ICI ARTV. Some argued that the withdrawal of the order would result in limited access to a French-language Canadian television service that is particularly important to OLMCs because of the service’s cultural and artistic mandate. According to the AAAPNB, the CBC’s request should be reconsidered out of respect for French-language OLMCs. It argued that although efforts are being made to bring high-speed Internet to rural communities, which would ensure access to ICI TOU.TV (and therefore to the ICI ARTV content on ICI TOU.TV/ICI TOU.TV EXTRA), there is still work to be done on that front.

Commission’s analysis

199. It is the Commission’s view that the CBC should have the necessary flexibility to serve OLMCs in the manner that it deems most appropriate, providing it respects the expenditure requirements set out for its audiovisual services. In this regard, as noted above, the new separate French-language OLMC expenditure requirement will result in increased support for OLMC productions as the Commission will require the CBC, by condition of licence, to devote a yearly percentage of its French-language services’ annual programming expenditures (which includes expenditures for ICI ARTV) to independent productions from OLMC producers. In the Commission’s view, this requirement will mitigate the potential impact of approving the CBC’s request relating to ICI ARTV.

200. Further, the Commission notes that the role of ICI ARTV in assisting the CBC to fulfill its mandate has not been significant in terms of expenditures on Canadian programming relative to the broadcaster’s other services during the current licence term. In the 2018-2019 broadcast year, expenditures on Canadian programming made for ICI ARTV accounted for only 1.37% of total CPE for all of the CBC’s discretionary and conventional services. In the 2019-2020 broadcast year, it was 1.35%. A decrease of over 34% in ICI ARTV’s subscriber numbers from the 2013-2014 through 2019-2020 broadcast years supports the CBC’s argument regarding the lack of impact of mandatory distribution of the service. In addition, the CBC could potentially attract more viewers to ICI TOU.TV EXTRA by premiering ICI ARTV content on this platform, thereby improving its ability to monetize the service, which is fully in line with the public broadcaster’s overall approach.

201. In light of the above, the Commission will withdraw the mandatory distribution order for ICI ARTV effective the beginning of the new licence term (i.e., 1 September 2022), and therefore **approves** the CBC's request in this regard.
202. The Commission also notes that, as addressed below, it will be imposing on the CBC a requirement to file a production report that will provide detailed information on programming broadcast on ICI ARTV. As such, the Commission and the public will be able to monitor the programming being broadcast on this service.

Ensuring that music by Indigenous artists is available, discoverable and promoted on the CBC's licensed radio network and radio stations, and audio DMBUs

203. The CBC is not currently subject to any specific requirements relating to a minimum offering of music by Indigenous artists on its licensed radio network and radio stations. In its applications, the CBC did not make any proposals relating to the broadcast of music by Indigenous artists over the next licence term.
204. Nevertheless, and noting the fifth anniversary of the final report of the Truth and Reconciliation Commission of Canada, the CBC expressed its desire to continue improving services to Indigenous communities across the country. At the oral phase of the hearing, it acknowledged that since the filing of its renewal applications, the importance of taking action to address inequalities had taken on new significance. It also noted the significant reach of its licensed radio stations and their ability to reflect Canada, and that part of the distinctiveness of its radio services comes from the coverage and broadcast of Indigenous content.
205. In regard to its audio DMBUs, the CBC indicated that its music lists, including several Indigenous artists' music lists, are compiled by radio service programmers and are an extension of its radio offering. Nevertheless, it also stated that it has no intention of abandoning its traditional platforms and understands their importance to underrepresented and often underserved communities, including Indigenous communities, given problems with high-speed Internet access experienced by many such communities.
206. When questioned at the oral phase of the hearing about how it selects Indigenous musical selections without a precise definition, the CBC noted the richness of its Indigenous music offerings while acknowledging that there was a certain amount of subjectivity in this area. Still, the CBC indicated its support for APTN's position that it should adhere to a definition of "Indigenous musical selection" that would be established in the co-development of a new Indigenous broadcasting policy, once that proceeding has been completed and a new policy has been implemented.

Positions of parties

207. The ISO, while primarily an audiovisual organization, emphasized the importance of the CBC's role as Canada's public broadcaster in reflecting Indigenous Peoples on all of its platforms as well as its obligation to enhance the reach of Indigenous content and broadcasters. It submitted that the CBC must support Indigenous languages, cultures and content in the same way that it serves Anglophone and Francophone communities across the country, and that this must be a primary requirement for the CBC, regardless of the platform.

The ISO added that the CBC should comply with the findings of the co-development of a new Indigenous broadcasting policy, particularly those relating to the definitions of what constitutes an Indigenous musical selection or an emerging Indigenous artist.

208. The ISO also reiterated the importance of examining the public broadcaster's obligations contained in [Call to Action 84 of the Truth and Reconciliation Commission](#) and in the [UNDRIP](#). Noting that these documents recognize the right of Indigenous Peoples to own and control their own media entities with the support of the CBC, it argued that the CBC must take the lead in ensuring that Indigenous Peoples and content created by them are adequately represented, and that they receive air time equivalent to that devoted to English- and French-language Canadian content. The ISO submitted that Indigenous Peoples have always been underrepresented throughout the broadcasting system, and that it is time to reverse this trend by considering an "over-representation" of Indigenous Peoples in broadcasters' programming. According to the ISO, there is no shortage of Indigenous talent, but rather a lack of opportunity, and achieving equity and closing longstanding inequalities requires sustained investment and support.
209. According to APTN, the CBC's primary role in regard to Indigenous Peoples should be one of reflection and support for Indigenous creators and Indigenous-controlled media. It also stated that the CBC is more important to Indigenous communities than to most Canadians, as it is often the only non-Indigenous service to which they have access. APTN cited the public broadcaster's obligations in the context of the [UNDRIP](#), including the reflection of Indigenous Peoples in programming. It added that Indigenous audiovisual works are nothing without the music they contain, and referred to the [National Indigenous Music Impact Study](#) that it conducted, issued in 2019, which revealed several gaps that needed to be addressed. As noted in that study, "Indigenous artists want greater access to mainstream media," and it is important to "consider ways to increase the percentage of Indigenous music on mainstream, Indigenous and satellite radio stations."

Commission's analysis

210. As stated previously, the CBC currently has no requirements relating to the broadcast of Indigenous musical selections. Although the CBC broadcasts Indigenous musical selections on its English- and French-language services and has dedicated playlists for these artists on its English- and French-language audio DMBUs, the Commission does not have access to data indicating the average percentage of Indigenous musical selections that are broadcast and/or made available on those services.
211. Throughout the present licence renewal proceeding, both the Commission and the CBC placed a particular emphasis on programming for and by Indigenous Peoples. As noted above, various interveners, including the ISO, stressed the need for additional support for Indigenous programming to address longstanding inequities.
212. The Commission has examined issues relating to Indigenous programming on both the CBC's television and radio services in light of the objectives set out in paragraph 3(1)(o) and subparagraphs 3(1)(d)(iii) and 3(1)(m)(viii) of the *Broadcasting Act*. Further, the Commission notes that Article 16 of the [UNDRIP](#), which states that, "States shall take

effective measures to ensure that State-owned media duly reflect indigenous cultural diversity,” and [Call to Action 84 in the Truth and Reconciliation Commission’s Report](#) both tie into the above-noted objectives of the *Broadcasting Act* as they address the issue of reflection of Indigenous Peoples in the programming broadcast by the CBC.

213. In Broadcasting Decision 2017-198, in which the Commission approved applications by various applicants for broadcasting licences to operate new radio stations to serve the urban Indigenous communities in Vancouver, British Columbia; Edmonton and Calgary, Alberta, and Ottawa and Toronto, Ontario, the Commission stated that “the [Truth and Reconciliation report](#) emphasized the roles that can be played by the CBC [...]. The CBC in particular has a national platform on which it should take care to ensure Indigenous issues and culture are made more visible in its programming.”
214. The Commission acknowledges that if it were to adopt a definition of what constitutes an “Indigenous musical selection,” this should stem from the co-development of the new Indigenous broadcasting policy, as initiated by Broadcasting Notice of Proceeding 2019-217. Nevertheless, it finds the present CBC licence renewal proceeding to be the most appropriate and timely process to address the CBC’s own obligations relating to initiatives that support Indigenous artists so that the public broadcaster may fully assume its unique role with respect to Indigenous Peoples.
215. In the Commission’s view, requirements for the broadcast of musical selections continue to be the most efficient way of supporting the creation and promotion of audio content on radio stations.²⁹ Further, comments from interveners who addressed these issues throughout the proceeding, along with the objectives of the *Broadcasting Act* referenced above, are sufficient justification for imposing new requirements relating to the broadcast of music by Indigenous artists. Therefore, the Commission will require all licensed CBC audio services to include a minimum percentage of musical selections by Indigenous Peoples in their programming.
216. As noted above, according to Statistics Canada’s web page “[Aboriginal peoples in Canada: Key results from the 2016 Census](#),” Indigenous Peoples account for approximately 5% of the population of Canada. In terms of language markets in Canada, 6% of people who specified English as their first official spoken language self-identified as having an “Aboriginal identity,” whereas 2% of people who specified French as their first official spoken language self-identified as having an “Aboriginal identity.”
217. In addition, according to APTN’s 2019 [National Indigenous Music Impact Study](#), approximately 87% of Indigenous artists perform or record in English, approximately 27% do so in an Indigenous language, and only about 6% do so in French.
218. In light of all of the above and in accordance with paragraphs 3(1)(c) and 5(2)(a) of the *Broadcasting Act*, the Commission is requiring the CBC to devote different minimum percentages of Indigenous musical selections to be broadcast on its English-language

²⁹ The issue of broadcasting quotas will be addressed in greater detail below in the section relating to Canadian audio programming.

services versus its French-language services each broadcast week. In addition, given APTN's findings that only 6% of Indigenous music artists perform or record in the French language, the Commission will allow the CBC's French-language services to ramp up the percentage of Indigenous musical selections broadcast over the next licence term. Further, the CBC is encouraged to broadcast Indigenous music of any sort be it in English, French, or Indigenous languages, or instrumental music. It is the Commission's view that establishing these thresholds will help to support the Indigenous music industry, ultimately leading to the availability of an expanded catalogue of Indigenous musical selections in the years to come.

219. As such, starting 1 September 2022 and for the remainder of the next licence term, the CBC will be required to devote a minimum of 5% of all music broadcast on its English-language radio network and radio stations to Indigenous musical selections each broadcast week. Further, for the 2022-2023, 2023-2024 and 2024-2025 broadcast years, the CBC will be required to devote a minimum of 2.5% of all music broadcast on its French-language radio network and radio stations to Indigenous musical selections each broadcast week. For the 2025-2026 and 2026-2027 broadcast years, this level will be increased to a minimum of 3%. A **condition of licence** to that effect is set out in Appendix 3 to this decision.
220. These percentages of Indigenous music will ensure increased support for Indigenous music creators and artists and will establish a sustained presence of music by Indigenous artists on all CBC radio networks and radio stations, not only in urban areas but also in remote and northern areas of Canada. They will also reinforce the public broadcaster's obligations to Indigenous Peoples living in Canada and will acknowledge the important place that traditional radio holds for them.
221. Although the Commission has no formal definition of "Indigenous musical selection," Broadcasting Decision 2017-198 provides wording that can be adapted for the purposes of this new condition of licence, pending the completion of the proceeding on the co-development of the new Indigenous broadcasting policy. Accordingly, this wording is provided in Appendix 2 to this decision.³⁰ Should a new definition of "Indigenous musical selection" be established following the implementation of the new Indigenous broadcasting policy, the Commission expects the CBC to file an application to amend this new condition of licence so that it may adopt the new definition.
222. The CBC's DMBUs currently have playlists dedicated to Indigenous artists. For the next licence term, the Commission will gain greater insight about Indigenous musical selections made available and discoverable on the CBC's audio DMBUs, as well as about the above-noted condition of licence and other efforts to support Indigenous music artists through the CBC's filing of the audio programming report, which is described in greater detail in the section entitled "Measurement framework and reporting requirements".

Training and internships

223. During this proceeding, the CBC stated that it has a number of ongoing internal training initiatives the goals of which are to make its workplace more inclusive and to develop in-house talent for future leadership roles. It gave the example of an outreach program in the

³⁰ "Indigenous musical selection" means a musical selection written or performed by a person who self-identifies as Indigenous, which includes First Nations, Métis and Inuit, and who resides in Canada.

form of Indigenous Junior J-School, which introduced journalism as a potential career path to Indigenous youth in Western Canada from grades 8 to 12. The CBC considered that such an initiative may encourage more Indigenous youth to enroll in journalism schools and eventually form part of the talent pool from which it could hire in the future. Finally, the CBC mentioned developing meaningful internship opportunities in conjunction with other organizations that place interested persons into actual production settings.

224. The Commission considers that the training initiatives and internship described by the CBC are positive in striving to achieve a more diverse workforce, which could eventually impact the reflection of diversity in programming. Accordingly, as set out in Appendix 3 to this decision, the Commission expects the CBC to continue its initiatives in these areas, as well as to develop new ones to allow more people to participate.

Canadian programming³¹

225. Subparagraphs 3(1)(m)(i) through (iii) of the *Broadcasting Act* state that programming provided by the CBC should be predominantly and distinctively Canadian; reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions; and actively contribute to the flow and exchange of cultural expression. Subparagraphs 3(1)(m)(vi) and (vii) state that the programming provided by the CBC should contribute to shared national consciousness and identity, and be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose. In accordance with subparagraph 3(1)(i)(v) of the *Broadcasting Act*, the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.
226. In regard to the above, the Commission’s overarching desired outcome relating to Canadian programming is that the CBC create, broadcast, and support relevant audiovisual and audio content that is predominantly and distinctively Canadian across all of its platforms. The specific outcomes to achieve, the tools to be used to achieve those outcomes, and the tools to be used to measure and report on whether those outcomes are being achieved are as follows:

Audiovisual services

Specific outcomes to achieve	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
The CBC’s audiovisual programming is predominantly and distinctively Canadian.	CPE conditions of licence for all English- and French-language services	Annual financial reporting Audiovisual production report Perception and consultation report

³¹ This section does not address issues relating to the news and information programming broadcast on the CBC’s licensed audiovisual and audio services, and made available on its audiovisual and audio DMBUs. Issues in this regard will be addressed below in the section entitled “News, and local and regional programming”.

Specific outcomes to achieve	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
The CBC supports the creation of original and original first-run Canadian content, including programming aimed at children and youth.	Exhibition condition of licence for English-language original first-run Canadian programming aimed at children under 13 years of age	Audiovisual production report
Canadians have access to Canadian programming that is relevant to them.	n/a	Perception and consultation report
The CBC creates, broadcasts, and supports the creation and production of PNI.	Expenditure conditions of licence for English- and French-language PNI	Annual financial reporting Audiovisual production report
The CBC supports independent producers, including independent producers that create children's programming.	Exhibition expectations for English- and French-language independent productions on licensed services and DMBUs Exhibition expectations for English- and French-language independent Canadian programming aimed at children under 13 years of age	Audiovisual production report Program logs

Audio services

Specific outcomes to achieve	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
The CBC's audio programming is predominantly and distinctively Canadian.	Conditions of licence for broadcasting quotas on Canadian selections Conditions of licence for broadcasting quotas on French-language vocal musical selections	Audio programming report Perception and consultation report
Music of Canadian artists, emerging Canadian artists and French-language artists is available, discoverable and promoted on the CBC's audio services (radio stations and DMBUs).	n/a	Audio programming report

Audiovisual services – Canadian programming

227. The CBC has an extensive in-house capacity to produce Canadian audiovisual and audio content as well as extensive partnerships with Canada's independent production community and content creators. In the Commission's view, consistent with the above-noted subparagraphs of the *Broadcasting Act*, it is incumbent on the CBC to contribute to a vibrant Canadian broadcasting system with the continued creation and broadcast of high-quality Canadian audiovisual and audio content.
228. In regard to its English- and French-language audiovisual services, the CBC proposed to maintain the current Canadian content exhibition requirements for its English- and French-language television services and networks, which are 75% during the broadcast day and 80% during the evening broadcast period. Further, the CBC proposed that the current Canadian content exhibition requirements for its discretionary services documentary Channel (75%), ICI ARTV (60%) and ICI EXPLORA (35%) be maintained during the broadcast day, but requested the removal of the evening exhibition requirements for those services. It noted that the required levels of Canadian content clearly exceed the standardized levels of 35% for discretionary services. At the hearing, the CBC stated that it had no intention of reducing the broadcast hours of Canadian content and that, on the contrary, it wanted to broadcast as many hours of such content as possible.
229. Currently, the CBC is not subject to any CPE requirements relating to its English- and French-language television stations and networks. In its applications, it indicated that it was opposed to such a requirement for these services, but added that should the Commission determine that an expenditure requirement is necessary, it should be a multiplatform requirement, based on programming expenditures.
230. Nevertheless, during the 2014-2015 through 2019-2020 broadcast years,³² the percentage of CPE compared to all programming expenditures for the CBC's licensed English- and French-language networks and television stations (excluding CBC News Network and ICI RDI) was stable, with an average of 84.8% for its French-language services and 83.4% for its English-language services. The CBC stated that for the 2020-2021 through 2022-2023 broadcast years, it expects to maintain its CPE at 84.9% of its programming expenditures for its French-language services, but also expects a slight decrease to 82.1% in CPE for its English-language services.
231. In regard to its discretionary services, the CBC proposed that the current expenditure requirements for documentary Channel and ICI ARTV, which are 43% and 50%, respectively, of gross revenues from the previous broadcast year, be maintained. For ICI EXPLORA, it proposed a new CPE requirement whereby 40% of the service's revenues from the previous broadcast year would be devoted to Canadian programming. In this regard, the Commission notes that the CBC largely exceeded its conditions of licence and plans to maintain them.

³² The Commission did not take into consideration the 2013-2014 broadcast year (i.e., the first year of the current licence term) given that programming expenditures were significantly higher due to the Olympic Games and the World Cup.

232. The CBC submitted updated CPE data for its discretionary services for the last three broadcast years (i.e., the 2017-2018 through 2019-2020 broadcast years). It explained that recent CPE for documentary Channel were much higher because it had to cover the costs of adding video description to the programs, and that without this expense, the average CPE for the last three years would be 44% of the service's revenues from the previous broadcast year. The CBC requested that the Commission take these additional expenditures into consideration when setting the CPE level for that service.
233. When questioned on the possibility of standardizing the language for calculating CPE used in its conditions of licence for its discretionary services, the CBC proposed the Commission's standardized wording for the discretionary services that are not subject to group expenditure requirements, which refers both to the minimum percentage of the previous broadcast year's gross revenues to be devoted to the acquisition of or investment in Canadian programming, and to flexibility relating to CPE under-expenditures over the licence term.

Positions of parties

234. In regard to documentary Channel, the Canadian Media Producers Association (CMPA) and OSM requested that the 75% evening broadcast period exhibition requirement be maintained. In their view, the current condition of licence provides the CBC with enough flexibility to broadcast foreign documentaries. These interveners also proposed a CPE requirement of 46% of the revenues from the previous broadcast year for the service.
235. In regard to ICI EXPLORA, the AQPM proposed a CPE requirement of 52% of gross revenues from the previous broadcast year, whereas the APFC supported the CBC's proposal. In regard to ICI ARTV, the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) proposed a CPE requirement of at least 68%, whereas the APFC proposed a minimum of 60%. AQTIS-ARRQ-SARTEC-UDA proposed that this service be subject to a requirement that would increase the CPE requirement from 50% to 70% over the course of the licence term.
236. In its final reply, the CBC did not propose any amendments in regard to exhibition requirements for its discretionary services, and reiterated that levels currently set out by condition of licence are above the standardized level of 35%.
237. In regard to expenditure requirements for its discretionary services, the CBC reiterated its proposal for ICI ARTV that it should be maintained at 50% of the previous broadcast year's gross revenues, for the same reasons discussed above. Further, in line with its above-noted claim regarding the CPE level for documentary Channel that excludes the cost of providing video description, the CBC requested a CPE level of 44% for that service.

Commission's analysis

Exhibition requirements

238. During the current licence term (as well as previous licence terms), the CBC has exceeded its minimum Canadian content exhibition requirements on its networks, television stations and discretionary services, and has demonstrated that broadcasting Canadian content is its priority. In addition, the CBC's mandate under the *Broadcasting Act* is very clear: its

programming must be predominantly and distinctively Canadian. While this mandate is not, in and of itself, a requirement, the CBC's parliamentary funding is tied to the achievement of this mandate. In the Commission's view, there is little to no risk that the CBC will decrease the amount of Canadian programming it broadcasts should the exhibition requirements be removed.

239. Furthermore, and as stated in the introductory section of this decision, the Commission considers that an exhibition requirement is not the most appropriate regulatory tool for certain types of programming in an evolving multiplatform broadcasting system. In regard to Canadian programming made available on DMBUs, the calculation of the number of hours of exhibition on the CBC's digital platforms is not relevant since programming on these services is available on demand at any time.
240. Based on the above, the Commission is not imposing a Canadian content exhibition requirement on the CBC's English- and French-language licensed audiovisual services for the next licence term.

Expenditure requirements

241. In regard to total expenditures, the Commission reviewed the expenditures made for all of the CBC's licensed services and ICI TOU.TV and CBC Gem combined, from the 2014-2015 through 2019-2020 broadcast years. The percentages of CPE that the CBC dedicated to French- and English-language services were stable (yearly totals are within 2 to 2.5 percentage points of the average). Programming and production expenditures as a percentage of total expenditures were also stable, with an average of 70.7% for the French-language services (excluding ICI RDI) and 68.1% for the English-language services (excluding CBC News Network).
242. Generally, in regard to the CBC's DMBUs, CPE on CBC Gem and ICI TOU.TV account for a lower percentage of total programming and production expenditures compared to its licensed television networks and stations. In the Commission's view, providing the CBC with the flexibility to count CPE devoted to its DMBUs towards meeting its CPE requirements would help to ensure that Canadians have access to predominantly and distinctively Canadian programming on the CBC's linear and digital platforms.
243. In light of the above, and to ensure the continued achievement of the outcome and mandate objective that the CBC's programming be predominantly and distinctively Canadian, the Commission finds that it would be appropriate to adopt a multiplatform expenditure approach for all of the CBC's English- and French-language audiovisual services. The Commission notes, however, that as explained in the introductory section of this decision, the expenditure requirement will only be imposed on the licensed services.
244. These new CPE requirements will be imposed on the CBC's services separately for each language market. Specifically, requirements will be imposed on the CBC's group of licensed English-language services (network, television stations, and the discretionary service documentary Channel) and on the CBC's group of licensed French-language services (network, television stations, and the discretionary services ICI ARTV and ICI EXPLORA). For the purposes of the CPE requirements to be imposed on the CBC, the Commission is not including the national news discretionary services CBC News Network and ICI RDI as part

of each respective language group, given that these news services are already subject to Canadian programming requirements, set out in the appendix to Broadcasting Regulatory Policy 2015-436, and given that they benefit from mandatory distribution pursuant to paragraph 9(1)(h) of the *Broadcasting Act* in official-language minority markets.

245. Therefore, for the purposes of calculating these expenditure requirements (separately for English- and French-language services), the denominators include total expenditures on Canadian programming for the CBC's licensed television services (networks, all television stations and all discretionary services listed in Appendix 1 to this decision, excluding CBC News Network and ICI RDI) and the audiovisual DMBUs that the CBC operated in the reported broadcast year. The requirements are imposed on the above-noted licensed television services (networks, television stations and discretionary services, excluding CBC News Network and ICI RDI).
246. Further, in regard to the threshold to impose, as the CBC is being granted the flexibility to count expenditures made for Canadian programming on its DMBUs, the Commission is basing the CPE requirements on historical expenditures on programming and production for both licensed services and DMBUs. In addition, the percentage of CPE should be based on the 2017-2018 to 2019-2020 broadcast years, as this would take into account the CBC's new programming direction, and given that historical financial data for CBC Gem³³ only goes back three years.
247. By replacing the exhibition requirement with an expenditure requirement and allowing expenditures made for programming on DMBUs to be included, the CBC would gain the flexibility it has clearly indicated it needs to continue to fulfill its mandate and serve Canadians on the platform of their choice. In light of this flexibility, the Commission finds that it would be appropriate to impose on the CBC's English- and French-language services a CPE level that is slightly higher than its historical expenditure levels. Specifically, the CBC will be required to devote not less than 85% of the amount it allocates to programming expenditures on its French-language audiovisual programming services to CPE in each broadcast year. Further, the CBC will be required to devote not less than 85% of the amount it allocates to programming expenditures on its English-language audiovisual programming services to CPE each broadcast year. The Commission notes that Public Notice 1993-93 sets out criteria for determining costs and expenses that can be counted as CPE. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.
248. The Commission acknowledges that basing CPE on programming expenditures for the current broadcast year may make planning somewhat more difficult. In order to allow the CBC to better manage its expenditures, especially when production costs are spread over several years, the Commission will permit the CBC to avail itself of flexibility in regard to its CPE under-expenditures and over-expenditures. Specifically, the CBC will be permitted to make CPE under-expenditures of up to 10% during each broadcast year of the licence term, with the exception of the final broadcast year. Further, where the CBC expends an amount for a year of the licence term on CPE that is greater than the minimum required expenditures calculated in accordance with the appropriate conditions of licence relating to CPE, it may deduct that amount from the total minimum required expenditures in one or more of the

³³ Historical financial data goes back to the 2016-2017 broadcast year for ICI TOU.TV and the 2017-2018 broadcast year for CBC Gem.

remaining years of the licence term. Notwithstanding the above, the CBC will be required, over the course of the licence term, to expend on CPE, at a minimum, the total of the minimum required expenditures calculated in accordance with its conditions of licence relating to CPE. **Conditions of licence** to that effect are set out in Appendix 3 to this decision.

Audiovisual services – Programs of national interest

249. For its French-language network and television stations, the CBC proposed that it be required to broadcast at least 6 hours of PNI³⁴ per broadcast week, and that it be subject to an expectation to broadcast at least 8 hours of PNI per broadcast week on the network or on its DMBUs. For its English-language network and television stations, the CBC proposed that it be required to broadcast at least 7 hours of PNI³⁵ per broadcast week, and that it be subject to an expectation to broadcast at least 10 hours of PNI per broadcast week on the network or on its DMBUs.
250. At the hearing, the CBC was questioned on the financial impact that its proposal regarding the broadcast of PNI could have on its licensed audiovisual services. In reply, the CBC stated that the point was not to cut funding to PNI, and that the budget for PNI on a licensed audiovisual service was the same as the budget for PNI on a DMBU. In its view, such flexibility would allow it to offer programs that reach audiences who no longer use linear services. It added that producers must begin focusing on that type of production because audiences for linear services are growing smaller and smaller, and that it has no interest in producing low-budget productions if it is to compete with services like Netflix.
251. The CBC further noted that its proposal regarding the number of hours of PNI to be broadcast was only a minimum, not a cap, and that it would broadcast more if possible. Further, it specified that PNI would be counted either on the DMBU or on the linear service, and would not be counted twice. In the CBC's view, the method for measuring content on linear services or online is the same.
252. The CBC added that it was against accounting for the PNI available on its DMBUs in the same way as on its video-on-demand (VOD) undertakings (as specified in Broadcasting Regulatory Policy 2017-138, compliance by VOD undertakings is currently determined based on a percentage of titles offered rather than on hours of availability). In this regard, it noted that it offers programming that is broadcast live and a library of on-demand programs. In the CBC's view, the best way of counting the PNI offered on its DMBUs would be to count for each broadcast year the number of hours of programming for each different PNI offered. It added that if the Commission implemented a multiplatform expenditure requirement, it would be possible to track the expenditures for PNI and report on them for all platforms.

³⁴ For the French-language markets, PNI include programming drawn from program categories 2(b) Long-form documentaries; 7 Drama and comedy; 8(a) Music and dance; 8(b) Music video clips; 8(c) Music video programs; and 9) Variety, along with specific Canadian award shows that celebrate Canadian creative talent that qualify as PNI.

³⁵ For the English-language market, PNI include programming drawn from program categories 2(b) Long-form documentaries and 7 Drama and comedy, along with specific Canadian award shows that qualify as PNI.

253. Finally, the CBC indicated that the shifting of financial resources from linear to digital could represent up to 10% of its annual budget for PNI broadcast on conventional television.

Positions of parties

254. Interveners including the CMPA, AQTIS-ARRQ-SARTEC-UDA, the AQPM, the Canadian Association of Broadcasters (CAB), the APFC, OSM, the Writers Guild of Canada (WGC), the Directors Guild of Canada (DGC) and the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) proposed that the CBC be subject to a PNI expenditure requirement in addition to a PNI exhibition requirement. However, most did not agree on how such an expenditure requirement should be imposed. Some, including the CAB, proposed a requirement based on the CBC's historical expenditures over three broadcast years. Others proposed a requirement based on percentages of revenues from the previous broadcast year (for example, the DGC proposed 28%; the AQPM, 20%; and AQTIS-ARRQ-SARTEC-UDA, 22%) or based on a percentage of total programming expenditures or CPE (the APFC). In their view, expenditure requirements are essential for ensuring that PNI are not low-budget productions. The DGC noted that since the issuance of Broadcasting Regulatory Policy 2015-86, PNI have mostly been discussed in terms of expenditures and not hours of exhibition.
255. Further, most interveners, including the CMPA, AQTIS-ARRQ-SARTEC-UDA, the AQPM, the CAB, the WGC, the DGC and ACTRA, proposed that the CBC be subject to a PNI exhibition requirement rather than a PNI expectation given that there is no regulatory requirement that expectations be fulfilled. In this regard, the CAB and OSM proposed that the current PNI requirements be maintained. AQPM, AQTIS-ARRQ-SARTEC-UDA and ACTRA proposed that the CBC's French-language network be subject to a requirement to broadcast 10 hours of PNI each broadcast week during the evening broadcast period, whereas the DGC proposed that the CBC's English- and French-language networks be subject to a requirement to broadcast 12 hours of PNI each broadcast week. Many interveners indicated that they did not understand why the CBC needs flexibility, and expressed the view that PNI produced for digital services can be equally adequate for linear services. Interveners considered PNI to be crucial given that drama programs and documentaries still require regulatory support as they constitute high-risk, high-cost programming.
256. The CMPA and the DGC indicated that for 2020, the CBC's declared PNI expenditures were \$30 million below what it had submitted in its financial projections at the start of the proceeding.
257. For the CBC's English-language television network, many interveners, including the CMPA, OSM and the DGC, requested that the condition of licence requiring the broadcast of two hours of PNI per broadcast week in both program categories³⁶ 2(b) Long form documentary and 7 Drama and comedy be maintained.

³⁶ The program categories for television are set out on the Commission's website under [Television Program Categories](#).

Commission's analysis

258. The CBC's English- and French-language networks and television stations are currently subject to requirements relating to the broadcast of PNI during peak viewing times. Based on program logs, the CBC's English- and French-language networks and stations have exceeded the exhibition requirements over the current licence term, for both the English- and French-language markets.
259. When compared to the largest private ownership groups, for the 2017-2018 through 2019-2020 broadcast years, the average PNI expenditure levels for the CBC's French-language services are on par with those of the French-language private groups, while the average PNI expenditure levels for the CBC's English-language services have exceeded those of the English-language private groups as many of the CBC's popular English-language programs are PNI.
260. Based on the 2014-2015 through 2019-2020 broadcast years, the CBC's discretionary services devoted the following percentages of their CPE to their PNI: ICI EXPLORA, 40.8%; ICI ARTV, 60.2%; and documentary Channel, 98.7%.
261. In regard to the statement by certain interveners that the CBC's PNI expenditures are in decline, the Commission notes that the CBC's total revenues are also in decline. Despite the decreases in revenues and in expenditures, the CBC's PNI expenditure levels as a percentage of CPE or programming and production expenses increased since the beginning of the current licence term. Moreover, given that PNI are often ordered well in advance and that their value depreciates over several years, an annual decrease in expenditures does not necessarily result in less engagement in terms of exhibition or current expenditures.
262. In Broadcasting Regulatory Policy 2010-167, the Commission cited drama programs and documentary programs (both of which fall under PNI) as central vehicles for communicating Canadian stories and values. As such, these types of programs serve the national interest. However, as noted in Broadcasting Regulatory Policy 2015-86, programming that counts as PNI is generally expensive to produce and carries with it a greater risk of unprofitability. Consequently, although the CBC clearly demonstrated its commitment to investing in these types of programs, the Commission finds that it is necessary to put requirements in place to ensure the continuity of PNI production.
263. Although the CBC's proposal guarantees that a minimum amount of PNI programming would be broadcast on licensed services, the Commission notes that for digital platforms, counting hours of programming is not ideal given that services operating on the digital platform offer content on demand.
264. In regard to the possibility of calculating PNI as a percentage of the titles offered rather than as hours available (as is the case for VOD services), offering a fixed percentage of PNI titles will not guarantee that PNI is created since the same programs can be rebroadcast. Moreover, the imposition of a condition of licence to that effect would limit the CBC's ability to offer programming content other than PNI, and would be a constraint for both the CBC and the Commission given that verifying compliance with such a condition of licence would use a large amount of administrative resources.

265. In line with its determinations regarding the imposition of CPE requirements, the Commission is imposing PNI requirements that are based on expenditures and not on hours of exhibition. Further, the Commission finds that PNI expenditure requirements based on a percentage of total CPE that allows the CBC to count expenditures made for PNI on DMBUs would guarantee the production of PNI while giving the CBC the flexibility it needs to produce its programs in a similar manner across all platforms on which it broadcasts or makes programming available. These PNI expenditure requirements are being imposed separately in the English- and French-language markets.
266. For the purposes of calculating the PNI expenditure requirements (separately for English- and French-language services), the denominators include total expenditures on Canadian programming for the CBC's licensed television services (networks, all television stations and all discretionary services listed in Appendix 1 to this decision, excluding CBC News Network and ICI RDI) and the audiovisual DMBUs that the CBC operated in the reported broadcast year. The requirements are imposed on the above-noted licensed television services (networks, television stations and discretionary services, excluding CBC News Network and ICI RDI).
267. In regard to the calculation of the thresholds to be imposed, the CBC's average PNI expenditures as a percentage of its CPE for both its English- and French-language services from the 2017-2018 through 2019-2020 broadcast years were over 40% for its French-language network and stations and over 50% for its English-language network and stations. The CBC's projections for the 2020-2021 through 2022-2023 broadcast years are even higher. Given that the 2017-2018 through 2019-2020 broadcast years represent the most recent three-year average for the CBC's PNI expenditures, the Commission finds that it would be appropriate to use that average as a baseline for calculating the new PNI expenditure requirements for the public broadcaster, for both conventional television and discretionary services.
268. Since the Commission does not have data on PNI-specific expenditures separately for DMBUs, it finds that it would be appropriate to base requirements on the average percentage of expenditures for the CBC's television networks and stations and discretionary services. The addition of PNI for discretionary services to the PNI expenditure calculations would not have a significant impact given that the expenditures of these services are relatively minimal compared to the CBC's English- and French-language networks and television stations. On average, PNI expenditures for documentary Channel account for only 2.2% of the CBC's total PNI expenditures, while PNI expenditures for ICI EXPLORA and ICI ARTV account for only 0.9% and 4.7%, respectively, of the CBC's total PNI expenditures.
269. As a result, the Commission is imposing the following PNI expenditure requirements:
- not less than 42% of the amount the CBC allocates to CPE on its French-language audiovisual programming services shall be devoted to the acquisition of or investment in French-language Canadian PNI in each broadcast year; and

- not less than 55% of the amount the CBC allocates to CPE on its English-language audiovisual programming services shall be devoted to the acquisition of or investment in English-language Canadian PNI in each broadcast year.

270. The discrepancy in historical expenditures between the PNI amounts the CBC allocated to its English-language audiovisual programming services and its French-language audiovisual programming services can be explained by the fact that many French-language audiovisual programs that rank in the top 15 most popular programs are entertainment programs, which do not count as PNI.

271. In the Commission's view, this reflects the different realities and needs of each language market as stated in the *Broadcasting Act*.³⁷ Therefore, the Commission considers that it would not be appropriate to impose higher PNI requirements on the CBC's French-language services.

272. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.

Audiovisual services – Original first-run Canadian programming

273. As set out in the *Television Broadcasting Regulations, 1987* and the *Discretionary Services Regulations*, an "original first-run program" is defined as the "original exhibition of a program that has not been broadcast or distributed by another licensed broadcasting undertaking."

274. In its application, the CBC proposed to produce separate annual reports for its English- and French-language services on the number of hours of original first-run Canadian programming broadcast on its networks, with the expectation that the reports also cover the digital platforms. It specified that it would count the original first-run program on the platform of its choice.

275. The CBC therefore proposed to amend the definition of "original first-run" as follows:

If the program has not previously been made available by any other Canadian broadcasting undertaking to the public anywhere in Canada either by means of a linear broadcast or on an on-demand basis, provided that [the CBC] contributed to a program's production financing with third parties, it can be counted as "original, first-run" even if the third parties who contributed to its financing made it available on their platforms before it is made available on a [CBC] platform.

Positions of parties

276. Many of the interveners requested that the Commission adopt a clear and specific definition of "original first-run program." In this regard, the DGC did not oppose the definition proposed by the CBC, but submitted that the same definition must be used for all broadcasters. For its part, the AQPM opposed the CBC's proposed definition and requested

³⁷ Paragraph 3(1)(c): "English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements."

that the Commission retain its current definition. In the AQPM's view, if a production is co-produced, and if both broadcasters declare the program as original, there would in the long run be less original programming. AQTIS-ARRQ-SARTEC-UDA requested that the Commission adopt the definition provided in Broadcasting Decision 2018-334,³⁸ and noted that they are not opposed to co-production as long as the programming is broadcast simultaneously on the different services. The WGC expressed concern over the possibility that an original first-run program is counted twice (on digital platforms and on linear platforms).

277. In its final reply, the CBC expressed the view that the Commission's definition of "original first-run program" set out in the *Television Broadcasting Regulations, 1987* and the *Discretionary Services Regulations* is still relevant for all linear services and could apply to the CBC's licensed services. However, the CBC reiterated its proposed definition of "original first-run programming" for its DMBUs:

Original first-run programming: a program that has not already been made available to the public by another Canadian broadcasting undertaking, anywhere in Canada, through either linear or on-demand service.

278. The CBC added that the aspect of co-production would only cover children's programming.

279. The CBC further requested that it be allowed to count an original first-run program on the platform of its choice, and guaranteed that it would be counted only once.

Commission's analysis

280. At the time of the last renewal of the broadcasting licences for the CBC's audiovisual and audio services in 2013, the only definition of "original first-run program" related to programs for children. Moreover, the only requirements relating to the broadcast of original first-run programming are those that apply to children's programming.³⁹

281. The first definition proposed by the CBC includes the aspect of co-production, so that broadcast programs can be counted at its discretion, to which various interveners expressed firm opposition. However, the Commission notes that the CBC amended its proposal in its final reply and requested that only the aspect of co-production for children's programming be retained.

282. In the Commission's view, in light of the rapidly evolving viewing habits of Canadians on multiple platforms, a standard definition of "original first-run program" should reference both licensed services and DMBUs.

283. In light of comments from interveners, the CBC proposed keeping the current definition for licensed services. Although the CBC noted that it would not count a same original first-run program twice on both its licensed services and DMBUs, its proposed definition would not

³⁸"French-language original program" means a first-run Canadian program produced in French presented in first broadcast in the French-language market, which excludes dubbed Canadian programs.

³⁹ This issue is discussed in greater detail below in the section on audiovisual programming for children and youth.

prevent it from counting a program already broadcast by a DMBU that it does not operate. In the Commission's view, it would be more appropriate to adopt a single definition for all of the CBC's services. Accordingly, and to ensure consistency with language used to date, the Commission is adopting the new definition largely based on the definition from the *Television Broadcasting Regulations, 1987* and the *Discretionary Services Regulations*. Moreover, for Canadian programs broadcast by non-Canadian DMBUs to also be taken under consideration, the Commission is specifying in that definition that the DMBUs referred to in the condition of licence are those that broadcast in Canada.

284. Accordingly, the Commission is adopting the following definition of "original first-run Canadian program" for the purposes of this decision for reporting purposes, and for the CBC's services going forward:

First broadcast of a program that has not been broadcast, distributed or made available by another licensed broadcasting undertaking or digital media broadcasting undertaking that broadcasts in Canada.

285. For the purposes of this definition, an original first-run program can be counted only once. In the event that it is broadcast at the same time on several of the CBC's services, the CBC is allowed to choose the platform on which it wishes the original first-run program to count. This definition will only apply for the purpose of reporting by the CBC.

Audiovisual services – Independent production

286. Pursuant to subparagraph 3(1)(i)(v) of the *Broadcasting Act*, the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector. For the current licence term, not less than 5.25 hours of PNI broadcast each broadcast week on the CBC's English-language services, and not less than 75% of the seven-hour minimum (i.e., 5.25 hours) of PNI broadcast each broadcast week on its French-language services, must be produced by independent producers.
287. In its applications, the CBC proposed requirements relating to independently produced PNI whereby at least 80% of PNI in both language markets would be dedicated to Canadian programming produced by independent producers. Further, the CBC proposed an expectation that it dedicate at least 80% of the Canadian audiovisual content it broadcasts each broadcast year to programs produced by Canadian independent producers (except for news, sports and current affairs programs) for its English- and French-language television networks and television stations.
288. In addition, for its discretionary service documentary Channel, the CBC proposed that the current requirements to allocate at least 75% of its exhibition hours to original first-run Canadian content produced by independent producers and to allocate at least 25% of CPE to content produced by independent producers (except for news, sports and current affairs programming) be maintained. For its discretionary service ICI ARTV, the CBC proposed

that the current requirement to allocate at least 50% of CPE to content produced by independent producers be maintained.⁴⁰

289. The CBC stated that most of its Canadian programming is produced by independent producers and that it has allowed just as many talents and innovative projects to emerge. It also indicated, in its final reply, that it was in favour of a requirement for multiplatform expenditures that would establish a threshold for expenditures on audiovisual programming produced by Canadian independent producers, but did not specify what the threshold percentage would be.

Positions of parties

290. Most of the interveners who commented on the issue of independent productions voiced concerns over commercial deals and the fact that production negotiations are increasingly difficult.

291. Certain producer associations proposed that the CBC be required to allocate a minimum of its CPE or PNI expenditures to productions from independent producers.

292. The CAB stated that it would support the imposition of a new condition of licence requiring all of the CBC's television services to devote 100% of programming other than news, sports and information programming to programs produced by independent production companies. For its part, the AQPM proposed that the CBC, for its French-language services, be subject to an expenditure-based requirement for Canadian programs, 50% of which should be devoted to independent productions.

293. Many interveners supported increased commitments to independently produced programming, specifically in regard to the newly proposed expectations that the CBC ensure that not less than 80% of audiovisual programming on its networks and stations and digital platforms, and that not less than 80% of PNI on its networks and stations, are Canadian programs produced by independent production companies.

294. In reply to the interventions, the CBC reiterated its proposal to increase its overall commitment to independent productions.

Commission's analysis

295. The Commission notes that the CBC has exceeded its requirements relating to independently produced PNI during the current licence term for both its English- and French-language services. Specifically, for its English-language services, 94% of the PNI broadcast each broadcast week was produced by independent producers, whereas for its French-language services, up to 93% of the PNI broadcast each broadcast week was produced by independent producers.

⁴⁰ In regard to independent productions, the CBC also proposed measures relating to children's programming. These are addressed in the section on audiovisual programming for children and youth.

296. Although the CBC's current requirements for independent productions are limited, when looking more generally at the data for the current licence period, the percentage of Canadian programs (other than news, sports and current affairs programs) that were produced by independent producers steadily increased over that period of time. The Commission is therefore satisfied that the CBC, even without a more expansive requirement to do so, has increasingly engaged with independent producers as part of its programming strategy.
297. In regard to allocated expenditures to independent producers, the Commission notes that although they reflect exhibition percentages and that these percentages are similar in both language markets, the CBC has been devoting a greater level of expenditures to English-language independent productions than to French-language independent productions during the current licence term. In the Commission's view, this could stem from production costs that are generally higher in the English-language market compared to the French-language market.
298. In regard to discretionary services, for the 2017-2018 through 2019-2020 broadcast years, a substantial majority of the total expenditures on programming was devoted to programs produced by independent producers, and the expenditure percentages have been increasing ever since.
299. In the Commission's view, the use of independent producers is essential for ensuring the reflection of Canadian culture on the CBC's services and for ensuring that the CBC's programs are varied. The results relating to programs produced by independent producers in terms of both expenditure and exhibition levels reflect the CBC's desire to work with independent producers. This desire was also demonstrated throughout the licence renewal proceeding and through the CBC's undertakings, where it indicated that it is in agreement with a requirement relating to an expenditure threshold for programming produced by independent producers, without deeming it necessary to set a percentage.
300. Given the above, and given the higher costs of producing programming in-house, the Commission finds that it would be unlikely for the CBC to decrease its collaborations with independent producers. Further, funding from the Canada Media Fund (CMF), along with tax credits based on the use of independent producers and the risks associated with taking on all responsibilities and related costs that are inherent to internal production, will provide the CBC with financial incentives to maintain such collaborations. Accordingly, the Commission finds that it is not necessary to impose any exhibition or expenditure requirements on the CBC in regard to independent productions.
301. Nevertheless, given the essential role that independent producers play in regard to the varied nature of the CBC's programming, the Commission has set out in Appendix 3 to this decision expectations, similar to what was requested by the CBC, relating to the exhibition of the following types of programs to be produced by Canadian independent production companies each broadcast year:
- Canadian audiovisual content broadcast each broadcast year on its English- and French-language networks and stations (excluding CBC News Network and ICI RDI) – not less than 80%;
 - French-language PNI broadcast on its French-language services (excluding ICI RDI) – not less than 80%;

- English-language PNI broadcast on its English-language services (excluding CBC News Network) – not less than 60%;
- Canadian programs broadcast on ICI ARTV – not less than 50%;
- original first-run Canadian programming broadcast on documentary Channel – not less than 75%; and
- Canadian programs broadcast on documentary Channel, other than news, sports, and current affairs programming – not less than 25%.

302. Further, as set out in Appendix 4, the Commission expects that, in both language markets, not less than 80% of all original first-run audiovisual Canadian programming made available on the CBC’s DMBUs during each broadcast year, other than news, sports, programming aimed at children under 13 years of age, and current affairs programming (program categories 1, 2(a), 6(a) and 6(b)), be produced by Canadian independent production companies.

Audiovisual services – Feature films

303. The CBC’s English-language television network and television stations are currently required, by condition of licence, to broadcast during each broadcast month a minimum of one Canadian feature film drawn from program category 7(d) Theatrical feature films aired on TV. This requirement is in addition to the current requirement relating to the broadcast of PNI. The Commission imposed this requirement in Broadcasting Decision 2013-263 as a means of showcasing Canadian film-making talent and supporting Canada’s feature film industry.

304. For the CBC’s English-language television network, certain interveners requested that the requirement to broadcast one feature film per month be maintained. The DGC proposed that the CBC be required to allocate from 3% to 5% of its revenues to feature films on its linear and digital services.

305. Canadians’ television entertainment choices have changed considerably since 2013, with more Canadians turning to subscription video-on-demand (SVOD) services and to digital services, where they can watch movies at their own convenience and without advertising. Further, when the Commission imposed the above-noted condition of licence, the service CBC Gem, which offers a large selection of Canadian films, did not exist. The Commission also notes that feature films will be captured in the new expenditure requirements for PNI as feature films are included under the program category 7(d) Theatrical feature films aired on television, which counts as PNI. The Commission further notes that the CBC’s average annual expenditures⁴¹ for feature films are just above \$1 million.⁴²

⁴¹ Based on the 2015-2016 through 2019-2020 broadcast years.

⁴² According to a [report by Telefilm Canada entitled “Profile 2019 – Economic Report on the screen-based media production industry in Canada”](#), English-language film production during the 2018-2019 broadcast year was \$224 million.

306. In light of the above, the Commission finds that it is not necessary to re-impose the condition of licence relating to Canadian feature films. Nevertheless, the Commission and Canadians will be able to monitor the broadcast of Canadian feature films on the CBC's licensed services and the availability of feature films on its DMBUs through the audiovisual production report to be filed by the CBC, which is addressed in greater detail in the section "Measurement framework and reporting requirements".

Audiovisual services – Programming for children and youth

307. Subparagraph 3(1)(i)(i) of the *Broadcasting Act* states that the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes. As a public broadcaster, the CBC plays an important role in achieving these objectives.
308. The Commission's desired outcome relating to programming for children and youth is for the CBC to create, broadcast, and support the creation and production of children's and youth programming across all of its platforms, and ensure that children and youth have access to relevant, predominantly Canadian programming.
309. For its licensed English- and French-language conventional television networks and stations, the CBC is currently required, by condition of licence, to broadcast a minimum of 15 hours per week, averaged over the broadcast year, of Canadian programming aimed at children under 12 years of age.⁴³ In its applications relating to its audiovisual services, the CBC proposed maintaining these required minimum numbers of programming hours, but requested that the programs target children under 13 years of age, rather than children under 12 years of age. The Commission notes that this change reflects the current target audience categories prescribed in the *Television Broadcasting Regulations, 1987*, which state that preschoolers are from 0 to 5 years of age, and children are from 6 to 12 years of age.
310. For its licensed French-language conventional television network and stations, the CBC is currently required, by condition of licence, to broadcast a minimum of 100 hours per broadcast year of original first-run Canadian programming aimed at children under 12 years of age.⁴⁴ In its application relating to its French-language audiovisual services, the CBC requested that the requirement relating to the broadcast of original first-run children's programming now include programming targeting both children and youth, and that the amount be decreased, from 100 to 80 hours per broadcast year for ICI TÉLÉ. For its licensed English-language conventional television network and stations, of the above-noted required 15 hours of Canadian programming per broadcast week aimed at children under 12 years of age, the CBC is currently required, by condition of licence, to broadcast a minimum of one hour per week, averaged over the broadcast year, of original first-run Canadian programming (which represents a minimum of 52 hours of such programming per broadcast year).⁴⁵ In its application relating to its English-language audiovisual services, the CBC proposed a

⁴³ See conditions of licence 13 and 20 set out in Appendix 3 to Broadcasting Decision 2013-263.

⁴⁴ See condition of licence 13(b) set out in Appendix 3 to Broadcasting Decision 2013-263.

⁴⁵ See conditions of licence 13 and 20 set out in Appendix 3 to Broadcasting Decision 2013-263.

reduction in the amount of that programming (for both children and youth) to be broadcast, from 52 to 40 hours per broadcast year for CBC Television.

311. In addition, for its licensed English- and French-language television networks and stations, the CBC is currently subject to an expectation that it broadcast a minimum of five hours per week, averaged over the broadcast year, of Canadian programming targeting youth (from 12 to 17 years of age). It is also subject to an expectation that the hours of programming for children under 12 years of age be reasonably allocated between programs for preschool and school-age children. In its applications relating to its audiovisual services, the CBC requested the deletion of those expectations, and proposed instead to increase its overall commitment to original first-run Canadian programming through a multiplatform expectation to broadcast a minimum of 110 hours of original first-run French-language Canadian programming targeting children and youth each broadcast year on ICI TÉLÉ/ICI TOU.TV and to broadcast 80 hours of original first-run English-language Canadian programming targeting children and youth each broadcast year on CBC Television/CBC Gem. The CBC stressed that its multiplatform offering will depend on research into children's and youth consumption habits, consumption trends and the availability of high-speed Internet access across the country. The CBC added that it would only count an original first-run program once on a single platform (linear or DMBU).
312. The CBC also stated that it wishes to maintain the current definition of "original first-run Canadian programming" for the purposes of the requirements relating to children's programming. For the CBC's English- and French-language stations, the current definition, set out in Appendix 3 to Broadcasting Decision 2013-263, reads as follows:
- (i) a Canadian program that, at the time of its broadcast by the licensee, has not been previously broadcast by the licensee or any other licensee; or
 - (ii) if the licensee contributed to the program's pre-production financing, a Canadian program that has only been previously broadcast by another licensee that also contributed to its pre-production financing.
313. In regard to the French-language market in particular, the CBC stated that this definition, which allows for the calculation of dubbed and partnered programs, should be maintained, given that these two aspects encourage the production of more quality programming for Canadian children. The CBC added that if the current definition is retained, it would maintain its proposal to broadcast a minimum of 100 hours of original first-run Canadian programming aimed at children and youth each broadcast year in the French-language market, and would increase for that same market its proposed multiplatform expectation from 110 to 120 hours per broadcast year.
314. For its licensed French-language stations, data provided by the CBC show that it broadcast, on average, 54 hours of original first-run Canadian programming dubbed in French during the 2017-2018 through 2019-2020 broadcast years, more than half of which consisted of pre-purchases with partners. In addition, the vast majority of original first-run Canadian programs dubbed in French were animation programs. The CBC also provided projections for original first-run hours of Canadian children's and youth programming for the 2021-2022

and 2022-2023 broadcast years, showing the increases in the percentages of dubbed programs and programs produced in French with a funding partner between these two years.

315. Reiterating its commitment to maintaining a strong linear television offering, particularly for preschoolers, the CBC stated that it plans to increase the amount of school-age and youth content that would be available exclusively on its DMBUs.
316. Finally, the CBC proposed to increase from 75% to 80% the amount of children's programming and original first-run programming aimed at children under 13 years of age to be broadcast on its English- and French-language stations and to be produced by independent production companies.

Positions of parties

317. The vast majority of interveners, including producers and industry groups, broadcasters, and public interest groups such as the CMPA, the WGC, ACTRA, the DGC, the CAB, the Forum for Research and Policy in Communications (FRPC) and PIAC opposed the proposed reductions in the amounts of original⁴⁶ first-run children's programming to be broadcast on the CBC's licensed stations in favour of higher multiplatform expectations that would combine broadcasting on its licensed stations and DMBUs. They noted that since hours of content made available on DMBUs are not equivalent to hours of content broadcast on licensed television stations, they cannot be measured in the same way. In regard to the CBC's licensed French-language stations, interveners noted the projections to broadcast approximately 170 hours of first-run original French-language children's and youth programming during the 2021-2022 and 2022-2023 broadcast years, and considered that the public broadcaster's proposed 80-hour requirement would be a significant reduction. Certain interveners submitted that nothing would prevent the CBC from offering only the bare minimum imposed by condition of licence given that expectations are not legally binding.
318. Several interveners including the Youth Media Alliance, the CMPA, AQTIS-ARRQ-SARTEC-UDA and the FRPC objected to the removal of the current expectations for the CBC's licensed television stations that a minimum of five hours of youth programming be broadcast per week, and that the hours of programming for children under 12 years of age be reasonably allocated between programs for preschool and school-age children. They argued that the CBC has a responsibility to serve all Canadians, including children and youth, and that its conditions of licence and expectations should reflect its commitment to these audiences.

⁴⁶ Intervenors referenced "original" programming and not "first-run" programming, consistent with the current condition of licence set out in Broadcasting Decision 2013-263. However, the definitions for "original program" and "original first-run program" have since been updated in the *Television Broadcasting Regulations, 1987* and the *Discretionary Services Regulations*. When using these updated definitions, the condition of licence set out in Broadcasting Decision 2013-263 relating to "original" children's programming is, in fact, that for "original first-run" programming (see Schedule 1 to each of the above-noted regulations). To demonstrate that it was meeting its requirements in this regard, the CBC logged this programming as "original first-run" in the program logs filed with the Commission. As such, in the present decision, in regard to the above-noted condition of licence, the Commission will refer to "original first-run" program to clarify that it is, in fact, a "first-run" program.

319. In regard to the CBC's French-language stations, AQTIS-ARRQ-SARTEC-UDA objected to the licensee counting programs dubbed in French for the purposes of compliance with its conditions of licence. These interveners added that any Canadian program dubbed in French should be a program where the dubbing duties are performed by Canadians.
320. AQTIS-ARRQ-SARTEC-UDA proposed that the CBC's definition of "original French-language program" be the same as that imposed on private broadcasters in Broadcasting Decision 2018-334, specifically, "a Canadian program produced in French and broadcast for the first time in the French-language market, which excludes dubbed Canadian programs."
321. The AQPM submitted that the vast majority of original live-action programs for children (i.e., non-animated programs) broadcast on ICI TÉLÉ should be produced originally in French, and that the CBC should commit to introducing more animated programs produced originally in French into its programming.
322. The CMPA stated that it would support multiplatform exhibition requirements only if the CBC also has expenditure requirements. In its view, expenditure requirements are the most proven, flexible and meaningful regulatory tool for ensuring the creation and presentation of high-quality original Canadian programming, and would ensure that the CBC meets its financial commitments for this type of programming.
323. The CMPA submitted that in recognition of the CBC's commitment to this type of programming, expenditure requirements for the public broadcaster should be based on its financial projections rather than on historical levels. It also stressed the importance of maintaining children's programming exhibition requirements for the CBC, given that it is the only broadcaster with specific requirements in this regard.
324. The APFC and La Table de concertation de l'industrie du cinéma et de la télévision de la capitale nationale (La Table) both made concrete proposals in regard to the CBC's expenditures on children's and youth programming. The APFC proposed that the CBC be subject to an expectation to devote at least 4% of the total combined CPE of the network and its owned and operated digital platforms to children's and youth programming in each broadcast year and over the totality of its licence term, and to devote at least 75% of these contributions to programming for children under the age of 13. La Table proposed requiring the CBC to spend each broadcast year at least 3% of the previous broadcast year's revenues on French-language animation programming, and that at least 75% of such programming be sourced from an independent production company.
325. In reply to the AQPM's proposals, the CBC stated that it would be prepared to adhere to a condition of licence requiring that at least 75% of its original first-run live action children's and youth programming on ICI TÉLÉ be produced in French. It further stated that it would agree to file an annual report to demonstrate that ICI TÉLÉ is meeting its requirements, and provide information relating to whether the original programming was pre-licensed with a partner or acquired, animated or live-action, and produced in French or dubbed.

Commission's analysis

Exhibition – Canadian audiovisual programming for children and youth

326. During the current licence term, the CBC has exceeded, in both language markets, its conditions of licence requiring the broadcast of a minimum of 15 hours per week, averaged over the broadcast year, of Canadian programming aimed at children under 12 years of age.
327. According to data from the 2019 Media Technology Monitor (MTM) Junior report provided by the CBC,⁴⁷ preschoolers (children from 2 to 6 years of age) still prefer to watch their programming on television (55% for television, compared with 45% for personal devices such as tablets, computers and smartphones), whereas school-age children (those from 7 to 11 years of age) are gradually migrating to DMBUs (42% for television, compared with 58% for personal devices). Further, migration to the digital platform is more pronounced among adolescents (30% for television, compared with 70% for personal devices).
328. The Commission acknowledges that maintaining the current requirements relating to the broadcast of children's programming in both language markets would ensure that the CBC offers such programming on a weekly basis on its licensed television stations. However, in light of the CBC's historical performance, the changing audiovisual consumption habits of children and youth, and the CBC's commitment to engaging with young audiences and building a lifelong relationship with them, the Commission considers it unlikely that the CBC would reduce its offerings of children's programming on its English- and French-language conventional television networks and stations should the Commission decide not to impose an exhibition requirement in this regard. Given the above, the Commission is confident that the CBC will continue over the next licence term to offer children's programming on its licensed television network and stations, build a relationship with them during that time, and reach them "where they are," as stated by the CBC during the proceeding.
329. Accordingly, for the next licence term, the Commission is not imposing on the CBC an exhibition requirement or expectation relating to programming targeting children and youth in either the English- or French-language markets.⁴⁸ However, the Commission will require the CBC to report on children's and youth programming in the production report and in the perception and consultation report, which are discussed in greater detail in the section "Measurement framework and reporting requirements".⁴⁹
330. The CBC noted that it intends to maintain a strong linear television offering, particularly for preschoolers, and to increase the amount of school-age children's and youth content exclusively offered on its DMBUs. In light of the above, the Commission is not adding any expectations relating to the amount of programming for children and youth to be made available on the CBC's DMBUs.

⁴⁷ This report was submitted by the CBC to the Commission on 3 February 2021, as part of the CBC's undertakings.

⁴⁸ This determination does not relate to original first-run Canadian children's programming, which is addressed below.

⁴⁹ The Commission examined the requirements regarding the broadcast of children's programming (i.e., 15 hours per week) and original first-run programming separately since these are two distinct requirements. The determination on original first-run Canadian children's programming is addressed below.

Definition of original first-run Canadian programming aimed at children under 13 years of age

331. When it last renewed the CBC's broadcasting licences in 2013, the Commission imposed the following definition of "original first-run Canadian programming" applicable only to the condition of licence relating to programming aimed at children under 12 years of age:⁵⁰ "(i) a Canadian program that, at the time of its broadcast by the licensee, has not been previously broadcast by the licensee or by any other licensee; or (ii) if the licensee contributed to the program's pre-production financing, a Canadian program that has only been previously broadcast by another licensee that also contributed to its pre-production financing." At the time, the Commission was of the view that recognizing a program as original for all of the broadcasting partners who contributed to financing its production was fair, given the exceptional nature of the resulting children's programming.
332. During this proceeding, the CBC indicated that the exceptional situation for children's programming, as recognized by the Commission in 2013, is still the same today, and submitted that maintaining the above-noted flexibility is necessary. It stated that by maximizing resources, partnerships and collaborations in television, it has been able to create the financial flexibility to continue investing in the development and production of a digital offering for Canadian children. The CBC further stated that there are often children's productions that involve several funding partners.
333. In the Commission's view, providing the regulatory certainty for the CBC to make significant financial contributions in pre-production, in partnership with other broadcasters, can maximize the development of children's programming, ultimately contributing to the production of quality original children's programming for the Canadian broadcasting system.
334. As noted above, in regard to the CBC's audiovisual services in general, for the present licence renewal and for reporting purposes, the Commission has adopted the following definition of "original first-run Canadian program": "First broadcast of a program that has not been broadcast, distributed or made available by another licensed broadcasting undertaking or DMBU that broadcasts in Canada."
335. Therefore, for the CBC's next licence term, the Commission is adopting the following definition of "original first-run Canadian program" for the purpose of programming aimed at children under 13 years of age:

First broadcast of a program that has not been broadcast, distributed or made available by another licensed broadcasting undertaking or digital media broadcasting undertaking that broadcasts in Canada, unless that undertaking also contributed to the pre-production financing of the program.

336. The aforementioned audiovisual production report to be filed by the CBC will allow the Commission and stakeholders to identify partnership-funded programming so that the impact of the adoption of this definition, which includes programming made available online, on the broadcasting system as a whole can be assessed.

⁵⁰ Condition of licence 13 set out in Appendix 3 to Broadcasting Decision 2013-263.

English-language original first-run Canadian programming aimed at children under 13 years of age – Exhibition requirement

337. During the current licence term, the CBC's conventional television network and stations in the English-language market broadcast an average of 1.03 hours of original first-run Canadian programming aimed at children under 12 years of age per week, which just meets the licensee's current minimum requirements in this regard (one hour per week, which represents 52 hours per broadcast year). In the Commission's view, should it approve the CBC's proposal in regard to the broadcast of original first-run Canadian programming aimed at children under 13 years of age, there is a risk that the CBC will reduce its offering of such programming on its licensed stations (specifically, from 52 to 40 hours per broadcast year, as it proposed).
338. Given the above, to help ensure that the outcomes relating to children's programming in the English-language market are achieved, and in accordance with subparagraph 3(1)(i)(i) and paragraph 3(1)(l) of the *Broadcasting Act*, the Commission is maintaining the requirement that the CBC broadcast one hour per week, averaged over the broadcast year, of original first-run Canadian programming aimed at children under 13 years of age on its English-language conventional television network and stations. A **condition of licence** to that effect is set out in Appendix 3 to this decision.
339. This condition of licence refers to children under 13 years of age to reflect the current target audience categories for program logs in accordance with the *Television Broadcasting Regulations, 1987*, and as requested by the CBC.

French-language original first-run Canadian programming aimed at children under 13 years of age – Exhibition requirement

340. During the current licence term, the CBC surpassed the above-noted requirement relating to the broadcast of original first-run Canadian programming aimed at children under 12 years of age for its conventional television network and stations in the French-language market. For that network and those stations, the CBC plans to exceed the current requirement to broadcast 100 hours of such programming each broadcast year, whether the definition of "original first-run Canadian program" for programming aimed at children under 13 years of age remains the same or is harmonized with the definition applicable to private broadcasters.
341. The Commission acknowledges that the imposition of requirements relating to the broadcast of original first-run Canadian programming aimed at children under 13 years of age on the CBC's conventional television network and stations could alleviate concerns within the production sector that the public broadcaster will reduce the availability of original first-run children's content on those stations. However, in light of the historical and forecast averages combined with the CBC's commitments to engage young audiences and build a lifelong relationship with them, it is the Commission's view that the CBC will continue to serve this target audience on those stations over the next licence term without regulatory intervention. In addition, the Commission's finds that the CBC has not demonstrated in any way during the course of the present proceeding that it intends to reduce or abandon original first-run Canadian programming aimed at children under 13 years of age on its licensed French-language network and stations.

342. Furthermore, the potential for the CBC to significantly migrate its French-language original first-run Canadian programming aimed at children under 13 years of age to its DMBUs or to significantly reduce its offerings on its French-language conventional television network and stations is unlikely given that it has demonstrated during the current licence term that it takes its commitment in regard to such programming seriously. In the Commission's view, the CBC will continue to maintain this commitment. In fact, the Commission considers that it is in the best interests of the public broadcaster to provide children with high quality programming on its licensed network and stations in order to bring them into the CBC's programming fold and set the foundation for a long-term relationship with them.
343. Accordingly, as it is the Commission's view that the outcomes relating to programming aimed at children under 13 years of age in the French-language market will continue to be achieved, it is not imposing any requirements or setting out any expectations for the CBC's French-language conventional television network or stations relating to the broadcast of such programming.

Original first-run Canadian programming aimed at children under 13 years of age and dubbed in French

344. The fact that much of the current audiovisual programming targeting children is animated programming makes it distinct from other types of programming in the broadcasting system. According to the CBC, the economic reality of animated programming explains the decision to produce the original version of an animated program in English, which is then dubbed into French: the very high costs associated with the production of such programs demands that international sales be made. During the current licence term, original first-run Canadian programming aimed at children under 12 years of age dubbed in French accounted for approximately one-third of the original first-run Canadian programming aimed at children broadcast on the CBC's French-language services. The CBC expects to maintain this proportion during the next licence term for such programming aimed at children under 13 years of age on its licensed French-language services.
345. Given that the animation industry is concentrated in the English-language market (with French-language dubbing done in Canada), imposing a limit on the dubbing of original first-run Canadian programming aimed at children under 13 years of age could result in French-speaking children ultimately having access to fewer high-quality Canadian-produced animation programs. Accordingly, the Commission is not imposing a limit on the amount of English-language Canadian-produced programming aimed at children under 13 years of age to be dubbed in French for broadcast on the CBC's French-language television network and stations.
346. In regard to the argument by AQTIS-ARRQ-SARTEC-UDA that any Canadian program dubbed in French should be dubbed by Canadians, the CBC's records indicate that all of the programming aimed at children under 13 years of age broadcast on the CBC's French-language television network and stations is dubbed in French in Canada. In the Commission's view, it is in the best interest of the CBC to use Canadian talent to meet the commitment set out in its three-year plan to provide programming that reflects the reality of children and their perspectives. Accordingly, for the CBC, the Commission finds that imposing a requirement is not necessary for the outcome to be achieved.

347. As noted above, the CBC indicated its willingness to adhere to a requirement that at least 75% of its original first-run live-action Canadian programming aimed at children under 13 years of age and youth broadcast on ICI TÉLÉ be produced in French. The Commission notes that the vast majority of this type of programming broadcast by ICI TÉLÉ was originally produced in French during the 2017-2018 through 2019-2020 broadcast years. Accordingly, the Commission finds that it is not necessary to impose a requirement or set out an expectation relating to the production of original first-run French-language live-action programming broadcast on the CBC's French-language television network and stations.

Exhibition – Canadian youth audiovisual programming

348. When it last renewed the broadcasting licences for the CBC's audiovisual services in 2013, the Commission recognized that the broadcasting system was evolving, particularly in regard to the youth audience. For this reason, the Commission determined that it would be appropriate to set out for the public broadcaster's licensed television network and stations an expectation rather than a condition of licence in regard to broadcasting a minimum of five hours per week, averaged over the broadcast year, of Canadian programming aimed at Canadian youth. However, consumption habits among youth in Canada have been rapidly evolving in recent years as young people increasingly have access to mobile devices and online content.

349. During its current licence term, the CBC has not met that expectation for either the English- or French-language markets. The CBC explained this by the fact that it has aimed to reach young people on its licensed networks and stations by broadcasting family programs, but that these cannot be counted as programs specifically aimed at 13- to 17-year-olds.⁵¹ Nevertheless, the CBC stated that for the next licence term, it plans to continue to reach youth with family programming on its licensed television networks and stations and offer youth-specific content on its DMBUs to reach them where they are.

350. According to the CBC's financial forecasts for the 2020-2021 through 2022-2023 broadcast years, average expenditures on youth (13 to 17 years of age) programming will increase for both ICI TÉLÉ (+12.7% compared to the period covered by the 2014-2015 through 2019-2020 broadcast years) and ICI TOU.TV (+31% compared to the 2019-2020 broadcast year) in the French-language market, but will only be undertaken on CBC Gem (with a 320% increase in spending forecasted, compared to the 2019-2020 broadcast year) in the English-language market, with no expenditures for its licensed television network and stations.

351. In the Commission's view, the CBC will make the necessary efforts to reach Canadian youth with quality content on the platforms they prefer, with the ultimate goal of maintaining a relationship with them during their teenage years. The Commission further considers that imposing a requirement or setting out an expectation relating to the broadcast of youth programming could hinder the CBC's ability to adapt to youth consumption habits.

⁵¹ In accordance with the Commission's program log guidelines, television programs for all, including family programs, that are not specifically directed to youth aged 13 to 17 must be recorded in the 18+ target group.

352. In light of the above, the Commission is not imposing any requirements or setting out any expectations relating to the broadcast of youth programming on the CBC's licensed English- and French-language television networks and stations or DMBUs.

Reasonable allocation of programming hours for preschoolers and school-age children

353. During the 2015-2016 through 2019-2020 broadcast years, the CBC's licensed English-language network and stations broadcast a greater percentage of children's programming targeting preschoolers (children up to five years of age) than did its licensed French-language network and stations. Inversely, the CBC's licensed French-language television network and stations broadcast a greater percentage of programming targeting school-age children (those from 6 to 12 years of age) than did its licensed English-language television network and stations.

354. As stated above, the CBC committed to maintaining a strong linear television offering, particularly for preschoolers, and plans to increase the amount of school-age content that would be available exclusively on its DMBUs. In the Commission's view, given the CBC's priority to engage with young audiences and build a lifelong relationship with them, and as it is in the interest of the CBC to maintain that relationship as children grow older, the CBC will continue to provide relevant, predominantly Canadian programming to preschoolers and school-age children on all platforms without regulatory intervention.

355. In light of the above, the Commission finds that it is not necessary to impose a requirement or set out an expectation relating to the CBC's allocation of hours of programming targeting preschoolers and school-age children.

Expenditures on children's and youth audiovisual programming

356. By adding together the CBC's spending projections in regard to children's and youth audiovisual programming on its English- and French-language licensed television networks and stations and on its English- and French-language DMBUs over the next licence term, it can be noted that, generally, spending on such programming will increase during upcoming years.

357. More specifically, for the 2017-2018 through 2019-2020 broadcast years, the CBC devoted an annual average of \$8.8 million to children's and youth programming on its conventional French-language licensed television network and stations and projected (in its application) devoting to this type of programming an annual average of \$7.3 million for the 2020-2021 through 2022-2023 broadcast years (an average annual reduction of \$1.5 million). For its conventional English-language licensed network and stations, the average annual expenditures devoted to children's and youth programming for the 2017-2018 through 2019-2020 broadcast years were \$6.3 million, and the CBC projected devoting an annual average of \$7.3 million to this type of programming for the 2020-2021 through 2022-2023 broadcast years (an average annual increase of about \$1 million).

358. For its DMBU ICI TOU.TV, the CBC devoted \$3.4 million to children's and youth programming for the 2019-2020 broadcast year. In its application, it projected increasing the total amount to an annual average of \$5.3 million for the 2020-2021 through 2022-2023 broadcast years (an annual average increase of \$1.9 million). In regard to CBC Gem, the

CBC devoted \$1.7 million to children's and youth programming for the 2019-2020 broadcast year. In its application, it projected increasing that total amount to an annual average of \$6.6 million for the 2020-2021 through 2022-2023 broadcast years (an annual average increase of about \$4.9 million). The difference between the spending increases on CBC Gem and ICI TOU.TV can be explained, in part, by the fact that ICI TOU.TV has been in operation since 2010, and that CBC Gem is a newer service.

359. Further, there are differences in regard to the CBC's projected expenditures for its children's and youth programming targeting specific age groups. For instance, for CBC Gem, the CBC plans in the next licence term to eliminate spending on programming targeting preschoolers (children five years of age and younger), which amounted to \$114,900 in the 2019-2020 broadcast year (an already small portion of total spending). In regard to ICI TOU.TV, the CBC plans to decrease spending on programming targeting preschoolers by more than half, from \$122,669 for the 2019-2020 broadcast year to \$50,000 by the 2022-2023 broadcast year (also a small portion of total spending).
360. In regard to programming targeting school-age children (those from 6 to 12 years of age), over the next licence term, comparing projections with expenditures for the 2017-2018, 2018-2019 and 2019-2020 broadcast years shows that the CBC plans to reduce spending by an average of \$1.7 million per year for its French-language network and stations, and reduce spending by an average of \$0.6 million per year for its English-language network and stations, but also increase spending on its DMBUs over the same period, by an average of \$1 million per year for ICI TOU.TV and an average of \$1.1 million per year for CBC Gem.
361. Finally, in regard to programming targeting the youth population (from 13 to 17 years of age), the CBC did not allocate any spending for its English-language licensed television network and stations between the 2015-2016 and 2019-2020 broadcast years given that, as noted above by the public broadcaster, it reaches youth through family programming, which cannot be counted as programming solely intended for Canadians 13 to 17 years of age. However, according to the CBC's projections, spending on youth programming on CBC Gem will account for the largest portion of its overall projected spending on children's and youth programming, at 76%. Further, the CBC plans to increase its expenditures on youth programming for both its licensed French-language network and stations and ICI TOU.TV. Given that Canadians 13 to 17 years of age prefer to access their content online, as indicated in the MTM report, the Commission considers that the CBC's financial forecast is consistent with its strategy to reach youth on digital platforms.
362. The reduction in spending on children's and youth programming on the CBC's licensed networks and stations can be explained in part by the increased spending on the digital platforms. However, the financial forecasts for licensed services and for DMBUs are submitted in separate financial reports. If the financial forecasting for children's and youth programming were combined, the total expenditures would be up rather than down.
363. As set out above, the Commission has imposed conditions of licence on the CBC's licensed English- and French-language audiovisual services relating to expenditures on Canadian programming and on Canadian PNI. Given that much of the programming targeting children and youth falls under program category 7 Drama and Comedy (a PNI program category that includes animated television programs), much of the programming targeting children and

youth will receive some financial support through the expenditures made by the CBC as required pursuant to those conditions of licence.

364. In regard to the French-language market, the Commission considers that the CBC's programming expenditures will be representative of the broadcaster's recent past efforts as well as its future efforts to engage young audiences on all of its platforms. In fact, the CBC plans to essentially maintain its total spending for French-language children's and youth programming on all of its platforms over the next licence term (from an average of \$12.2 million for the 2017-2018 through 2019-2020 broadcast years to an average of \$12.6 million for the 2020-2021 through 2022-2023 broadcast years).
365. In light of this, and since Canadian youth gradually move on to DMBUs as they grow older, the Commission does not have any concerns that some of the spending on children's and youth programming appears to be migrating to the CBC's DMBUs. Accordingly, and given the support that will be provided to the production of programming targeting children and youth through the CBC's conditions of licence relating to Canadian programming and Canadian PNI expenditures, the Commission finds that it is not necessary to impose any requirements relating to expenditures on programming targeting children and youth in the CBC's French-language market on all platforms.
366. In regard to the English-language market, the CBC plans to increase its total aggregate spending on children's and youth programming across its English-language licensed network and stations and DMBUs over the next licence term by approximately \$2 million. This is due in part to the fact that much of the CBC's spending on children's and youth programming for its English-language licensed audiovisual services is migrating to DMBUs.
367. In the Commission's view, the imposition of multiplatform expenditure requirements solely for children's and youth programming is not necessary given the expenditure requirements relating to Canadian programming and Canadian PNI imposed on the CBC. Further, it is the Commission's view that the requirement for the CBC to broadcast original first-run Canadian programming aimed at children under 13 years of age on its licensed English-language television network and stations combined with various measurement tools that are discussed in the section "Measurement framework and reporting requirements" will be sufficient to ensure that children and youth have access to relevant and predominantly Canadian programming on all platforms.

Independent productions aimed at children and youth

368. For the English- and French-language markets, the CBC is required, by condition of licence, to ensure that at least 75% of the programming hours devoted to Canadian programming aimed at children under 12 years of age is devoted to programs produced by independent producers.⁵² Based on historical data, the CBC has surpassed this requirement in both language markets.
369. Further, during the current licence term, the percentage of independently produced children's programming increased for the CBC's television networks and stations in both language markets. Specifically, for both language markets, for the 2015-2016 broadcast year, more

⁵² See conditions of licence 13 and 20 set out in Appendix 3 to Broadcasting Decision 2013-263.

than 80% of children's programming came from independent producers, increasing to over 90% for the 2019-2020 broadcast year.

370. For both its licensed English- and French-language networks and stations, the CBC proposed to increase from 75% to 80% the amount of Canadian programming aimed at children and youth that is devoted to programs produced by independent producers.⁵³
371. The use of independent productions fulfills multiple objectives of the broadcasting policy for Canada as it leverages Canadian creative talent, is less costly to broadcasters than the use of in-house productions, and is an effective way for the CBC to increase efficiencies and ensure that it continues to fulfill its mandate. In light of this, the Commission finds that it is unlikely the CBC will reduce the amount of children's programming produced by independent production companies if it were no longer subject to a requirement relating to sourcing programming from those companies. Given the higher costs of in-house productions and the CBC's desire to continue providing quality children's content on all of its platforms, it would be in the CBC's best interests to maintain its historical levels relating to the use of independent productions.
372. In light of the above, for the next licence term, the Commission finds that it is not necessary to impose on the CBC, for its licensed English- and French-language television networks and stations, requirements relating to the use of independent productions for Canadian children's programming. However, given the essential role that independent producers play in regard to the varied nature of the CBC's programming, and given the CBC's above-noted proposed increase regarding the use of independent productions for children's programming, the Commission has set out, in Appendix 3 to this decision for the CBC's licensed audiovisual services (excluding CBC News Network and ICI RDI) and Appendix 4 for the CBC's audiovisual DMBUs, expectations that not less than 75% of the total hours of Canadian programming aimed at children under 13 years of age and original first-run Canadian programming aimed at children under 13 years of age be devoted to programs produced by independent production companies.

Audio services – Programming for children and youth

373. The CBC is currently not subject to any broadcasting quota or expenditure requirements or expectations relating to children's and youth programming on either its radio stations or audio DMBUs. In its applications, the CBC did not make any proposals specifically in regard to the broadcast of such programming on any of its audio services.
374. The CBC currently offers youth programming on radio on an ad hoc basis, and offers a diverse selection of children's and youth content on its audio DMBUs. At the hearing, the CBC stated that it offers more than 60 podcasts aimed at children and youth on its Radio-Canada OHdio digital platform and that it plans to expand and enhance its content offering over time. The CBC added that its podcasts on CBC Listen are very popular (for example, the "Story Store" and "Tai Asks Why" podcasts).

⁵³ The current 75% independent production requirement is only for programs for children 12 years of age and younger.

375. One individual intervener expressed the view that children are generally underserved by radio stations in Canada, and that the CBC programming offering for children and youth is inadequate on both the radio stations and on Radio-Canada OHdio's music lists. The intervener submitted ideas on how to better serve that audience, such as reserving a specific FM band to be used by children to broadcast content of interest, or for the Department of Canadian Heritage to conduct a pilot project for the creation of a children's radio service. The Commission notes that the proposed ideas fall under the purview of other federal government institutions.
376. The CBC indicated that the best way to reach and connect with children and youth is through its DMBUs. The Commission notes that the combination of audio content available on the CBC's radio stations and its DMBUs should ensure an adequate availability of content on both platforms for this audience, remaining aware that there are children and youth living in areas where broadband connectivity is limited or non-existent and who therefore cannot access programming on DMBUs. In the Commission's view, since it is advantageous for the CBC to voluntarily offer a diverse selection of children's and youth programming in order to reach and establish a long-term relationship that will eventually assist in retaining this target audience, it is unlikely that it will reduce or cease offering such audio programming in the absence of a regulatory incentive.
377. In light of the above, the Commission finds that it is not necessary to impose any broadcasting quota or expenditure requirements or expectations relating to children's and youth programming on either the CBC's radio stations or its audio DMBUs. However, the Commission notes that the CBC will be required to file, as part of the annual audio programming report, information on the provision of programming aimed at children and youth in order to assess the overall availability and discoverability of this programming. Specific details regarding this reporting are set out in the section entitled "Measurement framework and reporting requirements".

Audio services – Canadian music programming

378. Currently, for its English-language radio services CBC Music and Radio One and its French-language radio services ICI Musique and ICI Radio-Canada Première (ICI Première), the CBC is subject to conditions of licence⁵⁴ requiring that, in each broadcast week, it devote:
- at least 50% of its musical selections from content category 2 (Popular Music) to Canadian selections;
 - at least 20% of its musical selections from content category 3 (Special Interest Music) to Canadian selections;
 - at least 25% of its musical selections from content subcategory 31 (Concert) to Canadian selections; and
 - at least 20% of its musical selections from content subcategory 34 (Jazz and blues) to Canadian selections.

⁵⁴ Conditions of licence 1 through 4 set out in Appendix 4 to Broadcasting Decision 2013-263.

379. In addition, for the services ICI Musique and ICI Première only, the CBC is subject to a condition of licence requiring it to devote at least 85% of its vocal musical selections from content category 2 to French-language vocal music (FVM) during each broadcast week. Further, at least 50% of the content category 2 selections broadcast in languages other than French must be Canadian.⁵⁵
380. The CBC proposed that these requirements be maintained. Currently, the CBC is not subject to any requirements relating to the broadcast of a minimum number of musical selections by emerging artists, and made no proposal in that regard in its licence renewal applications.
381. The CBC stated that it has surpassed its current regulatory requirements relating to the broadcast of content category 2 and content category 3 musical selections on its radio stations. It also stated at the hearing that slightly over 25% of the 193 playlists available on CBC Listen are entirely Canadian and over one third are 55% Canadian, while 40% of the musical selections offered on all playlists are Canadian. The CBC also noted that 90% of the musical selections on the popular music playlists on Radio-Canada OHdio were French-language selections (5% more than the quotas imposed by condition of licence for its radio stations ICI Musique and ICI Première), and that a majority of the playlists, out of a total of 170, had over 55% Canadian content.
382. According to the CBC, it would be premature to impose on its audio DMBUs requirements similar to those currently in place for its radio stations given that its online undertakings have only been recently established and are still in development. The CBC also stated that any such requirements might limit opportunities for innovation by imposing thresholds for musical selections, since its undertakings offer a range of content that is much broader than music. In regard to the discoverability of Canadian music, the CBC expressed the view that the variety of international musical selections it offers online will attract new listeners, who will then discover the Canadian music that is also available there.
383. The CBC stated at the hearing that the total number of distinct musical selections broadcast on ICI Musique and CBC Music in November 2020 was significantly higher than the minimum amounts required by the conditions of licence that were removed in 2016.⁵⁶ Specifically, there were 5,398 distinct selections in the case of ICI Musique (the previous requirement was for a minimum of 3,000 distinct selections broadcast monthly) whereas there were 4,094 distinct selections in the case of CBC Music (the previous requirement was for a minimum of 2,800 distinct selections broadcast monthly). According to the CBC, it has maintained a diversity of music styles and genres on its radio stations.
384. When questioned at the hearing on the support offered to emerging artists, the CBC stated that emerging artists are included as part of diverse programs, including “Révélation” and “CBC Music Morning,” to promote their music. It noted that on Radio-Canada’s streaming service Radio-Canada OHdio, 20% of the albums are first releases by emerging artists.

⁵⁵ See Broadcasting Decision 2016-381.

⁵⁶ In Broadcasting Decision 2013-263, the Commission authorized the CBC to broadcast national advertising on CBC Music (formerly Radio 2) and ICI Musique and, in return, imposed conditions of licence relating to the broadcast of distinct musical selections on those stations. Those conditions of licence have not been in force since 31 August 2016, the date on which the authorization to broadcast national advertising ended.

Finally, the CBC noted that emerging artists are included in all 193 playlists available on CBC Listen, under various categories, themes and music genres.

Positions of parties

385. ADISQ proposed that the CBC be required, by condition of licence, to broadcast a minimum number of music performances and concerts by Canadian artists, which would increase the performances broadcast on ICI Première. It further proposed a music content level of 10% for ICI Première programming. ADISQ also stressed the importance of showcasing and tracking music from Canadian, French-language and emerging artists on the CBC's audio DMBUs, using algorithms to support its discoverability, but considered that the lack of publicly available data on the CBC's online activities made it difficult to assess whether the CBC met its mandate to support Canadian music through its audio DMBUs. The Ontario Association of Broadcasters (OAB) expressed the view that there is a shortage of Canadian content in the CBC's playlists on its audio DMBUs and submitted that the Commission should impose requirements on these undertakings.
386. In regard to emerging Canadian artists, numerous Canadians filed interventions noting that the CBC encourages the discovery of such artists. ADISQ submitted that the CBC should demonstrate what it intends to do to support emerging artists while not neglecting established artists. It expressed its hope that the CBC would commit to meeting a certain level of music by emerging artists, and stated that to establish a minimum level, the public broadcaster should first report on the share of its music programming dedicated to emerging artists.
387. In reply to concerns relating to the diversity of music, the CBC submitted that its radio stations expose Canadians to a wide range of music styles and genres, with the emphasis on Canadian composition and performance.
388. In regard to ADISQ's proposal to establish a 10% music content minimum for ICI Première stations, the CBC stated at the hearing that it did not wish to commit to meeting such a requirement given that those stations are already subject to the conditions of licence relating to the broadcast of Canadian music and FVM. It added that the proposed requirement would further complicate the management and broadcast of the music content it already broadcasts. The CBC explained that ICI Première mainly broadcasts music to accompany a news item or to fill the space between two segments, and that the service's mandate is first and foremost to provide information.
389. In reply to the Commission's request that the CBC report on discoverability on an annual basis, such as by describing what measures are taken to make content discoverable, the CBC stated that it could catalogue all services available on all platforms for the domestic market, with their average reach. It also proposed to describe the primary marketing strategies used for cross-promotion of content on all its platforms.
390. Finally, the CBC proposed to report annually on the various initiatives already in place or in development over the course of the next licence term that support Canadian music talent on all audio undertakings.

Commission's analysis

391. As indicated above, the CBC proposed to maintain the current conditions of licence requiring its radio stations to devote airtime to a minimum level of Canadian selections each broadcast week. The Commission is of the view that these requirements are consistent with the CBC's mandate to broadcast programming that is predominantly and distinctly Canadian and provides opportunities to Canadian artists to be discovered and promoted on air. More broadly, they also serve to support the Canadian music industry, including its creative and production components.
392. Similarly, the CBC's proposal to maintain the current condition of licence relating to FVM for its ICI Première and ICI Musique stations also contributes to the discovery and promotion of the works of French-language artists, whether they are Canadian or non-Canadian, within the broadcasting system.
393. The Commission uses different sources of information in order to assess the support provided by radio licensees to Canadian and French-language music, including performance evaluations. In the case of the CBC, a performance evaluation of radio stations revealed that its current requirements relating to the broadcast of Canadian music and FVM had been surpassed for these stations, with the exception of the ICI Première station CBRX-FM Rimouski, for which 17.7% of its musical selections, rather than 20%, were Canadian selections from subcategory 34 (Jazz and blues) during the week monitored (26 May to 1 June 2019). The CBC acknowledged the discrepancy and, after becoming aware of it, immediately took measures to avoid such an error being repeated. In the Commission's view, the measures taken by the CBC are satisfactory.
394. Based on performance evaluations conducted on the CBC's radio stations, the Commission could not conclude with certainty that the CBC exceeded its requirements relating to the broadcast of Canadian music, and to FVM for its French-language stations, throughout the licence term. However, the Commission considers that maintaining the current conditions of licence relating to Canadian content category 2 and content category 3 musical selections and FVM on the CBC's radio stations will contribute to a predominant presence of the works of Canadian and French-language artists on its stations and encourage the promotion and discovery of Canadian artists to the benefit of all Canadians. In the Commission's view, maintaining these broadcast requirements would be the most efficient way for the public broadcaster to continue supporting Canadian and French-language artists given that these artists would continue to benefit from royalties paid for the selections broadcast. The Commission notes that the broadcast of Canadian music, conducting interviews with artists, and cross-promoting music creators on the CBC's radio stations and across its other services help to promote and develop artists' careers.
395. Further, since the CBC offers live streaming of content from its over-the-air stations, plus digital streaming services on its audio DMBUs, it is the Commission's view that maintaining the current requirements for the CBC's radio stations would encourage accessing and listening to the works of Canadian and French-language artists on its audio DMBU playlists, and vice versa.

396. In light of the above and in accordance with multiple policy objectives including those set out in subparagraphs 3(1)(m)(i), (ii), (iv), (vi) and (vii) of the *Broadcasting Act*, the Commission is maintaining the CBC's current conditions of licence relating to the broadcast of Canadian selections on its English- and French-language radio stations, and to the broadcast of FVM on its French-language radio stations. This will ensure a predominant presence of this content on the CBC's radio stations, and that Canadian artists continue to benefit from the promotion of their works and support of their careers on CBC radio and, by extension, on its audio DMBUs for the next licence term. These **conditions of licence** are set out in Appendix 3 to this decision.
397. The record of this proceeding shows that the CBC has maintained a diversity of music styles and genres for its services ICI Musique and CBC Music during the current licence term, even with the removal in 2016 of the conditions of licence requiring the broadcast of a minimum number of distinct musical selections on these stations. Based on the information provided by the CBC at the hearing, the public broadcaster has largely surpassed the minimum amounts that used to be required by condition of licence for the broadcast of distinct musical selections. As such, the Commission finds that it is not necessary to reinstate a requirement to ensure that the CBC continues to offer a vast selection of music styles and genres on ICI Musique and CBC Music.
398. In regard to the proposals by ADISQ regarding the broadcast of a minimum number of music performances and concerts by Canadian artists on ICI Première, it is the Commission's view that maintaining the current conditions of licence relating to the broadcast of Canadian selections and FVM will contribute sufficiently to the support of music performances and concerts by Canadian artists, which is already part of the CBC's programming. Accordingly, the Commission has not adopted ADISQ's proposals.
399. Given that, as noted above, the CBC has maintained a diversity of music styles and genres on its ICI Musique and CBC Music stations during the current licence term, the Commission finds that it is not necessary at this time to impose any requirements relating to the broadcast of musical selections from emerging Canadian artists. However, as part of the audio programming report that the CBC will be required to submit each year, the Commission will also require the inclusion of information regarding musical selections from emerging artists that are broadcast on the CBC's radio services and made available on its audio DMBUs. This requirement is addressed in greater detail in the section entitled "Measurement framework and reporting requirements".
400. In order to monitor the CBC's audio DMBUs, pursuant to section 4 of the DMEQ, the Commission will require the CBC to file financial information related to its audio DMBUs.

News, and local and regional programming

401. Paragraph 3(1)(l) of the *Broadcasting Act* states that the CBC, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains. Subparagraph 3(1)(m)(ii) states that the programming provided by the CBC should "reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions," whereas subparagraph 3(1)(m)(vi) stipulates that according to its mandate, the CBC should contribute to shared national consciousness and identity.

402. In regard to the above, the Commission’s overarching desired outcome is that the CBC provide relevant local, regional and national news and information that meets the needs of all Canadians, including Indigenous Peoples, Canadians who live in remote and rural communities, and OLMCs, on its licensed audiovisual and audio services, as well as on its DMBUs. The specific outcomes to achieve, the tools to be used to achieve those outcomes, and the tools to be used to measure and report on whether those outcomes are being achieved are as follows:

Specific outcome to achieve (audiovisual and audio services)	Tools to achieve outcomes(regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
<p>Indigenous Peoples and Canadians in metropolitan and non-metropolitan areas, including in remote and rural communities and in OLMCs, have access to relevant local, regional and national audiovisual and audio news and local programming.</p>	<p>Exhibition requirement for audiovisual local programming in non-metropolitan French- and English-language markets</p> <p>Renewal of the mandatory distribution orders for ICI RDI and CBC News Network, and an increase in the wholesale rates for the services</p> <p>Exhibition requirement for programming from the regions on ICI RDI</p> <p>Exhibition requirement for French-language audio local programming on the radio station CBEF Windsor</p> <p>Expectation for audio French-language local programming in multiple OLMCs</p> <p>Expectation that a minimum number of hours of local and regional audio programming on Radio One and ICI Première stations be maintained</p> <p>Encouragement that the minimum number of hours of local French-language audio programming on certain ICI Première OLMC stations and on audio DMBUs be increased</p>	<p>Television logs</p> <p>Perception and consultation report</p> <p>Audio programming report</p>
<p>Indigenous Peoples and Canadians have access to local, regional and national news during times of crisis.</p>	<p>Expectation that local, regional and national news broadcasts be maintained in a crisis or emergency on the CBC’s licensed audiovisual and audio services and DMBUs.</p>	<p>Television logs</p> <p>Perception and consultation report</p>

Definitions of “local programming” and “locally reflective news” for conventional television stations

403. When evaluating the CBC’s news and local programming, the Commission examined the current exhibition requirements and considered whether the re-imposition of those requirements would continue to be appropriate for achieving the desired outcomes. In addition, the Commission considered the possibility of replacing those exhibition requirements with multiplatform expenditure requirements. Prior to setting out its determinations in regard to the above, the Commission addresses below proposals by the CBC relating to the current definitions of “local programming” and “locally reflective news.”
404. In Broadcasting Regulatory Policy 2009-406, the Commission defined “local programming” as it relates to conventional television stations 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.”
405. Subsequently, in Broadcasting Regulatory Policy 2016-224 (the Local and Community Television Policy), the Commission revised its definition of “local programming” where it clarified that “all local programming must be locally relevant,⁵⁷ while all local news must be locally reflective”⁵⁸ to strike a balance between relevance and local reflection. In that regulatory policy, the Commission imposed local programming requirements on private local television stations, set out new definitions of local programming, local news and local presence, and instituted financial support for broadcasters in regard to the production and broadcast of local news.
406. While the CBC has a role to play in achieving the outcomes set out in the Local and Community Television Policy, the specific application of that policy or of the Commission’s actions with respect to the CBC may differ from those for private commercial broadcasters given the public broadcaster’s mandate, its vast territory, its revenue sources, and reinvestment in programming.
407. Throughout the proceeding, the CBC reiterated on multiple occasions that its mandate refers to regions, and it supported this by referring to subparagraph 3(1)(m)(ii) of the *Broadcasting Act*, which stipulates that “the programming provided by the Corporation should reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions.” The CBC also indicated that the Commission has long recognized and accepted the fact that the broadcaster’s “local” programming is in fact regional in nature. For example, it noted that at paragraph 79 of the Local and Community Television Policy, the Commission indicated that “[f]or its part, as the national public broadcaster, the CBC is mandated by the [*Broadcasting Act*] to reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions.”

⁵⁷ Programming is considered to be locally relevant if it is of interest to the community or market served.

⁵⁸ Programming will be considered locally reflective if the subject matter relates specifically to the market a station is licensed to serve; if 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 if it is produced by the station’s staff or by independent producers specifically for the station.

408. At the oral phase of the hearing, the CBC stated that its focus is highly regional because of the number of Canadians to serve through its programming and the vast area of the country. It therefore submitted that its television stations are in fact regional, not local. Further, it reiterated that it wanted to maintain the necessary flexibility to serve its audience, and noted that it has used its licensed conventional television stations and its DMBUs to more specifically address the needs of the public, whether the conventional television stations are local, regional or more general in nature. The CBC also reiterated that its mandate is distinct and much broader than that of private broadcasters. Accordingly, the CBC submitted that the rules that apply to private local television stations should not apply to its television stations.

Positions of parties

409. Several interveners at the oral phase of the hearing reiterated that the CBC, as a public broadcaster, should comply with the Local and Community Television Policy, which states that local programming must be locally relevant, and that all local news must be locally reflective. In this regard, the CAB submitted that the Commission should impose new requirements relating to the broadcast of locally reflective news, and noted that incremental local programming and local news commitments can include regional programming and regional news. In their joint intervention, the Fédération nationale des communications and the Syndicat des communications de Radio-Canada (FNC-SCRC) submitted that the CBC should commit to the guidelines relating to local presence as established by the Commission in the Local and Community Television Policy.

410. Following the oral phase of the hearing, the CBC provided, as part of its undertakings, its views on the possibility of being subject to cross-platform expenditure requirements for its audiovisual content. The CBC introduced four expenditure categories, including “News and Information,” and stated the following in regard to the programming that would fall under the “News and Information” category:

News and Information. The second spending requirement should apply to the [CBC’s] obligation under [paragraph 3(1)(l) of the *Broadcasting Act*] to provide programming that “informs.” We believe that a multiplatform spending requirement would be justified for “news and public affairs” content, in order to establish a minimum spending threshold for this programming category as a percentage of total programming expenditures.

411. In its reply, following the hearing, the CBC proposed to modify the Commission’s definition of “local programming” whereby the definition of “regional programming,” which is based on the current definition of “local programming” (set out in Broadcasting Regulatory Policy 2009-406), would read as follows (modifications to the definition of “local programming” in bold):

“Regional programming” means programming produced by **either regional** stations with **regional** personnel or **regionally-based** independent producers, **that is of interest to the community or market served (i.e., regionally relevant).**

412. In addition, in the event the Commission imposes a condition of licence relating to locally or regionally reflective news, the CBC proposed a modified version of the definition of “locally reflective news” that could apply to regional reflection. That new definition would read as follows (modifications to the definition of “locally reflective” in bold):

News programming will be considered **regionally** reflective if it meets all of the following criteria: the subject matter relates specifically to the **regional** market that the station is licensed to serve; it portrays an on-screen image of the market by, for example, including its residents or officials or featuring coverage of its municipal or provincial government; and they are produced by the station’s staff or by independent producers specifically for the station.

413. In regard to the CBC’s proposed programming category “News and Information,” OSM, the APFC, and AQTIS-ARRQ-SARTEC-UDA indicated that this category remains unclear. The APFC and OSM stated that under the *Television Broadcasting Regulations, 1987*, information programming includes many categories,⁵⁹ but argued that the CBC did not provide an adequate definition, that the CBC’s classification was not based on existing regulatory categories, and that it had not provided a rationale for this new approach.

Commission’s analysis

414. While subparagraph 3(1)(m)(ii) of the *Broadcasting Act* specifies that the programming provided by the CBC should reflect Canada and its regions to national and regional audiences, the Commission considers that serving the special needs of those regions necessarily encompasses serving the needs of the local communities that form part of those regions. Accordingly, in the Commission’s view, although the CBC’s specific mandate is regional, given its broad mandate as a public broadcaster and its presence in Canada, it has an important role to play in the delivery of local programming.

415. In Broadcasting Decision 2013-263, in which the Commission last renewed the broadcasting licences for the CBC’s audiovisual and audio services, it noted that the CBC’s stations were including programming of regional interest in their local programming to fulfill the objectives for the CBC set out in the *Broadcasting Act*.

416. In the Commission’s view, there is a need for local content in the CBC’s local programming, particularly in non-metropolitan markets.⁶⁰ Moreover, the COVID-19 pandemic has clearly illustrated the importance of this issue as Canadians have been seeking out information/news about health measures applicable to them.

⁵⁹ 1 News, 2(a) Analysis and interpretation, 2(b) Long-form documentary, 3 Reporting and actualities, 4 Religion, 5(a) Formal education and preschool, and 5(b) Informal education/Recreation and leisure.

⁶⁰ The definitions of metropolitan and non-metropolitan markets are those set out in Broadcasting Public Notice 2008-100. Metropolitan markets are markets in which the population with a knowledge of the official language of the station (i.e., English or French) is, according to Statistics Canada’s definition, equal to or greater than one million. Non-metropolitan markets are markets in which the population with knowledge of the station’s official language is less than one million.

417. In regard to the proposed revised definition of “local programming,” the Commission is of the view that replacing the term “local” with “regional” does not place sufficient emphasis on the importance of local programming, which was recognized by the CBC at the hearing, and in both its applications and strategic plan.
418. Although the CBC’s mandate does not specifically refer to “local” programming, the fact remains that the regions include many localities, that other objectives of the *Broadcasting Act* focus on local programming, and that the Commission has put in place several policies regarding this type of programming. Further, local programming was addressed repeatedly in interventions throughout this proceeding, and its importance has increased since the beginning of the pandemic.
419. In light of the above, the Commission is retaining the definition of “local programming” that currently applies to the CBC’s conventional television stations, i.e., the definition originally set out in Broadcasting Regulatory Policy 2009-406. In regard to the modifications proposed by the CBC to the definition of “local programming,” the Commission finds that they are not appropriate given the reasons noted above. Nevertheless, the Commission maintains that the CBC may include programming of regional interest in its local programming in order to fulfill the objectives for the CBC set out in the *Broadcasting Act*.
420. Further, the Commission has adopted the CBC’s proposed modifications to the definition of “locally reflective news.” In previous decisions, the Commission has always taken into consideration the fact that the CBC’s stations include programming of regional interest in their local programming. In the Local and Community Television Policy, the Commission reiterated that “as the national public broadcaster, the CBC is mandated by the [*Broadcasting Act*] to reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions” through its local stations.
421. Finally, in regard to the CBC’s proposed new “News and Information” program category, the Commission agrees with interveners that the public broadcaster has not provided an adequate definition of its proposed program category, that its classification is not based on existing regulatory categories, and that it has not provided sufficient rationale for this new approach. Consequently, the Commission has not adopted the CBC’s proposal in this regard.

Expenditure requirements relating to news programming

422. During the current licence term, the CBC’s licensed conventional television stations as well as its discretionary services (excluding CBC News Network and ICI RDI) reported total news expenditures of \$1.04 billion over a seven-year period. From the 2013-2014 to 2019-2020 broadcast years, expenditures on news averaged 14.9% of total spending (nearly \$6.96 billion over seven years). Similarly, news-related expenditures for these same licensed services averaged 21.3% of total programming and production spending (nearly \$4.86 billion over seven years).
423. However, for the CBC’s licensed conventional television stations and discretionary services (excluding CBC News Network and ICI RDI) during the current licence term, there have been declines in total expenditures, expenditures on programming and production, and

expenditures on news. From the 2013-2014 through 2019-2020 broadcast years, the CBC's annual spending on English-language news on licensed conventional television stations decreased by \$67.5 million, and annual expenditures on French-language news decreased by \$20.2 million.

Positions of parties

424. In its intervention, Friends of Canadian Broadcasting (FRIENDS) stated that the financial resources that the CBC devotes to news have decreased since 2014, and predicted that they would also decrease throughout the next licence term. ACTRA, the CAB, CMAC and the FRPC all noted that in English Canada, the CBC's local news contributions fell below those of private broadcasters over the current licence term.
425. In the CAB's view, the fact that the CBC is not required to provide historical local programming or local news exhibition hours or expenditures on any basis makes it harder for the Commission to determine appropriate levels of spending on news programming. It added that in the absence of such information, the Commission should reasonably set the CBC's obligations markedly higher than those of private broadcasters, in recognition of the fact that different conditions in the French-language market may require more of a case-by-case approach.
426. The FNC-SCRC, using figures from the cumulative reports that the CBC sends to the Commission, argued that news programs, compared to other types of content, have been more greatly affected by cuts to the CBC in recent years, and expressed the view that this is very worrisome.
427. Most interveners from the industry and consumer groups suggested that if the Commission were to accept that the CBC supplement local programming on digital platforms, the CBC should adopt an expenditure-based model to ensure the quality of the programming. Certain interveners suggested that given the low cost for certain online programming, the absence of expenditure requirements could result in lower quality content.
428. In regard to possible required expenditure amounts on news programming, FRIENDS proposed a cross-platform expenditure commitment to local news of 15% of revenues, in aggregate, to apply to all of the CBC's English-language local television stations and to all predominantly news and information websites, with no more than 25% of that amount to be allocated to digital platforms.
429. For its part, Quebecor Media Inc. (Quebecor) recommended a CPE threshold for news⁶¹ representing at least 30% of total programming expenditures. It added that this should exclude expenditures relating to sports broadcasts, given that the variability of sports programming⁶² is greatly influenced by coverage of the Olympic Games. It also requested that the Commission impose conditions of licence relating to spending on local news and locally reflective programming that are more demanding than those imposed on the private sector.

⁶¹ Category 1 set out in [Television Program Categories](#) on the Commission's website.

⁶² Categories 6(a) and (b) set out in [Television Program Categories](#) on the Commission's website.

430. In reply to the interventions, the CBC stated that the apparent decrease in funding for local programming between 2014 and 2017 was due to a change to its accounting practices for programming expenditures between its traditional and digital platforms. It noted that beginning in the 2016–2017 broadcast year, it began to exclude digital costs and revenues in its conventional television annual returns due to the significance of digital revenues and costs in that broadcast year.
431. Further, the CBC objected to suggestions raised by interveners that it disclose even more financial information about its online platforms. It noted that no broadcaster, Canadian or foreign, is required to provide to the Commission and make public detailed financial information relating to exempt digital services. In the CBC’s view, such a requirement would be unfair and would cause it harm should it be the only broadcaster required to provide this type of information.
432. At the oral phase of the hearing, the CBC stated that some confusion remained in regard to expenditures devoted to news broadcast on television. It clarified that it had not stopped investing in news as some interveners alleged, but rather has allocated costs since the 2016-2017 broadcast year by taking into account its various platforms, including its DMBUs. The CBC indicated that this situation would be addressed when it submits an overall spending report relating to news during the next licence term.

Commission’s analysis

433. During the current licence term, the CBC has been increasing the use of its DMBUs to offer Canadians local, regional and national news. It indicated that it has been relying on its digital platforms for several years to extend the reach of its services and to respond to technological change. For example, the CBC Listen website and mobile app carry live feeds from 34 local radio stations. CBC Gem and its mobile app provide real-time access to programming from 14 local television stations and broadcast live specials on elections and other important events.
434. If the CBC can fulfill its obligations (relating, for example, to regional relevance, balanced news, and hours of local programming) while reducing related news expenditures, it should not be prevented from doing so. Although the imposition of a condition of licence would provide a sustained commitment on the part of the CBC to news and local programming across all platforms, while giving the CBC the flexibility needed to adjust expenditures in response to fluctuations in revenues or expenses, it would not address concerns regarding spending in metropolitan versus non-metropolitan markets, and would not necessarily mean that the CBC is directing spending to local programming that includes news. Further, while much news-related spending can be planned, it must be recognized that a significant portion of the spending is either cyclical (such as election periods) or related to breaking news or long-term events (such as the pandemic).
435. In light of the above, the Commission finds that it would not be appropriate at this time to impose on the CBC an expenditure requirement relating to news programming.

Access to news for all regions of Canada

436. For its conventional television stations, the CBC is currently subject to the following requirements, set out in the appendix to Broadcasting Decision 2013-263, relating to the broadcast of local programming in metropolitan and non-metropolitan markets:

- English-language metropolitan markets: at least 14 hours of local programming per broadcast week, of which at least one hour must consist of non-news local programming;
- English-language non-metropolitan markets: at least seven hours of local programming per broadcast week, including for the North; and
- French-language metropolitan and non-metropolitan markets: at least five hours of local programming per broadcast week. For the Vancouver, Edmonton, Regina, Winnipeg, Ottawa, Toronto and Moncton stations, the five hours of local programming that must be broadcast over the broadcast week may be averaged over the entire broadcast year.

437. In its applications, the CBC proposed that the requirement for its licensed English-language conventional network and television stations in metropolitan markets be reduced from 14 to 12 hours of local programming per broadcast week. To offset this reduction, the CBC proposed the addition of an expectation that at least 14.5 hours of local programming per broadcast week be offered.

438. For its licensed English-language stations in non-metropolitan markets, the CBC proposed that this requirement be reduced from seven to five hours of local programming per broadcast week. To offset this reduction, the CBC proposed the addition of an expectation that at least 7.5 hours of local programming per broadcast week be offered.

439. For its licensed French-language conventional television stations in metropolitan and non-metropolitan markets, the CBC proposed to maintain five hours of local programming seven days a week (except on holidays as defined in the *Interpretation Act*). It further proposed the addition of an expectation that at least 5.5 hours of local programming be offered.

440. For each language market, the CBC stated that the difference between the condition of licence and the total expectation would be, at its discretion, to broadcast the content on its conventional television stations or make it available on its audiovisual DMBUs.

441. For the French-language television stations located in Vancouver, Edmonton, Regina, Winnipeg, Ottawa, Toronto and Moncton, the CBC requested that it continue to be allowed to average over the entire broadcast year the five hours of local programming broadcast over the broadcast week.

442. At the oral phase of the hearing, the CBC stated that approval of its proposal would not lead to a decrease in hours of local programming but rather to an increase in total hours of such programming, with a different breakdown for the television markets. It explained that it had proposed a minimum number of hours of local programming for each of its English- and French-language television stations to demonstrate that it was not abandoning conventional

television stations. The CBC indicated that the proposed minimum was protective and that the proposed expectation would result in more local programming than is currently provided on its licensed conventional television stations and/or DMBUs.

443. Finally, the CBC proposed maintaining the current approach for its Radio One and ICI Première radio stations, i.e., not to impose any conditions of licence relating to the provision of local programming, with the exception of CBEF Windsor, Ontario, which is currently required to broadcast 15 hours of local programming.

Positions of parties

444. More than half of the more than 10,500 individual interventions received noted the importance of the public broadcaster, with most of the comments relating to access to news and information. In regard to the CBC's audio services in particular, many Canadians indicated that they are satisfied with the local news and information content provided by the public broadcaster's radio stations.
445. Many Canadians, however, especially those from northern and rural regions, submitted that the CBC's local television content should be enhanced rather than diminished. Some stated that the CBC provides an essential service to northern communities, where access to expensive satellite service is not always available. Canadians living in rural communities stated that they have been underserved in regard to the broadcast of news and events happening in their communities.
446. Most interveners from the industry and consumer groups opposed a reduction in the amount of local programming provided by the CBC on its licensed conventional television stations, while some interveners proposed increases in related requirements. Certain interveners, including Quebecor, the AQPM, ADISQ, the SNA, the FANE, the FNC-SCRC and La Table, favoured maintaining an exhibition-based approach for the CBC's licensed conventional television stations, combined with an expenditure-based multiplatform approach for local programming.
447. The CAB submitted that the CBC should concentrate its local and regional news in underserved markets as it does with its northern services. In its view, the CBC should be able to provide locally reflective news and information without competing with private broadcasters. The CAB added that a clear expectation should also be set out for the CBC that any new local digital services target underserved local communities. The OAB stated that it was not in favour of the CBC "going local" as this would lead to duplication and competition with services already being provided by the private sector. It added, however, that the CBC should give underserved markets priority in its local programming and should partner with, rather than compete with, local radio stations to ensure the relevance and viability of radio in the future.
448. The CAB, the FRPC, PIAC, FRIENDS, Public Broadcasting for Canada in the 21st Century (PBC21), OSM, the FNC-SCRC and ACTRA stated that the CBC's current condition of licence relating to the provision of local programming should be maintained. ACTRA stated that the CBC should be required to broadcast one additional hour of local programming each broadcast week in both metropolitan and non-metropolitan markets, which could be scheduled on linear or digital services, subject to appropriate audience metrics/thresholds.

La Table stated that the Commission should require ICI TÉLÉ to broadcast at least seven hours of Canadian local programming each broadcast week, with at least two hours being devoted to local programming in the fiction, animation and documentary series genres. The AQPM requested regulatory symmetry, proposing that the Commission impose on ICI TÉLÉ a minimum requirement for local programming other than news, as is the case for the CBC's English-language conventional television stations. The FRPC stated that the Commission should require the CBC to produce and broadcast on each television station serving a smaller community at least seven hours per week of original first-run news produced by the station, and on each television station serving a larger community, at least 14 hours per week of original first-run news produced by the station.

449. PIAC, Quebecor and the FRPC expressed support for expectations relating to higher overall local programming exhibition levels across television and digital services. In this regard, Quebecor submitted that the CBC's current thresholds are too low, noting that the thresholds for its TVA stations are much higher.
450. The National Campus and Community Radio Association (NCRA) expressed concern over the duplication of local coverage by the CBC's radio stations and community and campus radio stations. The intervener stated that there should be better communication between those stations, especially when a news story concerns a community or campus radio station. Further, the NCRA requested that the CBC work with it and with local campus and community stations to the extent possible to ensure that their respective local content remains complementary rather than competitive.
451. In reply to interventions, the CBC stated that its commitment to news, particularly local and regional news, remains as strong as ever and that it must serve all of Canada's regions in the most appropriate and effective way possible. It added that it does not see how it could favour one region over another or one platform over another.
452. The CBC further stated that it has proposed a new forward-looking regulatory framework for its broadcasting services, based on the principles listed in the Harnessing Change report. It noted that it has been leveraging its digital platforms for several years in order to expand the reach of its services and respond to the evolution of technological change.
453. In its final reply to various parties, in response to the discussions at the hearing and the concerns raised by interveners, the CBC modified its proposed expectations regarding the broadcast of local programming in metropolitan and non-metropolitan markets, as well as the definition of the term "broadcast" as it applies to those expectations. Specifically, it did not propose any changes to the number of hours of programming broadcast, but proposed to replace the word "local" with "regional" in its proposed expectations (amendments in bold):

For English-language television stations in metropolitan and non-metropolitan areas:

The Commission expects the licensee to broadcast a minimum of 14.5 hours of **local regional** programming per week in metropolitan markets, and 7.5 hours of **local regional** programming per week in non-metropolitan markets, either by the station or on digital platforms owned and operated by the licensee.

For French-language television stations in metropolitan and non-metropolitan areas:

The Commission expects the licensee to broadcast a minimum of 5.5 hours of **local regional** programming per week, either by the station or on digital platforms owned and operated by the licensee.

For the purposes of the above expectations, “broadcast,” in the context of a digital platform, means to make a program available to the public through that platform, provided that it is an original first-run program in the case of programs of national interest (PNI) or children’s and youth programming, and, in the case of **local regional** programming, that it is distinct from the **local regional** programming broadcast by the station in the same week.

Commission’s analysis

Exhibition requirements relating to local programming

454. The Commission notes that from the 2014-2015 to 2019-2020 broadcast years,⁶³ actual hours of local programming broadcast by the CBC’s English-language television stations decreased, whereas there was an increase in the actual hours of local programming broadcast by its French-language stations. As well, the Commission notes that the CBC has exceeded its current local programming requirements set out in its conditions of licence for the current licence term in each of its markets across the country.
455. The Commission acknowledges the concerns raised regarding the reduction in local programming broadcast on the CBC’s English-language services. However, even though there was a decline in the number of hours of local programming offered on the CBC’s licensed television services, it has still met and well exceeded its conditions of licence in terms of hours of local programming broadcast.
456. Furthermore, the Commission is not convinced that if it were to accept the CBC’s modified conditions of licence, the CBC’s actual performance on its conventional television stations would change dramatically, since the Canadian public still consumes a great deal of content on its licensed services. Further, the Commission notes that the CBC’s production studios are located in metropolitan markets,⁶⁴ and that those markets are therefore very likely to be adequately served by the CBC’s local programming.
457. Although few complaints were filed on the record of this proceeding in regard to the broadcast of the CBC’s local programming in metropolitan markets, several interveners mentioned shortcomings in the public broadcaster’s local coverage in non-metropolitan areas.
458. While news is readily available to Canadians online, access to high-speed Internet remains an issue in some areas, particularly in rural and remote communities, such as Canada’s North. Some Canadians living in rural areas expressed the view that not enough local programming

⁶³ With the exception of the 2017-2018 broadcast year, for which data was not available.

⁶⁴ Montréal, Ottawa, Toronto and Vancouver.

was available or that the local programming they did receive was not relevant to them as it tended to provide coverage of events in metropolitan markets. On the other hand, viewers in metropolitan markets have access to high-speed Internet services and, as such, can keep themselves well informed on the CBC's online news services.

459. After reviewing the CBC's proposal, for the reasons set out above, the Commission is confident that the CBC will continue to broadcast local programming that is predominantly news in both the English- and French-language metropolitan markets. Accordingly, the Commission finds that imposing a condition of licence relating to the broadcast of local programming in metropolitan markets is not necessary for the CBC to achieve the above-noted outcome in this regard.
460. However, for the reasons stated above, including difficult access to high-speed Internet in some areas and the lack of news bureaus in non-metropolitan areas, the Commission finds that there is a higher risk that less local programming (predominantly news) would be broadcast in both the English- and French-language non-metropolitan markets should the Commission remove the current exhibition requirements. Consequently, the Commission is maintaining the current requirements regarding the broadcast of seven hours of local programming per broadcast week in English-language non-metropolitan markets, including on CFYK-DT Yellowknife,⁶⁵ and the broadcast of five hours per broadcast week in French-language non-metropolitan markets. **Conditions of licence** in this regard are set out in Appendix 3 to this decision.
461. Further, the Commission is retaining the requirement for each of the CBC's French-language stations to broadcast five hours per week of local programming and that each station broadcast local news seven days a week, except holidays, as defined in the *Interpretation Act*,⁶⁶ excluding Sundays as holidays. A **condition of licence** to that effect is set out in Appendix 3 to this decision.
462. Finally, for the French-language television stations located in Vancouver, Edmonton, Regina, Winnipeg, Ottawa, Toronto and Moncton, the Commission finds that it would be appropriate to allow the CBC to continue averaging over the entire broadcast year the five hours of local programming that it must broadcast during the broadcast week. Accordingly, the Commission **approves** the CBC's request in this regard.
463. As noted in the section entitled "Measurement framework and reporting requirements", the Commission is imposing on the CBC a requirement to report on the perceptions of Canadians in regard to its programming activities, including the broadcast of news and local information. Further details in this regard are set out in that section. As such, the Commission

⁶⁵ The Commission notes that there was an inconsistency in Broadcasting Decision 2013-263, the last licence renewal decision for the CBC's services, where a condition of licence was imposed for CFYK-TV (now CFYK-DT) Yellowknife. Specifically, paragraph 100 of that decision specifies that this station must broadcast seven hours of local programming per broadcast week, whereas paragraph 107 notes that the station will be required by condition of licence to broadcast at least five hours of local programming per broadcast week.

⁶⁶ An Act respecting the interpretation of statutes and regulations.

will be able to monitor the relevance of the CBC's local news and programming for both the metropolitan and non-metropolitan markets.

Non-news local programming in English-language metropolitan markets

464. As noted above, of the 14 hours of local programming that the CBC has been required, by condition of licence, to broadcast during the current licence term on its English-language television stations in English-language metropolitan markets, at least one hour per broadcast week must be devoted to local programming other than news (where such other programming may be cultural programming, public affairs programming or documentaries). The CBC proposed this hour of local programming in the context of its 2013 licence renewal, when it indicated that the objective of this non-news hour of programming was to contribute to the diversity of local programming in major English-language metropolitan markets. In its present application regarding its English-language conventional television stations, the CBC requested that this condition of licence be deleted.
465. In its intervention, the CAB stated that it would not oppose the CBC's request to delete this condition of licence, but added that such a requirement may remain appropriate on a case-by-case basis. The AQPM, on the other hand, requested regulatory symmetry, proposing that the Commission impose on the CBC's French-language television stations five hours per week of local programming and that each station broadcast a minimum required amount of local programming other than news.
466. A review of the CBC's program logs shows that its English-language television stations in metropolitan markets exceeded the requirement set out by condition of licence to broadcast at least one hour of non-news programming per broadcast week (in fact, the CBC exceeded that requirement for each market by broadcasting over six hours of non-news programming per week). As such, the Commission finds that the CBC has achieved the objective of contributing to the diversity of local programming in major English-language markets, and therefore that for the next licence term it is not necessary to impose a condition of licence requiring the CBC's English-language stations in metropolitan markets to broadcast at least one hour of local non-news programming per broadcast week.

Maintaining local audio programming on Radio One and ICI Première stations

467. In regard to local audio programming, the CBC does not have a requirement to broadcast a minimum number of hours of local programming or news in the regions, with the exception of its ICI Première radio station CBEF Windsor. Nevertheless, the Commission continues to consider the offer of local and regional programming on the CBC's radio stations and audio DMBUs to be of the utmost importance and a priority to provide a reasonable opportunity for the Canadian public to be exposed to differing views on matters of public concern.
468. The CBC indicated in its application that its ICI Première stations broadcast 20 morning programs between 6 a.m. and 9 a.m., 17 drive time programs between 3 p.m. and 6 p.m., and regional Saturday programs for five major markets (Western Canada, Ontario, Atlantic Provinces, Ottawa and Montréal). Its Radio One stations air 33 local morning programs, 11 local/regional lunchtime programs, and 20 local/regional programs for the journey home. At the regional level, the CBC produces 10 Saturday and Sunday morning programs and

11 Saturday afternoon programs, all of which are broadcast on Radio One. In addition, CBC Atlantic produces a regional radio program aired on Sunday afternoons in the Maritimes, and a local program aired on Saturday evenings on Cape Breton Island.

469. On the audio DMBUs Radio-Canada OHdio and CBC Listen, the CBC offers Canadians a wide range of local and regional programming content, including the live streaming of its ICI Première and Radio One stations as well as an opportunity to catch up programs.
470. As noted above, the CBC proposed retaining the current approach for all Radio One and ICI Première stations, specifically, that no conditions of licence be imposed for local programming, except for the Windsor station CBEF, which is currently required to broadcast a minimum of 15 hours of local programming during each broadcast week (the details for CBEF are addressed below).
471. Many interveners stated that they were satisfied with the content provided by the CBC's radio stations. They also indicated that the CBC was very important to them, and that the public broadcaster was relevant and valued.
472. For the next licence term, the CBC stated that it plans to increase content on its audio DMBUs to expand listener access to all of its radio station programming and to exclusive content, such as podcasts.
473. The Commission notes that the CBC does not intend to reduce its current overall levels of local and regional audio programming. The public record of this proceeding generally indicates that Canadians are satisfied with the offer of local and regional programming available on the CBC's radio stations, despite the variation in the number of hours currently offered and proposed for the next licence term from one region to the next, and despite comments from certain groups representing OLMCs expressing the desire for more reflective local programming in certain specific regions, including the Atlantic provinces.
474. While the CBC intends to maintain its current level of local and regional programming on its radio stations, some ICI Première stations, including those in Windsor, Ontario; Halifax, Nova Scotia; and Charlottetown, Prince Edward Island, currently broadcast 15 hours of local programming per broadcast week, which is significantly less than the levels provided by other network stations. The same is true for Radio One stations such as those in Saskatoon, Saskatchewan; Windsor, Ontario; Moncton, New Brunswick; and Corner Brook, Newfoundland and Labrador, which each broadcast less than 15 hours of local programming per broadcast week.
475. In the Commission's view, it is important to ensure that no reductions occur in the current local and regional programming levels on CBC radio over the next licence term. The public broadcaster should continue to meet the needs of all Canadians, especially those who do not have access to DMBUs and who expect an appropriate amount of local and regional programming on radio. This includes local and regional programming of interest to, and about, Indigenous Peoples on CBC radio throughout the country. The Commission notes that the CBC offers programming on radio in the following Indigenous languages: Inuktitut, Cree, Tlicho, Inuvialuktun, Chipewyan, Gwich'in, North Slavey and South Slavey.

476. The Commission therefore finds that imposing conditions of licence for such programming on CBC radio stations across the network is not necessary, with the exception of CBEF. However, the Commission finds that it would be appropriate to set out an expectation applicable to all Radio One and ICI Première stations aimed at ensuring that a minimum number of hours per week of local and regional programming is offered during the next licence term, in light of the importance of this type of programming for keeping Canadians informed on issues and questions that concern them.
477. Consequently, as set out in Appendix 3 to this decision, the Commission expects the CBC to maintain the current minimum number of hours per week of local and regional programming on its Radio One and ICI Première stations, which are listed in Appendix 5 to this decision. This expectation will assist in ensuring that the amount of local programming, which is less available in some markets, does not further decline during the next licence term.

CBEF Windsor and the requirement to broadcast a minimum amount of French-language local programming

478. The CBC is currently required to broadcast a minimum of 15 hours of local programming each broadcast week on the French-language Windsor radio station CBEF.⁶⁷ In its application for its French-language audio services, the CBC proposed to maintain this condition of licence for CBEF.
479. In its intervention, SOS-CBEF, which advocated for better representation of Windsor's Francophone community in the programming of the ICI Première station CBEF, submitted that this condition of licence should be maintained or that the requirement should even be increased, given that the required amount of local programming broadcast on the station has greatly enhanced the vitality of that city's Francophone minority community. In its view, the deletion of the current requirement could result in any gains being lost.
480. As noted above, the CBC did not indicate that it intended to decrease the amount of local programming on CBEF for the next licence term. However, it did not demonstrate that CBEF has significantly exceeded the required 15 hours of weekly local programming during the current licence term.
481. In light of this, the Commission is requiring CBEF to continue broadcasting a minimum of 15 hours of local programming each broadcast week over the next licence term. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

Enhancement of the CBC's French-language local programming offerings in Windsor, Halifax and Charlottetown

482. In its applications, the CBC stated that it plans to maintain the current local and regional programming offerings for all of its OLMC stations. However, certain interveners commented on a lack of representation of OLMCs in some of the programming offered by the CBC's French-language services. Information provided by the CBC in its application for its French-language audio services shows that the amount of local programming provided on its ICI Première stations CBEF, CBAF-FM-5 Halifax and CBAF-FM-15 Charlottetown

⁶⁷ See condition of licence 15 set out in Appendix 4 to Broadcasting Decision 2013-263.

during the current licence term (specifically, 15 hours per week in each city⁶⁸) has been significantly less than the number of hours provided on its other OLMC stations, which averaged between 26 to 42.5 hours of such programming per broadcast week. At the hearing, the Commission questioned the CBC on the possibility of enhancing the French-language local programming offered by those three stations.

483. In its reply, the CBC indicated that being required, by condition of licence, to broadcast a minimum of 26 hours of French-language local programming each broadcast week on each of these ICI Première stations would have a considerable financial impact as it would mean adding an entire team to produce a new local show of two hours and 30 minutes per day, five days a week. It added that for these stations to serve, reach and engage with their audiences, any requirement increasing the amount of French-language local programming should be achieved through existing multiplatform resources in those cities.
484. Given the CBC's plans to maintain the current amounts of local and regional programming for its OLMC stations, none of these markets should see a reduction in the amount of local programming broadcast over the next licence term. However, the Commission finds that setting out an expectation to maintain a minimum broadcast threshold of 15 hours of French-language local programming per week for CBAF-FM-5 and CBAF-FM-15 would be appropriate given the importance of this programming for the communities served by those stations, and would address concerns raised by certain interveners. Accordingly, as set out in Appendix 3 to this decision, the Commission expects the CBC to broadcast not less than 15 hours of local programming each broadcast week on each of the ICI Première stations CBAF-FM-5 Halifax and CBAF-FM-15 Charlottetown.
485. Finally, as set out in Appendix 3 to this decision, the Commission encourages the CBC to increase its current offering of local French-language programming broadcast each broadcast week on its ICI Première radio stations serving the Francophone communities of Windsor, Halifax and Charlottetown. As set out in Appendix 4, the Commission encourages the CBC to increase the amount of local French-language content from those stations that is made available on its audio DMBUs. Such an enhancement would be consistent with the CBC's preferred strategy, whereby a multiplatform approach represents a better use of its resources than the addition of a local radio program.

ICI RDI and programming for Canada's principal French-language regions

486. The CBC is currently subject to a condition of licence⁶⁹ requiring the programming of ICI RDI to reflect the concerns of each of the principal French-language regions in Canada (i.e., the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec [excluding Montréal]). To this end, the condition of licence further requires the CBC to ensure that at least one-third of original programs and broadcast segments broadcast by the service each broadcast year come from the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec (excluding Montréal). In its application regarding its

⁶⁸ Unlike CBEF, CBAF-FM-5 and CBAF-FM-15 do not have conditions of licence relating to the broadcast of a minimum amount of French-language local programming.

⁶⁹ See condition of licence 2 set out in Appendix 5 to Broadcasting Decision 2013-263.

French-language audiovisual services, the CBC proposed maintaining this condition of licence for ICI RDI.

487. According to the CBC's annual reports,⁷⁰ the percentage of ICI RDI's original programs coming from the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec (excluding Montréal) generally increased each year of the current licence term, averaging 38.35% for the entire licence term. Nevertheless, several interveners representing French-language communities, including the SNA, the FANE, the AFO, the FJCF, the AAAPNB, the APFC and the FCFA, expressed concerns regarding the Montréalization or Quebecization of French content on the CBC's national French-language network.
488. Many interveners acknowledged the role of DMBUs in reaching Canadians across the country, including those in Canada's principal French-language regions. However, certain interveners including the ISO, the Yellowknife arts organization Folk on the Rocks (FOTR), CMAC, the AAAPNB, the FANE, OCOL, the AFO and the FCCF noted that many Canadians in the North and in rural communities across the country either do not have access to the Internet or have Internet connections that are unstable, restricted by data usage, or unaffordable.
489. The CBC acknowledged that interveners were partly correct in regard to the Montréalization or the Quebecization of French-language content, and that this showed a lack of sensitivity on its part. It added that it has put in place a directory to which each region of the country provided experts across all categories, which will make it possible for any experts who provide comments or who participate in a program to come from different regions. The CBC considered that it had made improvements in the last year, but acknowledged that there is still some way to go.
490. In light of the above, and to help the CBC to continue meeting outcomes regarding French-language news programming from the regions, the Commission is maintaining the requirement set out in the current condition of licence for ICI RDI to ensure that at least one-third of original programs and program segments that it broadcasts each broadcast year come from the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec (excluding Montréal). A **condition of licence** to that effect is set out in Appendix 3 to this decision.

News during times of crisis

491. In March 2020, the CBC temporarily changed certain elements of its English-language news service across Canada on its conventional television stations (with the exception of CFYK-DT, local radio services, DMBUs and news programming) in light of the COVID-19 pandemic, including replacing local supper-hour and late-night newscasts across Canada with CBC News Network programming. The CBC explained that it had stopped broadcasting local programming on the majority of its English-language television stations because of

⁷⁰ See Cover Letters submitted from 2013-2014 to 2019-2020 under "[Radio-Canada French-Language Services CRTC Annual Reports](#)".

human resources issues related to safety, illness, and staff's ability to work from home. These changes did not affect the CBC's French-language conventional television stations.

492. Canadians consume a great deal of local programming on all platforms, and the pandemic has only increased this demand for information. Conventional television stations are still very popular with Canadians, especially for news coverage, and especially in times of national and international crisis. Further, Canadians expect the CBC to disseminate and make available information in the event of an emergency.
493. In light of the above, as set out in Appendices 3 (for the CBC's licensed conventional television stations) and 4 (for the CBC's DMBUs) to this decision, the Commission expects the CBC to maintain local, regional and national news broadcasts in a crisis or emergency on all of its audiovisual and audio services. For the purpose of this expectation, "crisis or emergency" is defined as an imminent threat to life or property affecting a community, a group of people, or all of society. Such a threat could stem from events that include, but are not limited to, natural disasters, and social, economic, political or health events.

National news and information on the CBC's audiovisual and audio services

494. In regard to the CBC's services that broadcast national news and information, the Commission has addressed the following:
- the licensee's request that the licensed national news services CBC News Network and ICI RDI continue to be subject to the requirements for national news services set out in Broadcasting Regulatory Policy 2015-436;
 - the licensee's request for the continued mandatory distribution of CBC News Network and ICI RDI by BDUs as part of the basic service in minority official language markets; and
 - national news on the CBC's audio services.

CBC News Network and ICI RDI, and standard requirements for national news services

495. The CBC's discretionary services CBC News Network and ICI RDI benefit from mandatory distribution pursuant to paragraph 9(1)(h) of the *Broadcasting Act*, and operate as national news services. The standard conditions of licence, expectations and encouragements that have applied to these services during the current licence term are set out in Appendix 2 to Broadcasting Regulatory Policy 2009-562-2.
496. In Broadcasting Regulatory Policy 2015-86, the Commission announced the introduction of new, more stringent licensing criteria for national news services that, in conjunction with the existing licensing requirements, would ensure that such services provide high-quality news programming reflective of all regions in Canada. Consequently, in Broadcasting Regulatory Policy 2015-436, the Commission set out revised standard conditions of licence, expectations and encouragement for national news services. In its applications, the CBC indicated that it would adhere to the standard conditions of licence, expectations and encouragements set out in that regulatory policy.

Positions of parties

497. In its intervention, PBC21 suggested that CBC News Network should cease operations given that the CBC's English-language services are universally accessible over the air, through BDUs, and on demand through CBC Gem. It indicated that this suggestion had been made in light of the CBC's decades-long lack of money, and would enable the CBC to maximize available resources to provide essential programming. Following a question regarding whether ICI RDI should close down, PBC21 explained that it could be more efficient to group programs under a universally available service, namely one that does not require Canadians to pay extra monthly fees for access.

498. Quebecor submitted that the CBC should ensure that it provides the best international, national, regional and local information coverage. An individual intervener recommended a 14-hour threshold for original news, of which seven hours would be national and international news.

Commission's analysis

499. At the oral phase of the hearing, the CBC stated that it did not foresee major changes to its broadcast of news on CBC News Network and ICI RDI. Since they are subject to the standard conditions of licence for Canadian discretionary services operating as national news services (Broadcasting Regulatory Policy 2015-436), these two discretionary services must adhere to the following requirements, set out by condition of licence, relating to the quantity of news to broadcast:

- provide updated news reports every 120 minutes; and
- devote at least 95% of all programming broadcast during the broadcast month to programs drawn from program categories 1 News, 2(a) Analysis and interpretation, 2(b) Long-form documentaries and 3 Reporting and actualities.

500. In the Commission's view, given that the CBC must broadcast a considerable amount of news in order to adhere to Broadcasting Regulatory Policy 2015-436 and that this did not raise any major issues during the present proceeding, no further broadcasting requirements (other than those that apply to the services in their capacity as discretionary services) or reporting requirements are necessary for CBC News Network and ICI RDI.

501. In light of the above, the Commission finds that it would be appropriate for the discretionary news services CBC News Network and ICI RDI, for the next licence term, to be subject to the conditions of licence, expectations and encouragement for such services set out in Broadcasting Regulatory Policy 2015-436. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

Renewal of the mandatory distribution orders for CBC News Network and ICI RDI

502. Pursuant to Distribution order 2013-264, set out in Appendix 9 to Broadcasting Decision 2013-263, the discretionary service ICI RDI (formerly Réseau de l'information) benefits from mandatory distribution, pursuant to paragraph 9(1)(h) of the *Broadcasting Act*, to all

BDU subscribers living in Anglophone markets as part of the basic service. When distributed as part of the digital basic service, the licensee is required, by condition of licence, to charge distributors of the service in English-language markets a maximum wholesale rate per subscriber of \$0.15.

503. Further, pursuant to Distribution order 2013-265, set out in Appendix 10 to Broadcasting Decision 2013-263, the discretionary service CBC News Network benefits from mandatory distribution, pursuant to paragraph 9(1)(h) of the *Broadcasting Act*, to all BDU subscribers living in Francophone markets as part of the basic service. When distributed as part of the digital basic service, the licensee is required, by condition of licence, to charge distributors of the service in French-language markets a maximum wholesale rate per subscriber of \$0.10.
504. The CBC requested that the mandatory distribution orders for CBC News Network and ICI RDI be maintained throughout the new licence term.⁷¹ It argued that amending the mandatory distribution orders for these services and any related conditions of licence before the end of the new licence term would require a reconstruction of the program line-up and supporting structures (bureaus and staffing) for the services mid-licence, which would be disruptive to viewers.
505. Finally, the CBC requested increases in the monthly wholesale rate per subscriber for the services when distributed as part of the digital basic service: for CBC News Network, from \$0.15 to \$0.20 per subscriber in French-language markets, and for ICI RDI, from \$0.10 to \$0.13 per subscriber in English-language markets. It submitted that the requested increases are justified given the effect of inflation over 25 years, a materially declining subscriber base, and profit before interest and taxes (PBIT) margins that are currently negative and are forecast to be negative each broadcast year of the next licence term.
506. When questioned on the possibility of aligning the new term for mandatory distribution for CBC News Network and ICI RDI with that of other services that benefit from mandatory distribution pursuant to paragraph 9(1)(h) of the *Broadcasting Act* (9(1)(h) services) and that are up for renewal of their mandatory distribution in 2023, the CBC stated that any further delay in increasing the rates for its two services would translate into a significant yearly shortfall that would impact programming broadcast on the services. The licensee added that costs continue to rise and that it has not had a rate increase for the services since they were granted mandatory distribution before the mid-1990s.

Positions of parties

507. Intervenors including the QCGN, the QEPC, ELAN and the FCFA supported the renewal of the mandatory distribution orders for CBC News Network and ICI RDI as well as the requested increase in the wholesale rates for these services. However, Quebecor and Bell submitted that continued mandatory distribution of these services is no longer justified given the changes in consumer consumption habits and the regulated basic service rate. Further, Shaw Communications Inc., BCE Inc., TELUS Communications Inc. and Quebecor opposed any increases in the wholesale rates for the services.

⁷¹ These orders, which were put in place to increase access to content in the linguistic minority market, were administratively renewed until 31 August 2021 in Broadcasting Decision 2020-201.

508. In its final reply, the CBC emphasized the support that mandatory distribution of CBC News Network and ICI RDI provides to linguistic duality and a regional newsgathering presence. It noted that each of these services are among those with the highest CPE margins in the Canadian broadcasting system.

509. The CBC further noted that 9(1)(h) services are part of the entry-level package, which must be priced at no more than \$25 per month. Given that most BDUs are already offering this package at the maximum regulated rate, an increase in input costs cannot be passed along to consumers.

Commission's analysis

510. In Broadcasting Regulatory Policy 2010-629, the Commission set out the criteria to be used when assessing applications for mandatory distribution on the digital basic service. Services benefitting from mandatory distribution continue to be evaluated against these criteria at the time of renewal of mandatory distribution.

511. After reviewing the evidence submitted by the CBC to support the continued mandatory distribution of both CBC News Network and ICI RDI, the Commission finds that:

- the licensee has adequately demonstrated that both CBC News Network and ICI RDI make an exceptional contribution to Canadian expression and reflect Canadian attitudes, opinions, ideas, values and artistic creativity;
- the licensee has adequately demonstrated that CBC News Network and ICI RDI are contributing to improved service to OLMCs;
- CBC News Network and ICI RDI are making exceptional commitments to original, first-run Canadian programming in terms of exhibition and expenditures;
- the licensee has adequately demonstrated that there is extraordinary need for CBC News Network and ICI RDI; and
- the licensee has adequately demonstrated that its business plan and implementation of its commitments relating to coverage and reflection of OLMCs are dependent on continued receipt of broad distribution on the digital basic service in minority language markets.

512. In light of the above, the Commission finds that the CBC has met the criteria set out in Broadcasting Regulatory Policy 2010-629 for the continued mandatory distribution of CBC News Network and ICI RDI.

513. In regard to the CBC's request to increase the wholesale rate for each service, although certain interveners opposed the requested increases, no evidence of undue impact on subscribership or revenues was provided. Further, since 2018, the Commission has approved increases in the wholesale rates for other services benefitting from mandatory distribution.⁷²

⁷² In this regard, see Broadcasting Decisions 2018-340, 2018-329, 2018-307 and 2017-152.

514. Should the Commission approve the CBC's requested wholesale rate increases, the new total cost of all 9(1)(h) services on BDUs operating in English-language markets would increase by 2% to \$1.50, while the new total cost of all 9(1)(h) services on BDUs operating in French-language markets would increase by 3% to \$1.69. In the Commission's view, the CBC has provided evidence that the impact of the proposed wholesale rates on the price of the basic package would be minimal, and that the requested wholesale rates would have widespread acceptability to Canadians.
515. Accordingly, the Commission **approves** the CBC's requested increases in the monthly wholesale rates per subscriber for the services when distributed as part of the digital basic service, for CBC News Network, from \$0.15 to \$0.20 per subscriber in French-language markets, and for ICI RDI, from \$0.10 to \$0.13 per subscriber in English-language markets.
516. Finally, in regard to the CBC's request that mandatory distribution of the two services be effective for the duration of the new licence term, the Commission notes that aligning the renewal of the mandatory distribution of CBC News Network and ICI RDI with that of other 9(1)(h) services for which this status expires at the end of the 2022-2023 broadcast year would provide the Commission with an opportunity to carry out a more fulsome review of the impact of any related proposals. However, as argued by the CBC, alignment of the mandatory distribution of CBC News Network and ICI RDI with any period other than the new licence term could be disruptive to viewers as it could translate into a yearly shortfall that would force the licensee to reconstruct the services' programming line-ups and supporting structures (bureaus and staffing). Further, it would make it necessary to amend certain conditions of licence for the services in the middle of a licence term.
517. In the Commission's view, the evidence and arguments provided by the CBC support the requested timeframe (i.e., until the end of the new licence term) for the renewed mandatory distribution for CBC News Network and ICI RDI. Accordingly, the Commission **approves** the CBC's request in this regard. The renewed mandatory distribution orders for these services, along with the new wholesale rates for the services, are set out in Appendices 6 (ICI RDI) and 7 (CBC News Network) to this decision.

National news on the CBC's audio services

518. The national news broadcast on CBC radio stations is offered mainly as newscasts that are also available on all of its audio DMBUs. Since the CBC already broadcasts a considerable amount of national news on all of its audio platforms without any specific regulatory requirements, the Commission finds that it is not necessary to impose conditions of licence or additional reporting requirements to ensure that the current levels of audio services provided by the CBC are maintained.

The CBC's Journalistic Standards and Practices, its Offices of the Ombudsman, and branded content

519. The *Broadcasting Act* states that the programming provided by the CBC should actively contribute to the flow and exchange of cultural expression (subparagraph 3(1)(m)(iii)), contribute to shared national consciousness and identity (subparagraph 3(1)(m)(vi)) and reflect the multicultural and multiracial nature of Canada (subparagraph 3(1)(m)(viii)).

520. Finally, subsection 46(5) of the of the *Broadcasting Act* states that the CBC “shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence.”

521. In regard to the above, the Commission’s overarching desired outcome is for the CBC to serve the public interest by providing timely, verified, and unbiased relevant news and information. The specific outcomes to achieve, the tools to be used to achieve those outcomes, and the tools to be used to measure and report on whether those outcomes are being achieved are as follows:

Specific outcomes to achieve (for audiovisual and audio services)	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
<p>All news and information content is compliant with the CBC’s JSP via Offices of the Ombudsman that are accountable to the various stakeholders, including the public.</p>	<p>Conditions of licence relating to the selection, reporting and public accountability of the Ombudsmen</p> <p>Expectation to ensure that Canadians know how and where to send complaints to the Ombudsmen</p> <p>Expectation to ensure that Canadians understand that if they are unsatisfied with a decision of an Ombudsman, they can forward their complaint to the Commission for its consideration</p> <p>Encouragement to increase the Ombudsmen’s capacity to review complaints pertaining to equity-seeking communities</p>	<p>Ombudsmen annual public reports</p> <p>CBC’s management’s responses to the Ombudsmen’s annual reports filed with Commission annually</p>
<p>The principles of the CBC’s JSP are upheld during every phase of the journalistic process while allowing journalists, regardless of background, to report openly and honestly, including on matters relating to race.</p>	<p>Expectation to create an internal mechanism for journalists to provide relevant feedback to the CBC regarding the interpretation and implementation of its JSP</p> <p>Expectation that in any future review of its JSP, the CBC will consult with a variety of equity-seeking communities to capture a wide spectrum of lived experiences to ensure that the JSP is not a barrier to open and honest reporting</p>	<p>n/a</p>

522. In this section, the Commission sets out its decisions in regard to the following:

- ensuring that all of the CBC's news, current affairs, and public affairs content is compliant with the CBC's JSP via Offices of the Ombudsman that are accountable to the various stakeholders, including the public; and
- ensuring that the principles of CBC's JSP are upheld during every phase of the journalistic process while allowing journalists, regardless of background, to report openly and honestly, including on matters relating to race.

Ensuring that all news and information content broadcast by the CBC is compliant with the CBC's JSP via Offices of the Ombudsman that are accountable to the various stakeholders, including the public

Two Offices of the Ombudsman

523. The CBC is currently subject to the following condition of licence⁷³ relating to its two Offices of the Ombudsman:

The licensee shall maintain two Offices of the Ombudsman: one for all of the Canadian Broadcasting Corporation's (the Corporation's) French-language services and one for all of the Corporation's English-language services for complaints related to the Corporation's Journalistic Standards and Practices. The ombudsmen shall report directly to the President of the Corporation and, through the President, to the Corporation's Board of Directors.

524. The CBC did not request any changes to this condition of licence. It stated that the Ombudsmen are effective mechanisms for Canadians to provide feedback when there are perceived breaches of its JSP. The CBC further stated that the Ombudsmen provide robust accountability for the public broadcaster and, because the results published in the report by each Office of the Ombudsman are proactively disclosed on its corporate website, the information is open to the scrutiny of Canadians.

525. The CBC also indicated that its two Ombudsmen are completely independent from its news departments and that they have helped to reinforce the trust Canadians have in the CBC's journalistic activities and bolster the journalistic quality of its news and information programming. The CBC stated that when reviews by the Ombudsmen determine that a journalist has run afoul of the principles of the JSP, it follows the recommendation in order to avoid future instances of non-compliance.

526. None of the parties to this proceeding commented substantively on the CBC's Offices of the Ombudsman, either through written interventions or at the oral phase of the hearing.

527. The existence, nomination, and mandate of the Ombudsmen were explored at length during the proceeding that led to the issuance of the CBC's 2013 licence renewal decision (Broadcasting Decision 2013-263). In the Commission's view, conditions of licence

⁷³ All of the CBC's current conditions of licence relating to Ombudsmen are set out in Appendix 2 to Broadcasting Decision 2013-263.

requiring the Ombudsmen to maintain their independence and accountability and continue serving the Canadian public in responding to concerns relating to news and information programming still constitute the most efficient means for ensuring that the CBC serves the public interest by providing timely, verified, and unbiased relevant news and information.

528. The Offices of the Ombudsman (French and English) are the primary mechanisms by which Canadians can voice their concerns and complaints regarding the journalistic integrity of the CBC as it relates to news and current affairs. Given the particularities of both language markets, it remains effective and efficient that two offices be maintained so that the CBC is positioned to speak to specific concerns in the language of the complainant.
529. Although the Ombudsmen report to the President of the CBC, they operate independently of management, and they evaluate complaints through an impartial lens, using the principles outlined in the JSP to guide their reviews.
530. The CBC Ombudsmen ensure accountability while balancing that accountability with the journalistic independence provisions in the *Broadcasting Act*.
531. In the Commission's view, continuing with the existing structure would best serve the Canadian public.
532. In light of the above, the Commission is maintaining the requirement for the CBC to maintain two Offices of the Ombudsman, one for all of its French-language services and one for all of its English-language services, to address complaints relating to the CBC's JSP. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

Selection of Ombudsman

533. The CBC is currently subject to the following condition of licence relating to the selection of an Ombudsman:⁷⁴
4. The licensee shall follow these steps when selecting an Ombudsman:
 - a) when filling the Ombudsman's position, the licensee will openly seek candidates from outside as well as inside the Corporation;
 - b) after appropriate consultation, the President and CEO of the Corporation shall establish a selection committee of four members;
 - c) two members, including the committee chair, will be from the public. People currently employed by the Corporation or employed by the Corporation within the previous three years will be excluded from nomination as public members;
 - d) the other committee members will consist of one representative of the Corporation's management and one representative of the Corporation's working journalists;

⁷⁴ Set out in Appendix 2 to Broadcasting Decision 2013-263.

- e) committee members representing the Corporation and its working journalists jointly select the committee chair from among the two public members;
- f) the selection committee shall examine applications for the position of Ombudsman and select a candidate to be recommended for appointment by the President and CEO; and
- g) the Ombudsman's appointment is for a term of five years. This term may be extended once for no more than five additional years. The Ombudsman's contract cannot be terminated except for gross misconduct or in instances where the Ombudsman's actions have been determined to be inconsistent with the Corporation's [Code of Conduct](#).

534. In the Commission's view, these steps continue to be important in the selection of an Ombudsman. The Ombudsmen should be and appear impartial in assessing complaints received from the public, from their selection as Ombudsmen to how they are able to address complaints. The Commission finds that the selection process should continue to be as public and impartial as possible, both in fact and in appearance, while at the same time ensuring that Ombudsmen are empowered to impartially assess complaints without concerns relating to their own employment.

535. While the nomination and selection of the Ombudsmen was not raised on the record of this proceeding, the Commission finds that conditions of licence 4.a) to f) above remain relevant and are useful in maintaining impartial and unbiased Ombudsmen. Similarly, condition of licence 4.g) above relating to the Ombudsmen's term remains appropriate as it ensures that Ombudsmen can address issues raised in complaints they have received without concerns relating to their tenure, and should therefore not be modified.

536. However, the Commission further considers that including as part of the selection committee at least one member of one of various equity-seeking communities noted earlier in this decision (i.e., Indigenous Peoples, racialized Canadians, Canadians with disabilities, and Canadians who self-identify as LGBTQ2) would be beneficial in the CBC's selection of Ombudsmen given that considering candidates with a wider range of perspectives and experiences would likely result in the selection of a candidate who possesses the necessary sensitivities to render decisions on complaints that may include diversity elements.

537. In light of the above, the Commission is maintaining the current requirements regarding the selection of an Ombudsman, but is also adding the following two new steps to the Ombudsman selection process:

- at least one of the selection committee members shall be Indigenous or from an equity-seeking community such as racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2; and
- when evaluating candidates for the position of Ombudsman, the selection committee shall consider candidates' awareness of and sensitivity to the diversity, experiences and voices of Indigenous Peoples in Canada and of Canadians.

538. The **condition of licence** relating to the selection of the Ombudsmen, which includes the above new steps, is set out in Appendix 3 to this decision.

Bi-annual reporting by the CBC to its President and Board of Directors

539. The CBC is currently subject to the following conditions of licence relating to bi-annual reporting by the Ombudsmen to the CBC's President and Board of Directors:⁷⁵

2. [...] The ombudsmen shall report bi-annually and concurrently to the President and the Board of Directors, including at least once in their annual report.

3. The licensee's Board of Directors shall, in a timely manner, publicly respond to the recommendations presented in the ombudsmen's annual reports.

540. The reports filed by the Offices of the Ombudsman are instrumental in identifying complaint highlights, patterns, and trends regarding news coverage and the CBC's compliance with its JSP. Public responses from the Board of Directors to the recommendations presented in the Ombudsmen's annual reports increases the CBC's accountability to follow through on those recommendations.

541. In light of the above, the Commission is maintaining the requirements relating to bi-annual reporting by the Ombudsmen and the public response to the recommendations presented in the Ombudsmen's annual reports. **Conditions of licence** to that effect are set out in Appendix 3 to this decision.

Submission of management's responses to Offices of the Ombudsman Annual Reports

542. The response by CBC management to the Offices of the Ombudsman Annual Reports are valuable because they demonstrate that the CBC's executives are aware of the most prevalent concerns among Canadians relating to news and current affairs. This response, typically written by the CBC's Editor in Chief, also acknowledges recurring trends and issues during the preceding year and identifies areas of potential focus for the year ahead. This visible accountability allows Canadians to be made aware of what the CBC intends to do following issues raised by the Ombudsmen in their annual reports.

543. When a complainant is unsatisfied with a review conducted by either Office of the Ombudsman, they may contact the Commission to follow up on the assessment. Between 2013 and 2021, there was only one instance⁷⁶ where the Commission determined that it needed to formally review a complaint following an evaluation of that complaint by an Ombudsman.⁷⁷ In that case, the Commission found that the CBC had not violated any of its regulatory obligations.

⁷⁵ Set out in Appendix 2 to Broadcasting Decision 2013-263.

⁷⁶ The Commission notes that it is currently reviewing a complaint following the evaluation of that complaint by the CBC's Ombudsman for French-language services, and that it has not yet issued a decision in regard to that review.

⁷⁷ See Broadcasting Decision 2013-645.

544. The Commission can further monitor the public's satisfaction with an Ombudsman's decision through complaints it receives following an Ombudsman decision, as is currently the practice. Furthermore, because the reports are filed publicly, Canadians can view management's response to the concerns voiced by other audience members by consulting either the CBC's website or the Commission's website, thus ensuring Canadians can access those concerns via multiple portals.
545. In light of the above, the Commission is imposing a new requirement whereby the CBC must, by 30 November of each year, submit to the Commission the responses of CBC management to the Offices of the Ombudsman Annual Reports (French and English). A **condition of licence** to that effect is set out in Appendix 3 to this decision.
546. The CBC is currently subject to the following condition of licence relating to the filing of annual reports:
5. The licensee shall provide the Commission, by 30 November of each year, with a copy of the most recent public annual report submitted by each ombudsman to the licensee's board of directors.
547. In the Commission's view, the annual reports submitted to the Commission by the Offices of the Ombudsman are appropriate tools as they include specific information on the number of complaints received, the number of complaints reviewed, and the number of violations of policy. Such information can provide valuable insights as to the number of alleged and confirmed breaches of the JSP as well as identify complaint trends relating to the CBC's news coverage on all of its platforms.
548. Furthermore, the public filing of the annual reports helps to ensure that Canadians can find the reports and view the particular concerns voiced by other audience members.
549. In light of the above, the Commission is maintaining the requirement for the CBC to file with the Commission a copy of the most recent public annual report submitted by each Ombudsman to the licensee's board of directors. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

Encouragements relating to using available resources to increase the Ombudsmen's capacity to review journalistic complaints

550. At the oral phase of the hearing, the CBC indicated that it has taken various actions and implemented various tools to address issues relating to diversity and journalistic practices. These include the creation of a diversity committee to review crime and police reporting, the establishment of a working group that reports to the senior leadership on recommendations related to diversity and inclusion, and the appointment of a senior advisor/project manager responsible for diversity and inclusion training for reporters, programmers and editorial leaders involved in the production of news and current affairs programming. Further, through a commitment to "learning, education, and listening" related to diversity and inclusion, the CBC indicated that it has conducted informal consultations with more than 60 racially diverse staff members regarding the JSP, used surveys and polls to collect feedback that could be used in discussions with its staff, and, following the killing of George Floyd, held

two town halls, one in Alberta and one in British Columbia, on the subject of confronting racism. The Commission commends the CBC's efforts in this regard and finds that ongoing efforts on the part of the public broadcaster would allow it to continue to address issues of diversity inclusion as they pertain to its journalistic practices.

551. Accordingly, as set out in Appendix 3 to this decision, the Commission encourages the CBC to increase the Ombudsmen's capacity to review journalistic complaints pertaining to Indigenous Peoples and equity-seeking communities.. Further, in order to improve that capacity throughout the licence term, the Commission encourages the CBC to use available resources (such as diversity and inclusion committees and training) that could enhance the Ombudsmen's knowledge of and sensitivity to issues relating to the aforementioned communities.

Ensuring that the principles of CBC's JSP are upheld during every phase of the journalistic process while allowing journalists, regardless of background, to report openly and honestly, including on matters relating to race

552. In its licence renewal applications, the CBC did not mention any potential changes to its JSP. However, on 4 June 2020, the CBC announced that it was reviewing its JSP "through the lens of inclusivity" after journalists publicly voiced concerns that the CBC's internal rules on journalistic impartiality were "distorting coverage of anti-Black racism."

553. The CBC stated that the JSP is an evolving document that is reviewed at regular cycles so that it may guide journalists in their reporting. It submitted that the main issue with the JSP is the need for further clarification and precision. Noting that its current review of the JSP is not a formal one, the CBC indicated that it is working with an internal diversity and inclusion working group to identify potential gaps and is consulting with its staff to address and listen to concerns and questions regarding areas or principles that might require clarification, especially when it comes to the interpretation and implementation of its principles.

554. The CBC stated that current areas of concern include language used, conflicts of interest, and the effect of social media. It noted that consultation on the JSP is ongoing and that, based on the findings, the next steps would be discussed among the news leadership. The CBC also indicated that it has put in place a permanent advisory group that will regularly evaluate the implementation of the JSP.

555. An individual intervener submitted that the JSP was written with traditional media in mind (television, radio, and newspaper) and, therefore, neglects to account for online content and newer modes of current affairs consumption.

556. CMAC indicated that Black, Indigenous, and racialized employees of the CBC had called for reforms to the JSP due to the conflict-of-interest guidelines being disproportionately applied against them. CMAC also quoted former Yukon Morning host, Christine Genier, in stating that "the JSP blocks the ability to bring the stories and languages and cultures to the programming."

557. Following the oral phase of the hearing, the CBC clarified the principles of the JSP that applied to journalists, and those that applied to non-journalists. It further clarified that the application of the JSP is based on the type of content and who created it, across all platforms (video, audio or online).

558. The CBC's JSP is an internal document designed to guide journalists in the provision of news and current affairs to the Canadian public. As the JSP was created by and for the CBC to guide its journalists in their work, there were no conditions of licence relating to the JSP in previous licence renewal decisions for the CBC's services.
559. In the Commission's view, the five core principles of the JSP: i) accuracy; ii) fairness; iii) balance; iv) impartiality; and v) integrity, are all crucial. However, in order for the principles to be applied in a manner that meets the CBC's mandate of "reflecting the multiracial and multicultural nature of Canada," journalists must not feel unduly hindered or stifled in their reporting, particularly on race-related issues.
560. While numerous journalists have voiced concerns regarding the interpretation and application of the JSP, it is the Commission's view that the CBC is best positioned to address any perceived shortcomings that the JSP may have, especially as they relate to race-related reporting.
561. In light of the above, the Commission finds that it would be appropriate to recognize through the following expectations the importance of the JSP and of the CBC's stated intent to ensure that it is reviewed on an ongoing basis to ensure it meets its stated objectives.

Expectation relating to the creating of an internal mechanism for the CBC's journalists

562. In order to serve the public interest appropriately, all journalists must feel empowered to report on all issues, including race-related issues, openly and honestly. In the Commission's view, the CBC, by creating and maintaining a feedback mechanism for journalists, would allow those journalists to voice their concerns regarding the interpretation and application of the JSP. In order to appropriately explore key issues, communication channels between journalists and management should remain open so that decision-makers at the CBC can respond to the valid concerns of its news staff accordingly.
563. In light of the above, as set out in Appendix 3 to this decision, the Commission expects the CBC to create an internal mechanism for its journalists to provide it with feedback relevant to the interpretation and implementation of its JSP.

Expectation that any future review of the CBC's JSP should include many voices from different backgrounds to ensure that the journalistic code is not a barrier to open and honest reporting

564. In relation to the primary objections raised concerning the interpretation and application of the JSP, racialized journalists voiced their concerns publicly, typically in news articles, editorials, interviews, and on social media.
565. The JSP was created by the CBC to guide its journalists in their reporting. Accordingly, the Commission finds that the CBC should involve Indigenous and racialized journalists in any subsequent reviews of the JSP that might take place, including consulting with those journalists regarding any potential changes that may follow such a review. While the CBC indicated during the public hearing that it had included Indigenous and racialized journalists in an advisory group during the unofficial review of the JSP, it is the Commission's view that Indigenous and racialized journalists should be proactively involved in any resulting changes to the JSP.

566. Consistent understanding, interpretation, and application of the JSP among all of the CBC’s journalists are crucial in order for CBC employees to effectively carry out reporting on news, current affairs, and public affairs matters that are relevant to all Canadians. Given Canada’s multiracial makeup, the Commission also considers that clearly-defined JSP principles, especially on matters related to race, will assist the CBC as it strives to “contribute to the understanding of issues of public interest and to encourage citizens to participate in our free and democratic society.”⁷⁸ To meaningfully achieve this, Indigenous and racialized journalists need to be involved every step of the way.

567. In light of the above, as set out in Appendix 3 to this decision, the Commission expects that any future review of the CBC’s JSP will involve consultations with a variety of equity-seeking communities to capture a wide spectrum of lived experiences so as to ensure that the JSP is not a barrier to open and honest reporting.

Distinguishing advertising from news and information

568. Paragraph 3(1)(g) of the *Broadcasting Act* states that “the programming originated by broadcasting undertakings should be of high standard”. Paragraph 3(1)(h) of the *Broadcasting Act* also states that “all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast”.

569. As noted earlier in this decision, subsection 2(3) of the *Broadcasting Act* states that “[t]his Act shall 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.” Furthermore, as noted above, pursuant to subsection 46(5), the CBC “shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence.”

570. The Commission’s desired outcome for the CBC is to ensure that the public can clearly distinguish advertising from news and information content on all of the CBC’s platforms and services. The tools to be used to achieve that outcome and the tools to be used to measure and report on whether that outcome is being achieved are as follows:

Outcome to achieve (for audiovisual and audio services)	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
The public can clearly distinguish advertising from news and information content on all of the CBC’s platforms and services.	Require the CBC to establish and maintain guidelines on branded (advertising) content and make them available on its website Expectation to clearly distinguish all branded content from news, current affairs, and public affairs content Expectation that no journalist or host will be involved in the inception, creation,	Perception and consultation report

⁷⁸ See the webpage “[Mandate](#)” on the CBC’s website relating to its Offices of the Ombudsman.

	<p>production, or dissemination of any advertising or branded content</p> <p>Expectation to measure whether branded content is confusing to Canadians</p>	
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571. The CBC's overall revenue model, particularly for audiovisual content, relies on multiple elements, including advertising, parliamentary appropriations, and subscriber fees obtained primarily from its discretionary services and, to a lesser degree, its online services. The CBC submitted that absent advertising revenues, it would be difficult for it to fulfill its mandate as set out in the *Broadcasting Act*.
572. On aggregate, across all platforms during the 2017-2018 through 2019-2020 broadcast years, advertising has been an important but overall declining source of funding for the CBC despite increases in digital advertising revenues. On the other hand, the parliamentary appropriation allocated for the CBC's operating expenditures has remained relatively consistent.
573. It is costly for the CBC to reach Canadians across the country. Doing so now requires that the CBC expand beyond its licensed services and engage in broadcasting activities through its various DMBUs. Further, the CBC continues to maintain hundreds of radio transmitters across the country in addition to a number of over-the-air television services.
574. Nevertheless, the CBC stated that it has found efficiencies. In regard to its radio services, the public broadcaster stated that its overall expenses have remained relatively consistent, with a compound annual growth rate (CAGR) of only 1.6% for total expenses over the course of the current licence term for its English-language radio services and of 1.2% over the same period for its French-language radio services. In regard to its television services, the CBC stated that it has also sought efficiencies, principally in regard to its licensed television stations, by leveraging independent productions to a greater extent than its in-house production expenses, to accommodate increases in production costs in Canada, in general.
575. These forces have had an impact on the CBC, and have been present during the time that the Commission has regulated the CBC's activities. Meanwhile, the CBC continues to adapt with a view to continuing to meet its programming mandate under the *Broadcasting Act*. In the current context, advertising can be considered a necessary tool that enables the CBC to meet its mandate and requirements. Nevertheless, given that the CBC strives to provide Canadians with programming that resonates with a diversity of audiences, it is of paramount importance that news, current affairs, and public affairs content is easily distinguishable from all advertising and branded content.
576. The last statement is even more relevant in the context of production funding that relies increasingly on innovative ways of financing content. For instance, because branded content is, in many instances, a partnership between a broadcaster and an organization that seeks to enhance its brand, it creates new relationships between agents and broadcasters.

577. Branded content can be a lucrative option in the business of production financing, as traditional forms of advertising have been for many years. Nevertheless, the line between branded content and news, current affairs, and public affairs content must be clear and unambiguous.
578. Tandem, launched by the CBC's Media Solutions Group, is an online-only branded content service that creates a range of advertising options including sponsored content, product placement and branded content for corporate clients. The CBC indicated that it began publishing branded content during the 2016-2017 broadcast year, but did not address the issue of branded content or the launch of Tandem in its applications given that the official launch took place on 17 September 2020. However, due to public concern and multiple requests in regard to re-opening the record for the present proceeding in order to permit comments on Tandem, the Commission permitted parties, including the CBC, to address the initiative, either in person at the public hearing or in written submissions after the oral phase of the hearing.
579. At the oral phase of the hearing, the CBC indicated that it faces yearly financial challenges. When questioned on the impacts of the COVID-19 pandemic on its operations, in terms of its advertising revenues in particular, the CBC argued that it would take two to three years to bring its advertising revenues back to previous levels.
580. The CBC stated, however, that it had put in place robust guardrails to eliminate any chance of confusion between journalistic and advertising content. It submitted that there is no risk of commercially exploiting the content, and that there is no threat to the credibility, reputation, or trust of the public broadcaster. In terms of differentiating journalism from advertising content, the CBC noted that it currently implements different colour fonts and a bar reading "Paid content" on all Tandem-produced advertisements. It further stated that there is no overlap between the division responsible for branded content, its Media Solutions Group (composed of about 300 people), and the production of any journalistic content.

Positions of parties

581. Tandem was a topic of concern raised by certain interveners at the oral phase of the hearing and became a relatively significant point of discussion.
582. The Association of Canadian Advertisers (ACA) fully supported the CBC moving forward with the Tandem initiative as it allows for more opportunities for advertisers to connect directly with Canadians. However, several interveners, including ACTRA, the ARRQ, the FNC-SCRC, PBC21, PIAC and various individuals, voiced the concern that Tandem could blur the line between a program and an advertisement, which could create confusion for audiences. Although the Canadian Media Guild (CMG) voiced its support for the use of advertising by the CBC, it also considered that Tandem goes too far. According to Quebecor, on behalf of TVA Group Inc. and Videotron Ltd., the Tandem initiative is anti-competitive and is not part of CBC's mandate.
583. ADISQ, FOTR, the QCGN and an individual intervener submitted that Tandem could have an impact on the journalistic independence and integrity of the CBC and ultimately, that the initiative could undermine the credibility of the public broadcaster. ACTRA and the

FNC-SCRC submitted that the Tandem initiative may inadvertently affect programming decisions at the CBC, while WIFT Vancouver submitted that “sponsored stories have the potential to undermine [...] efforts at gender and racial equity.”

584. In its final reply, the CBC argued that “the loss of advertising revenues without a corresponding increase in other revenue sources, such as [its] Parliamentary appropriation, would put [it] in an untenable financial position.” In the CBC’s view, advertising remains a necessary source of revenue for it to deliver upon its mandate and level of service to Canadians.

Commission’s analysis

585. In the Commission’s view, the revenue-generating activities of the Tandem initiative are in line with the general approach that has been taken with the CBC in the past and consistent with the context in which the CBC currently finances its operations. This overall approach remains pertinent, particularly in light of the CBC’s funding model. As such, the Commission finds that it should not limit the CBC’s commercial activities any further than they already are.

586. Nevertheless, the Commission acknowledges the concerns expressed by various parties over potential confusion among the audiences of the CBC’s services in regard to branded content given that such content, by its very nature, blends in with other content, especially on web-based platforms. In the Commission’s view, the public must be able to clearly distinguish advertising and commercial influence from other programming, such as news and information content. In this regard, clear delineations relating to the production and dissemination of branded content would help to ensure that the CBC remains a trusted source of news programming across all of its platforms. The measures set out below aim to help the CBC to frame and address these concerns.

Expectations to clearly distinguish all branded content the CBC produces from news, current affairs, and public affairs content on all of its platforms

587. Consistent with subsection 46(5) of the *Broadcasting Act*, it is the Commission’s view that the public broadcaster should be given the flexibility to experiment with its advertising as the revenues it garners from advertising still play an important role in the fulfilment of its mandate.

588. The CBC is a source of information for Canadians, and it is the responsibility of the CBC’s board of directors and management to preserve and foster the trust that Canadians place in the public broadcaster. However, the Commission acknowledges that branded content may not always be as easily identifiable as the CBC intends.

589. Consequently, to avoid potential confusion on the part of the CBC’s audiences, as set out in Appendix 4 to this decision for the CBC’s DMBUs, the Commission expects the CBC to measure whether branded content is confusing to Canadians.

590. Finally, in order to increase accountability and transparency regarding branded content, as set out in Appendix 4, the Commission expects the CBC to establish and maintain guidelines on branded content and make them available on its website for Canadians and the broadcasting industry to consult.

Expectation that no journalist or host will be involved in the inception, creation, production, or dissemination of any advertising or branded content on any of the CBC's platforms

591. The Commission acknowledges that if CBC hosts or journalists become involved in the production or presentation of branded content, audiences might find it difficult to separate advertising from news.
592. The CBC's JSP sets out that its "journalistic staff do not prepare or present any paid advertising content." Based on this statement, the Commission considers that the public broadcaster agrees with the assertion that a clear line should be drawn between staff producing news and staff producing branded content. Further, as stated by the CBC, programming content is made by the Media Solutions Group, which is entirely separate from any unit that is producing news.
593. Accordingly, as set out in Appendices 3 (for the CBC's licensed services) and 4 (for the CBC's DMBUs) to this decision, the Commission expects the CBC to ensure that no journalist or host will be involved in the inception, creation, production, or dissemination of any advertising or branded content on any of its services.

Measurement framework and reporting requirements

594. As noted previously in this decision, an outcomes-based approach must be coupled with an appropriate measurement framework to monitor the achievement of outcomes.
595. As part of its applications, the CBC proposed, as measurement tools, to maintain existing consultations and reporting obligations with OLMCs, and to implement new consultations and reporting with Indigenous Peoples and Indigenous producers. The CBC also proposed new reporting commitments for reflecting diversity on-screen, in content production, and across its workforce, and new reporting commitments for gender parity in regard to the production of audiovisual content.
596. The CBC further proposed a new condition of licence for its English- and French-language networks and television stations that would require it to submit an annual report regarding the number of hours of original first-run Canadian programming broadcast on the networks, along with an expectation that the report also covers the digital platforms.
597. At the oral phase of the hearing, the Commission requested that the CBC propose, in its undertakings, a measurement framework for reporting that would provide the Commission with information on how the CBC would define and report on "success" to the Commission and to the Canadian public. This framework would have to encompass all types of programming across both traditional and online platforms.
598. In reply, the CBC proposed a framework that would measure its performance regarding its mandate and the objectives set out for it in section 3 of the *Broadcasting Act*. Activities would be measured within a multiplatform context. The CBC indicated that performance measures should be clear, transparent, verifiable, cost-effective, and informed by industry best practices. Where possible, measures should be from third-party vendors and allow for industry-wide comparison. It stated that any measurement framework should be flexible, to adapt to new methodologies or changes in methodologies.

599. Reporting would cover, among other things, an inventory of all the services offered by the CBC, along with a description of key marketing strategies for the promotion and discoverability of content; quantitative measures of consumption; quantitative measures of perception, such as the existing bi-annual Mandate and Vision Perception Survey; and qualitative measures of perception, such as focus groups, consultations, and structured discussions.
600. The CBC indicated that its new proposed framework would streamline existing reports but would also add new metrics. For this reason, it submitted that the current reporting tools relating to OLMCs, with the exception of annual OLMC consultation reports, should be removed. It added, however, that audience perception studies reporting on OLMC communities are an excellent way to measure relevance and reflection, and provide feedback for programmers.
601. The CBC further submitted that the imposition of any reporting requirements, in addition to the imposition of both expenditure and exhibition requirements for certain types of content, would result in excessive regulatory and administrative burdens. In this regard, the CBC expressed concern that “such an approach would not serve the Commission’s stated goal of a lighter regulatory regime, would significantly impede the [CBC’s] needed programming flexibility and independence, and would impair the ability of [the CBC’s English- and French-language arms] to fulfill its mandate and properly serve Canadians.”
602. In its final reply, the CBC reiterated that it agreed to significantly increase its monitoring and reporting obligations in order to provide the Commission with the information it needs to ensure that the CBC is properly fulfilling its mandate, and is held to account based on outcomes.
603. The CBC also confirmed that it is willing to report annually on all programs that count towards ICI TÉLÉ’s original obligations relating to French-language children’s and youth programming, including information on whether a program is pre-licensed with a partner or an acquisition, animation or live-action, or produced in French or dubbed.

Positions of parties

604. Most interveners proposed that the CBC be required to provide reports for its services operating in each of the English- and French-language markets, for both licensed services and DMBUs, and that the reports contain detailed information on CPE, PNI expenditures by program category, the broadcast of feature films, the broadcast of original first-run programs by genre, and the number of independent productions commissioned and broadcast on its licensed services or made available on its DMBUs.
605. Producer groups such as the CMPA, the DGC and the APFC called for greater transparency on the part of the CBC in regard to hours of and expenditures on children’s and youth programming, both on its licensed services and on its DMBUs. In regard to the CBC’s French-language services, the CMPA stated that it would like such information to be included in the annual returns filed with the Commission, as well as the complete list of Canadian children’s and youth programs counted for the purposes of the public broadcaster’s

conditions of licence. It argued that this would allow the industry to see how the CBC's practices in regard to its French-language services evolve from year to year, and determine the need to impose thresholds for programs originally produced in the French language for first broadcast in the context of the next licence renewal.

Commission's analysis

606. In light of the above and in support of the Commission's proposed framework for the CBC, the Commission is setting out enhanced reporting requirements for the CBC that, on the one hand, monitor specific behaviours required by conditions of licence and set out as expectations and encouragements, and, on the other hand, focus on monitoring the strategies chosen by the CBC to meet its mandate and the outcomes set for it by the Commission.

607. In the Commission's view, a rigorous measurement framework that includes reports, consultations, and public opinion research would help to ensure that the CBC is making available English- and French-language programming that is reflective of, relevant to, and meets the programming needs of Canada's diverse population, including Indigenous Peoples, OLMC communities, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2.

608. In light of the above, in addition to the existing requirements relating to the submission of program logs and the filing of annual returns, the Commission is imposing the following new consultation and reporting requirements as a way of supporting the more flexible aspects of its proposed regulatory framework for the public broadcaster:

- an advanced and targeted audiovisual production report that is detailed and focused on programming requirements, and that includes additional information on diversity of key leadership positions;
- an audio programming report with a particular view to understanding the CBC's online audio activities, and, in some cases, to seek further information on programming and discoverability initiatives for the CBC's radio stations;
- a report based on perception public opinion research designed to understand the perceptions of Indigenous Peoples and Canadians on how their programming needs are being met by the CBC;
- new and enhanced consultation and reporting requirements relating to consultations with Indigenous Peoples, OLMCs, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2, as well as producers from these communities; and
- a new report on the diversity of new hires and on diversity as it relates to the retention and promotion of employees in positions that have a direct impact on programming.

609. The following sections set out specific details in regard to what will be required of the CBC for each of the reporting requirements.

Audiovisual production report

610. In Broadcasting Information Bulletin 2019-304, the Commission announced the implementation of a production report for the large English- and French-language ownership groups, to replace the Programs of National Interest Report that had been imposed as part of the implementation of its group-based licensing policy for large English-language ownership groups in 2011.⁷⁹ In order to keep track of the details relating to Canadian productions broadcast and made available by the CBC, the Commission will require the CBC to submit this production report.

611. This report provides the following detailed information per program:

- budget information (total production budget, licence fees and total eligible CPE);
- production information (producers, directors, showrunners, writers, cinematographers and editors);
- number of women occupying these production roles;
- the region where the program was produced;
- the language of the program and the original language of production;
- whether the program is a PNI and/or an original first-run program;
- the program's category;⁸⁰
- the certification number for the program;
- total number of hours produced (in broadcast hours);
- the year the program was commissioned;
- whether the program was produced by Indigenous or OLMC producers; and
- whether the program was telecast.

612. As noted above in the section on Canadian programming, the Commission has imposed new conditions of licence relating to CPE and PNI expenditures, and has not re-imposed current conditions of licence relating to the exhibition of these programs, with the goal of providing the CBC with a greater degree of multiplatform flexibility so that it can manage the programming of its various services based on consumer needs. Nevertheless, the Commission considers that it is important for the CBC to publicly demonstrate that it meets the objectives of the *Broadcasting Act* by offering predominantly and distinctively Canadian programming that is varied, relevant, and broadcast or made available on all of its platforms. The required audiovisual production report will enable the Commission and Canadians to monitor Canadian content and important programming, such as PNI productions, on the CBC's services, and will enable interested parties to cross-examine certain data points

⁷⁹ In this regard, see Broadcasting Regulatory Policy 2010-167 and Broadcasting Notice of Consultation 2018-488.

⁸⁰ As noted above, the program categories for television are set out on the Commission's website under [Television Program Categories](#).

including, among other things, the proportion of programming dedicated to independent productions and the proportion of PNI production by region and their budget.

613. In regard to the present proceeding, in order to monitor the achievement of outcomes set out in this decision, the Commission finds that it would be appropriate to require the CBC to file with the Commission, for each broadcast year commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the audiovisual production report as specified in Broadcasting Information Bulletin 2019-304 for all of its licensed audiovisual services. A **condition of licence** to that effect is set out in Appendix 3 to this decision. Further, as set out in Appendix 4, pursuant to section 4 of the DMEQ, the Commission will require the CBC to submit the same audiovisual production report in regard to programming made available on its DMBUs.
614. In addition, in light of the outcomes set out for the CBC in this decision and of the various conditions of licence imposed on the CBC relating to its audiovisual programming, along with the various flexibilities, expectations and encouragements set out for the public broadcaster, the Commission is requiring the CBC to provide, as part of the annual production report, supplemental information relating to programs broadcast and made available on its services.
615. As part of the annual audiovisual production report, the CBC will also be required to identify whether programs are original (the production report currently only identifies original first-run programs). Also, for an original first-run program, the CBC will be required to identify on which licensed service it was first broadcast or on which DMBU it was first made available.
616. During the oral phase of the hearing, the CBC stated that it does not have enough information (including baseline expenditures undertaken by its English- and French-language services over the last three years) to fully assess the level of support and creation of programs for which key leadership positions are occupied by a majority of individuals that self-identify as Indigenous, women, “people of colour,” LGBTQ2, or persons with disabilities. It added, however, that it would be open to considering ways to improve reflection of these communities.
617. During the proceeding, multiple interveners commented on the lack of information regarding Indigenous Peoples and people from equity-seeking communities who occupy key leadership and creative roles. OSM noted that the Commission’s production report lacked tracking for “people of colour,” while Women In Film & Television Canada noted that the production report could be used as a template to expand tracking to include other racialized peoples. WIFT Vancouver and OSM submitted that the Broadcaster Production Report template provided in Broadcasting Information Bulletin 2019-304 should be expanded to track productions from and for equity-seeking communities.
618. In light of the above, in the enhanced production report, the Commission will require the CBC to submit supplementary information regarding key production roles (producers, directors, showrunners, writers, cinematographers and editors), including whether those roles were held by Indigenous Peoples, racialized Canadians, Canadians with disabilities, or

Canadians who self-identify as LGBTQ2. For the purposes of expenditure requirements, the CBC will be required to identify whether the program “counts” based on definitions set out in this decision as a program produced by Indigenous producers, OLMC producers, racialized producers, producers with disabilities or producers who self-identify as LGBTQ2. As well, the CBC will be required to identify whether the production is applicable for the “women intersectionality credit,” addressed above in the section “Women in production and intersectionality.”

619. Further, as part of that report, the CBC will be required to specify if the program was produced by an independent production company, a producer(s) with which it is affiliated, or in-house. This information will enable the Commission to monitor the percentage of independent productions that the CBC is broadcasting each broadcast year on its licensed audiovisual services and making available each broadcast year on its audiovisual DMBUs.
620. To ensure that children and youth have access to predominantly Canadian programming on all platforms, the Commission will require the CBC to identify in the report the programs that fall under children’s and youth programming. In general, these data will allow the Commission and stakeholders to monitor changes in the CBC’s practices from year to year, and determine whether the CBC continues to offer, fund and make available children’s and youth programming on all its platforms, but is also following these audiences as they transition to more and more online viewing.
621. In the Commission’s view, this requirement will not pose a heavy administrative burden on the CBC given that it must already identify the target audiences for its programming in its current program logs and annual returns. Further, this type of information will allow the Commission and interested parties to monitor changes in the CBC’s dubbing and independent production practices for its French-language children’s and youth programming, monitor the CBC’s compliance with its condition of licence relating to the broadcast of English-language original first-run Canadian programming aimed at children under 13 years of age on its licensed services, and access additional information on many aspects of the CBC’s children’s and youth programming through the details that will be submitted by program (for example, production region, producers and budget).
622. In its production report, the CBC will also be required to identify all licensed services on which a program was broadcast and/or the DMBUs on which the program was made available.
623. Given that the Commission is granting the CBC certain flexibilities to count programming made available on its DMBUs in order to fulfill certain expenditure requirements, the Commission finds that it would be appropriate to collect consumption data regarding these DMBUs. As such, the CBC will be required to submit, for all programs that were made available on its DMBUs, the number of streams for the program. The CBC must publicly provide the accompanying criteria it uses to determine what constitutes a “stream” for the purpose of this requirement.

624. Finally, further details that the CBC will be required to provide in its production report include the date of copyright of the program, the duration of the programming in hours and minutes, as well as the date on which the production was first broadcast on a licensed service or made available on a DMBU.
625. The scope of the programming to be reported on by the CBC must be in line with what is required of broadcasters from the large English- and French-language private ownership groups. Specifically, the CBC must provide program-level data for programs produced by independent producers and affiliated with production companies, and can provide aggregated expenses for in-house productions. The Commission recognizes that in-house programming is mostly made up of news and sports programming, and that certain key leadership roles, such as producer, showrunner (where applicable), or first and second leads, do not necessarily align well with the production of these types of programming in the most commonly understood sense.
626. In light of the above, in addition to the information currently required of the large ownership groups pursuant to Broadcasting Information Bulletin 2019-304, the Commission will require the CBC to file with the Commission, for each broadcast year commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the following information relating to the audiovisual programming it broadcasts on its licensed services and makes available on its DMBUs:
- the date of copyright of the program;
 - the date on which the program was first broadcast on a licensed service and/or made available on a DMBU;
 - the duration of the program in hours and minutes;
 - whether it was an original program;⁸¹
 - if it was an original first-run program, the service on which the program was first-run;
 - the licensed service(s) on which the program was first broadcast or the DMBU(s) on which the program was first made available;
 - for the purposes of allocating expenditures, whether the program was sourced from OLMC producers or Quebec regional producers (outside Montréal);
 - whether the program was aimed at children and youth. If it was, identify the target audience age-group (preschoolers 0-5 years old, children 6-12 years old, or youth 13-17 years old); and
 - if the program was made available on a DMBU, the number of times the program was streamed. The Corporation shall publicly provide the criteria it uses to determine what constitutes a “stream” for the purpose of this requirement.

⁸¹ The Production Report pursuant to Broadcasting Information Bulletin 2019-304 already identifies whether a program is original first-run.

627. Given that the Commission is imposing new Indigenous and diversity expenditure requirements starting with the 2023-2024 broadcast year, and given that the CBC will be conducting a consultation with industry stakeholders regarding the parameters of self-identification for Indigenous Peoples and equity-seeking communities during the 2022-2023 broadcast year,⁸² the Commission finds that it would be appropriate that the CBC only begin providing the following data as of the 2023-2024 broadcast year:

- of the total number of producers, directors, showrunners (if applicable), writers, cinematographers and editors that worked on the program, how many self-identified as Indigenous Peoples, as being from racialized communities, as persons with disabilities, and as LGBTQ2;
- for expenditure requirement related purposes, information on whether the program “counts” according to definitions set out in this decision as a program produced by Indigenous producers, racialized producers, producers with disabilities or producers who self-identify as LGBTQ2; and
- for the purposes of the “women intersectionality credit,” whether a program was produced by an Indigenous producer, a racialized producer, a producer with a disability, or a producer who self-identifies as LGBTQ2, who also self-identifies as a woman.

628. The Commission notes that this will be the first time that the CBC will be required, pursuant to section 4 of the DMEQ, to submit information regarding programming made available on its DMBUs. The Commission recognizes that the administrative burden of including all DMBU programming could be considerable given that, for certain types of programming such as films or documentaries, CBC Gem and ICI TOU.TV libraries contain hundreds of available titles. Accordingly, the Commission will require the broadcaster to submit information only for productions that have been broadcast and/or made available during the broadcast year to be reported on, and not the entire library.

629. For the CBC’s licensed services, **conditions of licence** in regard to the above reporting requirements are set out in Appendix 3 to this decision. For its audiovisual DMBUs, as specified in Appendix 4, the CBC will be required pursuant to section 4 of the DMEQ to submit the same type of information as requested for its licensed services.

Audio programming report

630. The Commission is requiring the CBC to submit to the Commission, for each broadcast year and by no later than 30 November following the end of each broadcast year, an audio programming report for all its licensed radio services and audio DMBUs. This report will track certain key types of audio content broadcast on all CBC audio programming services. As such, the report should be presented in a format that allows it to be searched by type of service.

⁸² Details are set out below in the section “Self-identification and privacy concerns”. See also condition of licence 83 set out in Appendix 3.

Musical selections from Indigenous artists and emerging Canadian artists

631. As set out earlier in this decision, the Commission will now require the CBC, by condition of licence, to devote minimum percentages of all music broadcast on its English- and French-language radio stations across the country to Indigenous musical selections each broadcast week. To allow for an evaluation of this new condition of licence, the Commission is requiring that the public broadcaster include in the audio programming report information relating to the total number of Indigenous musical selections broadcast on its radio stations on a monthly basis, compared to the total number of musical selections on its radio stations.
632. In addition, to measure whether the CBC is meeting the established outcome that music by emerging Canadian artists is available, discoverable and promoted on its audio services, the CBC will be required to include in its annual audio programming report the total number of musical selections by emerging Canadian artists broadcast on a monthly basis on each of its radio stations.
633. In regard to musical selections and other audio content made available on the CBC's audio DMBUs, the Commission does not have access to data on the total number of streamed musical selections performed either by an Indigenous artist or by an emerging Canadian artist. In the Commission's view, including such information as part of the audio programming report would enable the Commission to evaluate the effectiveness of the CBC's actions to support the availability, visibility and discoverability of such artists on its audio DMBUs, and to evaluate whether the musical selections by emerging Canadian artists offered on those DMBUs are primarily and systematically Canadian.
634. In addition, the Commission notes that it does not have access to the criteria used by the CBC to define emerging artists. During the present proceeding, the CBC described its definition of "emerging artist" as "fluid," which indicates that it is not using the definitions of "emerging Canadian artist" for the English- and French-language markets set out in Broadcasting Regulatory Policy 2011-316. Including the criteria the CBC uses to define emerging artists in the new audio programming report would help the Commission determine whether those criteria are appropriate, whether they diverge appreciably from the established definitions of "emerging Canadian artist," and whether any further Commission action in this regard is necessary.
635. Further, the Commission currently does not have any information regarding the CBC's marketing initiatives and strategies for promoting and supporting the discoverability of music by Indigenous artists or by emerging Canadian artists. In the Commission's view, including such information as part of the new audio programming report would enable the Commission to evaluate what the CBC is doing to support these artists on its licensed services and on its audio DMBUs, in practical and concrete terms, and to evaluate at the next licence renewal whether any further measures to provide support to those artists are necessary.
636. Finally, since it lacks data regarding availability and consumption of musical selections on the CBC's audio DMBUs, the Commission is requiring the CBC to provide information on the total number of musical selections (including identifying how many are Indigenous musical selections and how many are Canadian selections) made available on its DMBUs;

the total number and percentage of musical selections (including Canadian selections) that are streamed on those undertakings; the total number of musical selections performed by Indigenous artists and by emerging Canadian artists that are streamed; and the number of Canadian podcasts (including their duration in minutes) available on an annual basis on those undertakings. The CBC must provide the criteria it uses to determine what constitutes a “stream” for the purpose of this reporting requirement.

637. Accordingly, the Commission is requiring the CBC to include in the new annual audio programming report the following information for its licensed English- and French-language radio services:

- the criteria used to define emerging artists;
- the total number of musical selections by Indigenous artists and by emerging Canadian artists broadcast on a monthly basis on each radio station; and
- a description of the marketing initiatives and strategies, including those for cross-promotion and those that support the discoverability of Indigenous artists and Canadian artists, including emerging Canadian artists, on all licensed radio stations.

638. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

639. Also noted earlier in this decision, the Commission does not have a formal definition of “Indigenous musical selection”. However, Broadcasting Decision 2017-198 provides wording that can be adapted for the purposes of new conditions of licence, pending the completion of the proceeding on the co-development of the new Indigenous broadcasting policy. Should a new definition of “Indigenous musical selection” be established, the Commission expects the CBC to file an application to amend this new condition of licence so that it may adopt the new definition.

640. Further, as set out in Appendix 4, the Commission will require the CBC, pursuant to section 4 of the DMEQ, to include as part of the audio programming report the following information for its DMBUs:

- the total number of musical selections made available and the total number of Indigenous musical selections and Canadian selections made available;
- the total number of musical selections streamed and the percentage of Canadian selections streamed;
- the total number of musical selections streamed that were performed by emerging Canadian artists;
- the total number of musical selections streamed that were performed by Indigenous artists;
- a description of the marketing initiatives and strategies used to cross-promote and support the discoverability of Indigenous artists on its DMBUs;

- a description of the marketing initiatives and strategies used to cross-promote and support the discoverability of Canadian artists, including emerging artists, on its DMBUs; and
- the number of Canadian podcasts available on an annual basis, including the duration of each podcast in minutes.

641. As part of the above requirement for the CBC's DMBUs, the Commission will require the CBC to provide the criteria it uses to determine what constitutes a "stream" for the purposes of this reporting requirement.

Radio One and ICI Première – Programming for children and youth, and local programming

642. In order to assess the support, supply, relevance, visibility and discoverability of children's programming (preschool: 0-5 years of age; children: 6-12 years of age) and youth programming (13-17 years of age) broadcast on the CBC's Radio One and ICI Première radio stations, the Commission is requiring that information relating to the broadcast of these types of programming aimed at children and youth be included in the new annual audio programming report. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

643. Further, and for the same reasons noted above, the Commission is requiring the CBC to include in the audio programming report information regarding children's programming and youth programming made available on its audio DMBUs. Accordingly, as set out in Appendix 4 to this decision, pursuant to section 4 of the DMEQ, the Commission will require the CBC to include in its annual audio programming report information relating to the following:

- the number of individual content items (programs, podcasts, audio stories and novels, playlists) aimed at children and youth that are made available on the public broadcaster's audio DMBUs, and the number of rebroadcast programs originally offered on the licensed services Radio One and ICI Première that are made available on a monthly basis on the public broadcaster's audio DMBUs, by content category; and
- a description of initiatives and steps taken to make children's and youth programming discoverable on the public broadcaster's audio DMBUs.

644. Finally, the Commission is requiring the CBC to include in the audio programming report information for each month regarding the average number of hours of local and of regional programming offered on a weekly basis per station for its Radio One and ICI Première stations. Given that the Commission currently does not have access to such information, the inclusion of this information in the audio programming report will enable the Commission and the public to measure the CBC's performance regarding local and regional audio programming on Radio One and ICI Première. It will also enable the Commission to measure the CBC's performance regarding the encouragement to increase the minimum amount of local programming broadcast on certain ICI Première stations operating in OLMCs and made

available on its audio DMBUs. A **condition of licence** relating to the provision of the above-noted information in the audio programming report is set out in Appendix 3 to this decision.

Annual report for a perception survey

645. With the above-noted audiovisual production report and audio programming report, the Commission has focused on obtaining quantitative data. As discussed below, the Commission is also adding perception-based data to the information that the CBC will be required to submit as part of the new measurement framework and reporting requirements.

Positions of parties

646. In regard to OLMCs in particular, the FCCF considered that the audience perception survey should be taken with a critical eye. In addition, the FCCF recommended that mechanisms be improved both in terms of their form and the way in which information is collected, compiled and analyzed. For its part, the FCFA argued that the survey is biased, that the sample size is too small, that a provincial/territorial breakdown is not provided (making it impossible to know the extent to which the sample adequately represents the geographic distribution of Francophone and Acadian communities, or their distribution by age group), and that the results are analyzed internally.

647. The FCCF requested that the CBC file documentation on the survey it uses to describe OLMC satisfaction with its services, including the questions, methodology, and sampling (with a breakdown by province and all raw data collected through the survey). The SNA, who supported points made by the FCFA, noted that the survey shows a higher satisfaction rate among Francophones in Quebec compared to Francophones in OLMCs, and submitted that the CBC should be required to draft an action plan on how it will meet its mandate with respect to regional stations, network programming, and representation across the country.

648. In its final reply, the CBC stated that the FCFA was incorrect in stating that its perception surveys are somehow flawed and do not accurately reflect the views of Francophone OLMC residents.

Commission's analysis

649. With the implementation of a new multiplatform approach based on expenditures, the use of public opinion research can be an important measurement tool to help determine whether Canadian programming offered on the CBC's various platforms is relevant and easily discoverable. Currently, the public broadcaster conducts a perception survey in the fall and in the spring of each year that is used to establish performance indicators in its Annual Report and Corporate Plan Summary, communicate needs from key stakeholders in external and internal CBC reports, and report to the Commission on OLMC perceptions. In the Commission's view, it would be appropriate for the CBC to file the reports of the results of

this survey with the Commission during the next licence term, by 30 June each broadcast year for the spring survey, and by 28 February each broadcast year for the fall survey.⁸³

650. The Commission recognizes that the above-noted bi-annual perception survey that the CBC conducts may require modifications during the next licence term as programming needs and habits of Canadians continue to evolve. However, in order to measure whether the CBC is meeting its outcomes as established by the Commission, the Commission will require the CBC to measure or to continue measuring the following key data points during the next licence term:

CBC/Radio-Canada offers content that...

- informs me on what is happening in other regions of the country
- informs me on what is happening in my community
- reflects the multicultural diversity of Canada
- reflects a diversity of opinions on numerous issues
- supports and promotes new and emerging talents

CBC/Radio-Canada...

- is a trusted source of information
- is a leader in Canadian content
- has programming that I can relate to
- is independent and impartial
- reflects persons with disabilities
- reflects Indigenous Peoples
- reflects the LGBTQ2 community
- reflects racialized persons
- offers relevant programming for children under 13 years of age
- offers relevant programming for youth (ages 13 – 17)
- makes Canadian programming easily discoverable on its services
- makes Indigenous programming easily discoverable on its services.

651. While some of the above-mentioned key data points are already included in the CBC's perception survey, some are new or use slightly different terminology compared to what is included in the current survey.

⁸³ The CBC conducts its fall survey at the end of October/beginning of November, and its spring survey at the beginning of March.

652. In regard to both the CBC's licensed services and DMBUs, the mechanism through which the public opinion research will be conducted will be at the discretion of the public broadcaster. Accordingly, it will be up to the CBC to choose whether it would be more appropriate to use the mechanisms already in place to conduct the perception survey, or whether it would be more appropriate to use other mechanisms to ensure meaningful data points and methodological soundness. In addition, the Commission acknowledges that certain communities may not wish to provide feedback via a survey, or that certain communities or groups might be hard to reach in statistically relevant numbers. In such cases, it will be important for the CBC to vary its survey methods and adjust its manner of seeking feedback, to be sensitive not only to the needs of these communities and their preferred manner of communication, but also to the limitations of oversampling certain smaller groups.
653. Accordingly, the CBC may conduct qualitative research (for instance, by way of focus groups or the established consultations that the CBC will be required to hold every two years with equity-seeking communities as described later in this decision) or any other type of research or survey that is appropriate in order to have meaningful results.
654. Given the above, the Commission is requiring the CBC, for its licensed audio and audiovisual services and its audio and audiovisual DMBUs, to file with the Commission beginning with the 2022-2023 broadcast year and for each subsequent broadcast year of the new licence term, by no later than 30 November following the end of each broadcast year, a report outlining the results of perception-based public opinion research that measures the perceptions that Indigenous Peoples and Canadians (including members of OLMCs and Canada's various diversity communities) have of the public broadcaster's licensed audiovisual and audio services and of its audiovisual and audio DMBUs in regard to the above-noted key data points.
655. When filing its report, the CBC will be required, for the 17 key data points specified above, to include details relating to the survey methodology as well as the complete questionnaires cross-referenced with demographics in a format of its choice (for example, in a data table format). The CBC must ensure, at a minimum, that it cross-references the 17 key data points with the following demographic details:
- official language (English/French);
 - age group (18-34; 35-49; 50-64; 65+);
 - service (licensed television services, licensed radio services, audiovisual DMBUs, audio DMBUs); and
 - location (metropolitan vs non-metropolitan areas, and region [Atlantic, Quebec, Ontario, the Prairies, British Columbia, and the Territories if the sample size permits]).
656. For the data points relating to the relevance of children's and youth programming, the CBC will be required to consult adults who identify as being parents of children and/or youth.

657. To ensure the achievement of measureable and meaningful results in the event the CBC chooses to measure the key data points using a perception survey, it will be required to oversample the following communities: Indigenous Peoples, OLMCs, Northern and remote communities, racialized Canadians, Canadians with disabilities, and Canadians who self-identify as LGBTQ2. Further, the CBC will be required to present the results for the sample of total population and separate the results of these oversampled communities in a designated section for clear reference and comparison. The CBC must report on the results of the 17 key data points for these equity-seeking communities. Should it not be possible to oversample certain equity-seeking communities for technical or population reasons, the CBC may use qualitative methods such as focus groups or discussion groups in order to measure the same issues as the quantitative survey and report on whether its programming reflects the needs and interests of these populations as well as whether its programming is relevant to them.
658. In addition, the Commission is requiring the CBC to report on how it has taken these perceptions into account in its programming-related activities and report on any changes that it has made in this regard.
659. For the CBC's licensed services, **conditions of licence** relating to the perception-based public opinion research reports and the requirement to report on key data points are set out in Appendix 3 to this decision.
660. In regard to the public broadcaster's DMBUs, as set out in Appendix 4 to this decision, the Commission will require the CBC, pursuant to section 4 of the DMEQ, to conduct perception-based public opinion research and to report on that research consistent with the above-noted conditions of licence.

Consultation requirement

661. In Broadcasting Decision 2013-263, the Commission stressed the importance of the CBC consulting with OLMCs so that the programming of all of its services responds to the particular needs and circumstances of OLMCs, as set out in subparagraph 3(1)(m)(iv) of the *Broadcasting Act*. In this regard, the Commission set out conditions of licence for the CBC's English- and French-language services requiring it to:
- hold formal consultations at least once every two years with OLMCs in each of the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec to discuss issues that affect their development and vitality. For the French-language services, the relevant regions are Atlantic Canada, Ontario, Western Canada and the North. For the English-language services the relevant region is Quebec. Consultations shall include independent producers from OLMCs; and
 - report annually on consultations that took place that year and demonstrate how feedback from the consultations was taken into consideration in the CBC's decision-making process.

662. In that decision, the Commission reminded the CBC that since OLMCs are dispersed all over the country, they expected the CBC to also include communities located in the North when it holds its consultations in each of the regions. The Commission encouraged the CBC to consult with OLMCs on important matters that might affect those communities before decisions are taken.
663. In regard to this proceeding, the CBC proposed to maintain the requirement to hold a formal consultation at least once every two years with OLMCs, and to report annually on those consultations and on programming that reflects the regions. In addition, the CBC proposed to also hold formal consultations at least once every two years with Indigenous communities and Indigenous independent producers in each of the regions of Atlantic Canada, Quebec, Ontario and Western Canada, report annually on those consultations, and demonstrate how feedback from the consultations was taken into consideration in the CBC's decision-making process. The CBC did not comment on holding consultations with other equity-seeking communities.
664. As noted above, at the oral phase of the hearing, the CBC indicated that it has undertaken a commitment to "learning, education, and listening" when it comes to diversity and inclusion. It noted that it has been conducting informal consultations with racially diverse staff members regarding the JSP, used surveys and polls in order to collect feedback that could be used in discussions with staff, and held two town halls, one in Alberta and one in British Columbia, on the subject of confronting racism.

Positions of parties

665. At the oral phase of the hearing, several interveners voiced their support for the consultation process and requested that it be maintained or improved. CMAC emphasized the need for strategies of active engagement through mechanisms that are accessible to individuals in their communities, such as town halls, talking circles with people, and plain language surveys.
666. Groups including OSM and the CMPA noted a general need for cross-cultural understanding and cultural exchanges. Whereas the CMPA spoke to the need for consultations with the LGBTQ2 community, Indigenous organizations including the ISO and APTN emphasized a need for consultations with Indigenous communities and producers, and the necessity of reporting on these engagements.
667. The Alberta Media Production Industries Association (AMPIA) requested that the Commission consider imposing an additional consultation requirement that the CBC meet with independent producers located outside of major production centres once every six months. Certain groups such as PIAC, CMAC and FRIENDS focused on the need to have consultations with relevant communities in order to ensure adequate and representative reflection on all platforms, as well as have adequate feedback mechanisms.
668. In its final reply, the CBC noted that since 2014, it has held eleven consultations and that the format of these consultations has evolved in response to the feedback received. Nevertheless, it recognized the desire of certain interveners for increased and better reflection of OLMCs in the CBC's French-language programming. It stated that this is why it proposed to maintain for the next licence term the positive measures previously imposed by the Commission in

regard to holding formal consultations with OLMCs in each region of the country at least every two years; to report to the Commission every year on the measures it takes to meet the needs of these communities; and to provide the Commission with the data on how well OLMCs consider the CBC to be serving their interests and needs.

669. According to the CBC, these measures have formalized dialogues with OLMC communities and independent producers, have formalized reporting, and have resulted in programming that better reflects OLMCs, as shown in improved survey results. The CBC further expressed its commitment to making further improvements to the format to make these consultations as effective and productive as possible for all of the parties involved.

Commission's analysis

670. Currently, the CBC is not subject to any requirements that it hold consultations with communities other than OLMCs. In the Commission's view, undertaking consultations with certain equity-seeking communities contributes to the production of programming that is reflective of those communities, an important aspect of CBC's mandate and a key objective of the Commission. Consultations with other equity-seeking communities would constitute a good practice and would establish a feedback channel to enable the CBC to better serve and reflect those communities. Accordingly, the Commission finds that it would be appropriate to expand the CBC's consultation and reporting requirements to include Indigenous communities, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2 across Canada, including producers from those communities.

671. Additionally, the Commission considers that the CBC's proposed conditions of licence relating to consultations with Indigenous Peoples are in line with what has been requested from certain interveners, including the ISO, CMAC and OSM. Also, consultations with Indigenous producers and artists would give those creators a chance to have their voices heard and establish relationships between them and the CBC as it begins to ramp up its Indigenous programming to meet the new audiovisual Indigenous programming expenditure requirements and Indigenous musical selection requirements imposed by the Commission. Implementing feedback from Indigenous communities could allow the CBC to make adjustments to ensure its programming tailored towards Indigenous Peoples is relevant for them, and that its internal processes are more inclusive. Accordingly, in Appendix 3 to this decision, the Commission has set out **conditions of licence** requiring the public broadcaster to hold consultations with Indigenous groups starting in the 2022-2023 broadcast year.

672. Furthermore, the Commission finds that consultations with racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2, as well as with producers from these communities, would bring the same benefits as with Indigenous producers. They would help to establish further production relationships between these producers and the CBC in order to increase these types of productions and meet the new diversity audiovisual programming expenditure requirements.

673. In the Commission's view, consultations would help the CBC to better understand these various communities in order to produce relevant and reflective content.

674. However, the Commission acknowledges that setting up all of these new consultations will increase the administrative burden on the CBC and that time will be required to establish connections with certain communities. Accordingly, the Commission is requiring the CBC to start holding consultations by no later than the 2024-2025 broadcast year, and at least once every two years thereafter, with racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2, including producers from these communities. **Conditions of licence** relating to these consultations are set out in Appendix 3 to this decision.

675. In regard to the manner in which the CBC should hold these consultations, the Commission finds that it should be up to the CBC to ensure that it has the necessary processes in place to consult with Indigenous Peoples, OLMCs, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2, including producers from these communities, taking into consideration cultural sensitivities and preferences regarding consultations. Nevertheless, the Commission finds that it would be appropriate to impose certain requirements relating to these consultations.

676. Specifically, the Commission will require that the consultations to be held by the CBC with the above-noted communities:

- are gender balanced;
- are representative of each of the regions of Atlantic Canada, Quebec, Ontario, Western Canada and the North;
- hold discussions on broadcasting issues of importance to these communities, including reflective and relevant Canadian audio and audiovisual programming, with a particular emphasis on the reflection and relevance of news and information, children's and youth programming, and PNI programming, on all licensed services and DMBUs; and
- hold discussions on the results of the perception survey and/or other types of public opinion research as described in the above-noted condition of licence relating to consultations, in order to determine whether:
 - measures must be taken to ensure that relevant and reflective programming is provided to these communities;
 - the CBC is adequately measuring whether its programming is meeting the needs of these communities through a perception survey or other appropriate mechanism; and
 - the manner in which the CBC is consulting the various communities (or surveying, depending on the community) is done in a manner that is culturally sensitive and meaningful, and methodologically sound.

Reporting on consultations

677. As noted above, during the next licence term, the CBC will be required to submit to the Commission a report outlining the results of perception public opinion research that measures the perceptions that Indigenous Peoples and Canadians (including members of OLMCs and Canada's various equity-seeking communities) have of the public broadcaster's services in regard to the key data points that will help to measure whether the CBC is meeting certain outcomes established by the Commission.
678. In the Commission's view, requiring the CBC to also report on all of the consultations that it will conduct every two years with underrepresented communities, so as to demonstrate how it has considered feedback received during these consultations, would prove beneficial towards increasing the transparency and accountability of these consultations. This would also contribute to building trust by members of each equity-seeking community and the general public with the CBC. Finally, these reports will serve to establish a baseline upon which future licence renewal applications can be evaluated.
679. In light of the above, the Commission finds that it would be appropriate for the CBC to include the results of the biennial consultations to be held with all designated groups in the annual report to be filed regarding the perception public opinion research. In combining the perception and consultation reports, the Commission acknowledges the need for flexibility in order for the public opinion research to be meaningful, coherent and non-repetitive during the next licence term, and also to make carrying out the public opinion research more efficient for the CBC and comprehensible for the public and stakeholders. The complete perception and reporting **condition of licence** is set out in Appendix 3 to this decision.

Reflection of diversity through the CBC's workforce

680. In its applications, the CBC proposed new reporting requirements relating to diversity and gender parity in its workforce. These reports would include information on the percentage of people from diverse backgrounds who are hired during the broadcast year at both the staff and management levels; annual statistics regarding diversity in the broadcaster's English- and French-language commissioned and in-house programs in terms of on-screen/audio performance; and annual statistics regarding diversity in the broadcaster's English- and French-language commissioned programs on the production side (relating to key creative positions such as producer, director, writer, showrunner or lead performer).
681. The CBC stated that it was making good progress on achieving a number of employment diversity metrics, and that it had plans to improve in those areas. It noted that its senior leadership team is comprised of eight members, four of which (including the President and CEO) are women, and that women play key roles in programming decisions. The CBC also expressed its commitment to reflecting Indigenous communities across Canada within its workforce and in the programming broadcast by its services, covering all platforms and genres of content.
682. The CBC further noted that approximately 90% of the staff located in Nunavut are Inuit, and provided examples of initiatives by the CBC to offer Indigenous programming in Indigenous languages in the North.

683. In regard to the representation of women within its workforce, the CBC considered that it has done extremely well, and stated that it has now shifted its focus to other equity-seeking communities. The CBC noted that as a participant in the 2018 CRTC Women in Production Summit, it pledged to address the lack of gender parity in key creative positions related to commissioned programming in the Canadian television industry. It indicated that since that time, it has surpassed its goal of gender parity across its commissioned programs. In this regard, the CBC's [Women in Production Action Plan](#) states that during the 2018-2019 broadcast year, across all original English- and French-language scripted and unscripted shows on all broadcast and streaming platforms, it supported 62% of female-led projects where the majority of the key creative roles of producer, director, writer and showrunner were held by women.
684. However, the CBC acknowledged that much remains to be done to ensure that its workforce is inclusive of all women, including those from the various equity-seeking communities. In this regard, it noted that while it has made strides in terms of hiring women in leadership positions, there is still improvement to be made in regard to the representation of non-white women in leadership positions. As such, the issue regarding gender parity appears to be less a question of whether women are represented in the CBC's workforce, and more a question of whether there is diversity within that segment of the CBC's workforce.
685. At the oral phase of the hearing, the CBC noted that it has implemented a Diversity and Inclusion working group composed of members of equity-seeking communities, which reports to the senior leadership on recommendations relating to diversity and inclusion. This group's objective is to identify any progress that can be made in terms of the retention and promotion of employees from diverse backgrounds. The broadcaster further noted that it has created a committee to review crime and police reporting, and that this committee "includes Black journalists, Indigenous journalists, and people of colour." The CBC added that it has recently appointed a Senior Advisor/Project Manager for Equity and Inclusion, who is responsible for diversity and inclusion training for reporters, programmers and editorial leaders involved in the production of news and current affairs programming.
686. Finally, the CBC indicated that it has instituted a policy whereby 50% of all senior management hires must come from one of the employment equity-seeking communities, excluding women. The CBC also noted its commitment to provide more comprehensive tracking and reporting on diversity, representation and leadership across all of its activities.
687. The CBC stated its willingness to comply with additional reporting requirements, such as through surveys, provided that the broadcasting regulatory requirements to which it must adhere are reduced. The CBC also detailed its current ability to report on workforce composition, new hires, and key leadership roles based on employee self-identification (its "cultural census") for each employment equity-seeking community (i.e., Indigenous Peoples, persons with disabilities, racialized Canadians and women). It noted that this information can be broken down by ethnic origin or grouped differently (for example, Black and other racialized communities shown separately), but that breaking down Indigenous Peoples into those who self-identify as First Nations, Métis or Inuit is not yet possible. In regard to intersectionality, the CBC stated that it can segment by gender and by each of the equity-seeking communities.

Positions of parties

688. At the oral phase of the hearing and in final submissions, various parties commented on the importance for the CBC's workforce to reflect and include diversity. In this regard, CMAC stated that, in an era of truth and reconciliation, the CBC must do better to provide access, employment and reflection for Indigenous Peoples and racialized communities across Canada.
689. Various parties noted the link between the diversity of programming and the diversity of the workforce involved with the production of programming. In this regard, OSM, WIFT Vancouver and the ISO noted the role of creators and producers of audiovisual content from the respective equity-seeking communities in ensuring a diversity of voices in the Canadian broadcasting system.
690. The ISO argued that the CBC must treat Indigenous content in the same manner as English- and French-language content, and must support Indigenous narrative sovereignty (i.e., the right for Indigenous Peoples to have control over the creation, dissemination, and production of content that reflects their communities). According to APTN, the CBC, as the public broadcaster, has an obligation to represent all Canadians, including Indigenous Peoples. Both the ISO and APTN called on the CBC to abide by the [UNDRIP](#) that effective measures be taken to ensure that State-owned media duly reflect Indigenous cultural diversity.
691. Many interveners argued at the oral phase of the hearing that diversity within the CBC's workforce is necessary for its programming to be relevant and reflective of Canada's diverse communities. In this regard, the CMG, the ARRQ, the AQPM and La Table emphasized the need for the CBC to hire more diverse people into its workforce, undertake more diversity training for its current employees, and undertake initiatives to increase retention and promotion of employees from equity-seeking communities.
692. Women's advocacy groups including WIFT Vancouver emphasized the necessity to have media for women made by women, along with a robust reporting framework. WIFT Vancouver further emphasized the need for more data, and also timely data in order to track diversity across all platforms. The CMG also mentioned a lack of available data to evaluate the CBC's efforts to retain and promote diverse staff. Advocacy groups such as CMAC and the FRPC indicated a need for clear benchmarks, increased means of employee self-identification within the workforce, and data on intersectionality.
693. Finally, Indigenous organizations such as the ISO and Eagle Vision noted the lack of representation of Indigenous Peoples within the CBC's workforce, and called for greater Indigenous leadership at the CBC within its board of directors and at the executive, managerial and editorial levels, to oversee the commissioning, creation and dissemination of Indigenous content.

Commission's analysis

694. Subsection 5(4) of the *Broadcasting Act* sets out that “[w]here a broadcasting undertaking is subject to the *Employment Equity Act*, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking.” The CBC is subject to the *Employment Equity Act*, and files reports under that Act with Employment and Social Development Canada. As such, matters of employment equity at the CBC generally lie outside of the Commission’s jurisdiction. Nevertheless, the impact of having diverse Canadians in key creative and leadership positions on programs that Canadians view and listen to was discussed by interveners at the hearing.
695. As has been noted elsewhere in this decision, the *Broadcasting Act* has amongst its policy objects a requirement that the broadcasting system “[...] reflect the circumstances and aspirations [...] of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of [Indigenous] peoples within that society”. Many interveners acknowledged and submitted that those who make the decisions on which programming is funded and broadcast most likely have a direct impact on the diversity of programming available to Canadians. Although certain workforce positions within the CBC have minimal to no impact on the diversity and relevance of programming, there appeared to be an understanding across all parties that certain workforce positions do have a direct impact. Given how directly such positions are tied to the achievement of the *Broadcasting Act*’s objectives, the Commission will require the CBC to provide a list of positions it considers to have a direct impact on the diversity and relevance of programming.
696. Further, a requirement for the CBC to report on newly hired staff in these positions, who self-identify as women, Indigenous Peoples, persons with disabilities, racialized persons and as LGBTQ2, can be seen to be a complement to the broadcaster’s current reporting obligations under the *Broadcasting Act*.
697. This additional layer of reporting would set a benchmark and would ensure that statistics and data are available going forward to allow for the diversity of the CBC’s workforce to be adequately reflected in its programming-related decisions, which in turn would be reflected in more diverse and relevant programming. These reports would serve as contextual data points to illustrate the CBC’s overall progress to ensure that the content it broadcasts is relevant to the diverse population of Canada.
698. The CBC also identified the retention and promotion of employees as an area of interest in ensuring a diverse workforce. In the Commission’s view, although hiring is an important aspect of workforce diversity, retention and promotion would provide further insight on the CBC’s workforce culture and staff diversity.
699. In the Commission’s view, retaining and promoting employees from diverse backgrounds in positions that have a direct impact on programming would have a significant impact on how diversity is portrayed in the public broadcaster’s programming. By filing regular public reports on these areas, the CBC would be able to demonstrate to the public that its commitments towards diversity are serious, long-term and on-going.

700. As a result of the above, the Commission is requiring the CBC, in the production report, to submit information relating to the diversity of new hires, diversity as it relates to the retention and promotion of employees in positions that have a direct impact on programming, and diversity of key leadership positions.
701. In addition, the CBC will be required to submit data on all positions at the CBC that have a direct impact on the diversity of programming and on programming decision-making generally. As such, the Commission will have this information for all types of programming, including news and sports-related programming.
702. In the Commission's view, given the clear interest shown by members of the public to monitor the CBC's progress in the above areas, and to establish the link between on-screen and on-air programming and internal staffing, collecting the following targeted and specific data will help demonstrate the public broadcaster's progress toward a more representative workforce to ensure more representative and relevant diverse programming:
- to be provided within six months of this decision, a list of internal positions that the CBC considers to have a direct impact on the diversity of audio and audiovisual programming and on programming decision-making;
 - commencing with the 2023-2024 broadcast year, and to be filed by no later than 30 November following the end of each broadcast year, an annual report on the number of employees who are hired during the broadcast year into the identified positions that have a direct impact on the diversity of programming and on programming decision-making, and who belong to the following communities: Indigenous Peoples, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2, along with women who self-identify as belonging to these communities; and
 - commencing with the 2023-2024 broadcast year, and to be filed by no later than 30 November following the end of each broadcast year, an annual report on the number of employees staffing identified positions that have a direct impact on the diversity of programming and on programming decision-making who have been retained or promoted over the previous broadcast year and who belong to the following communities: Indigenous Peoples, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2, along with women who self-identify as belonging to these communities.
703. These reports must provide information to enable interested parties to assess and compare the retention and promotion rates for employees in those positions belonging to those aforementioned communities with the retention and promotion rates for employees who are not part of those communities.
704. **Conditions of licence** in regard to the above are set out in Appendix 3 to this decision.

Self-identification and privacy concerns

705. In its reply to a November 2020 Commission request for information, the CBC stated that the information in the categories requested by the Commission about diversity of employees in key leadership positions, broken down by specific program, could create a serious risk that an employee could be identified through the release of the data. Although the CBC intends to make its organization more inclusive and diverse, it expressed personal privacy concerns over the possibility of the Commission imposing any conditions of licence or setting out any encouragements that deal specifically with LGBTQ2 communities.
706. Information relating to employee and third-party self-identification has value as it can help the Commission and the public assess the CBC's ongoing process in regard to making its programming activities, workforce and organization more inclusive and diverse. However, the Commission acknowledges that there are no established industry parameters surrounding self-identification, and that there are many related privacy concerns (by employees or key creative roles such as producers that are part of a designated group⁸⁴ or self-identify as LGBTQ2, including the concern that voluntary self-identification could be turned into a requirement). For example, such information must not only be voluntarily disclosed, but also be properly aggregated, and must adequately protect the privacy of participants.
707. The Commission acknowledges that some organizations have started to establish certain parameters regarding self-identification. For example, Telefilm Canada launched a new [self-identification questionnaire](#) in January 2022 when its Production Program began accepting applications. The questionnaire collects data on a voluntary basis and covers “gender identity and expression, preferred pronoun(s), belonging to the 2SLGBTQIA+⁸⁵ community, Indigenous identity, racial and/or ethnic identity, disability status and belonging to an [OLMC]”⁸⁶. According to Telefilm Canada, these data will assist in the evaluation, eligibility, and decision-making processes for project applications, as well as enhancing its programs and industry initiatives.
708. The Commission further notes the CMF's [PERSONA-ID self-identification system](#), which allows individuals to disclose their demographic information directly and securely to the CMF. According to the CMF, PERSONA-ID was created as part of its Equity and Inclusion Strategy to measure and monitor the demographic representation and participation of all content creators involved in projects submitted to the CMF as well as those supported by the CMF. The type of data collected through this system, and the terminology used in PERSONA-ID, are the result of what the CMF describes as “extensive consultation with individuals, organizations, and communities across Canada in both English and French.”

⁸⁴ Under the *Employment Equity Act*, the four defined designated groups are Women, Aboriginal, Persons with disabilities and Members of visible minorities. For more information, see [Employment Equity Groups - Canada.ca](#).

⁸⁵ Two-spirit, lesbian, gay, bisexual, transgender, queer, intersect and asexual, with “+” standing for other ways individuals express their gender and sexuality outside heteronormativity and the gender binary. [Pride Resources | MSVU | Halifax, Nova Scotia](#)

⁸⁶ [Personal Information Collection Statement - Self-Identification - Telefilm Canada](#)

709. It is the Commission's view that in order for programming in Canada to be increasingly inclusive and diverse, it would be in the best interest of Canada's broadcasting system and the public if industry stakeholders and equity-seeking communities collaborated on identifying self-identification parameters, and agreed to certain standards and best practices. As the national public broadcaster, the CBC can play a key convening role in establishing these parameters in order to strive for better representation and reflection of the diversity of Canadians in our broadcasting system.
710. In addition, given that for the next licence term the CBC must fulfill new expenditure requirements for Indigenous and diverse programming and new broadcasting quotas for Indigenous musical selections, establishing certain parameters regarding self-identification would ensure that reporting surrounding these types of programming is consistent throughout the licence term.
711. Accordingly, the Commission is requiring the CBC to consult with industry stakeholders who produce and/or create audiovisual and audio content, including Indigenous, racialized and OLMC producers and creators, producers and creators with disabilities and producers and creators who self-identify as LGBTQ2, to establish clear self-identification parameters as well as best practices surrounding privacy issues and to report on them to the Commission by no later than 30 November 2023. The Commission further finds that it would be appropriate to require the CBC to use these parameters for self-identification and best practices surrounding privacy issues in order to gather information and report on its Indigenous, OLMC and diverse programming expenditures and broadcasting quotas for Indigenous musical selections. **Conditions of licence** to that effect are set out in Appendix 3 to this decision.
712. Further, as set out in Appendix 3, the Commission expects the CBC to develop the necessary anonymity and privacy measures for workforce reporting purposes to protect the identities of internal staff who voluntarily self-identify as a member of one of the designated groups, and apply the same safeguards for staff who voluntarily self-identify as LGBTQ2 for reporting purposes.

Implementation of the various reporting measures

713. The Commission acknowledges the high volume of information that it is requiring the CBC to provide, and is of the view that the CBC should be permitted to seek any efficiencies possible to adapt its current measurements of audience perceptions to meet those areas of measurement. Further, in line with the overall approach adopted by the Commission in regard to regulating the CBC, although the Commission has specified what needs to be measured and reported on, it will leave it up to the CBC to determine the best way for it to carry out the measurement exercise. This approach is consistent with the strategy outlined above that expects the CBC to adapt its measurement approaches so that they are in line with the best practices gained through consultations with a variety of equity-seeking communities.
714. In addition, the Commission acknowledges that the CBC will need to adapt its systems to prepare for the full slate of reporting requested. As such, the Commission will allow the CBC to commence all of its reporting on 1 September 2023 (i.e., for the 2022-2023 broadcast year)

unless otherwise specified in a condition of licence. This will allow the CBC to adjust its current reporting practices where necessary, while also ensuring the year-over-year comparability of data for the remainder of the licence term.

Accessible programming for Canadians with disabilities

715. Paragraph 3(1)(p) of the *Broadcasting Act* states that “programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose.”

716. In regard to the above, and in regard to the programming-related mandate for the CBC set out in paragraph 3(1)(l) and subparagraphs 3(1)(m)(i) through (viii) of the *Broadcasting Act*, the Commission’s overarching desired outcome is that the CBC broadcast on its various television services and make available on its various audiovisual DMBUs content that meets the needs of Canadians with disabilities. The tools to be used to achieve that outcome, and the tools to be used to measure and report on whether that outcome is being achieved are as follows:

Specific outcome to achieve (audiovisual services)	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
<p>The CBC’s programming is accessible for Canadians who are deaf or hard-of-hearing, or blind or partially sighted, regardless of the platform.</p>	<p>Standard conditions of licence, expectations and encouragements relating to accessibility set out in:</p> <ul style="list-style-type: none"> • Broadcasting Regulatory Policy 2016-436 (standard requirements for television stations, discretionary services, and on-demand services); and • Broadcasting Regulatory Policy 2015-436 (standard conditions of licence for Canadian discretionary services operating as national news services) <p>Various expectations that programming, regardless of platform, is accessible for Canadians with disabilities, including people who are deaf, hard-of-hearing, blind or partially sighted</p>	<p>Program logs</p> <p>Complaints</p> <p>Reports relating to the provision of closed captioning and described video on licensed services and on DMBUs</p>

717. On 11 July 2019, the *Accessible Canada Act* came into force. The central objective of the *Accessible Canada Act* is to create a barrier-free Canada through the proactive identification, removal and prevention of barriers to accessibility wherever Canadians interact with areas under federal jurisdiction. The *Canadian Radio-television and Telecommunications*

*Commission Accessibility Reporting Regulations*⁸⁷ furthers this objective by imposing certain reporting obligations on entities under federal jurisdiction, including the CBC.

718. The current requirements relating to accessibility for the CBC's television networks and stations are set out in Appendix 3 to Broadcasting Decision 2013-263;⁸⁸ for ICI RDI and CBC News Network, Appendices 5 and 8, respectively, to Broadcasting Decision 2013-263;⁸⁹ for ICI ARTV and documentary Channel, Appendices 6 and 7, respectively, to Broadcasting Decision 2013-263;⁹⁰ and for ICI EXPLORA, the appendix to Broadcasting Decision 2011-114.⁹¹ During the current licence term, the CBC has satisfactorily met the accessibility requirements for its television networks and stations, and discretionary services.
719. In regard to the new licence term, the CBC stated in its applications that for its licensed television networks and stations,⁹² it would adhere to the standard conditions of licence, expectations and encouragements relating to accessibility set out in Appendix 1 to Broadcasting Regulatory Policy 2016-436, with the exception of condition 14 relating to the provision of described video,⁹³ which it proposed to replace with the following:
- The licensee shall, by 1 September 2020, provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age).
720. For its discretionary services documentary Channel and ICI ARTV, the CBC stated that it would adhere to the standard conditions of licence, expectations and encouragements relating to accessibility set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436, with the exception of condition 17 relating to the provision of described video, which it proposed to replace with the above-noted proposed condition of licence for its licensed television networks and stations.
721. For its discretionary service ICI EXPLORA, which launched in 2012 and therefore has not been in operation as long as documentary Channel and ICI ARTV (both of which launched in 2001), the CBC stated that it would adhere to the standard conditions of licence,

⁸⁷ See Telecom and Broadcasting Regulatory Policy 2021-215.

⁸⁸ See conditions of licence 4 through 7. In regard to the provision of closed captioning, conditions 4 and 5 make reference to Broadcasting Public Notice 2007-54 and Broadcasting and Telecom Regulatory Policy 2009-430, respectively.

⁸⁹ See condition of licence 1 in each appendix, which make reference to Broadcasting Regulatory Policy 2009-562-2.

⁹⁰ See condition of licence 1 in each appendix, which make reference to Broadcasting Regulatory Policy 2011-443.

⁹¹ See condition of licence 2, which makes reference to Broadcasting Regulatory Policy 2010-355.

⁹² The list of the CBC's licensed television networks and stations is set out in Appendix 1 to this decision.

⁹³ "Described video" (also referred to as videodescription or described narrative) consists of a narrated description of a program's main visual elements, such as settings, costumes and body language.

expectations and encouragements relating to accessibility set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436, including condition of licence 17.⁹⁴

722. For its national news services CBC News Network and ICI RDI, the CBC stated that it would adhere to the standard conditions of licence, expectations and encouragement relating to accessibility set out in Broadcasting Regulatory Policy 2015-436.
723. The CBC indicated that for any program airing on broadcast television with closed captioning or described video, those features will be passed through to content on the digital platform. It further indicated that for its French-language digital content, it has developed an online player with the capability of displaying closed captioning and described video when available. The CBC added that for its French-language digital services, closed captioning is now included as a deliverable in most agreements with independent producers for digital original content and described video is increasingly being required from independent producers for web original content.
724. Further, the CBC confirmed that it has directed its online programmers (for its DMBUs) and control room staff (for its television stations and discretionary services) to include sign-language interpretation in its on-air programming offers of press conferences when it is available.
725. In addition, the CBC stated that all applicable control room staff would follow specific guidelines for frame composition when dealing with sign language. In this regard, if the event has a signer located close to the speaker, the camera person will frame the signer into the screen and the control room will ensure that the onscreen text of the programming does not interfere with seeing the signer. If the signer is not provided in the camera shot, but included as a separate video feed, the CBC's staff will insert the separate feed as a picture within a picture. Finally, for the limited production of in-house sign-language (election-related content), the CBC's current best practices include the use of a grey background that helps the American Sign Language (ASL) interpreter stand out, and makes sure the arms and hands of the interpreter can always be seen.
726. None of the parties to this proceeding, either in their interventions or at the oral phase of the hearing, raised issues or concerns relating to the accessibility of CBC's English- and French-language programming.
727. In regard to the above-noted conditions of licence 14 (for the CBC's licensed television networks and stations) and 17 (for its licensed discretionary services documentary Channel and ICI ARTV), the Commission notes that what the CBC proposed in its applications is

⁹⁴ When the Commission first imposed requirements relating to the provision of described video, broadcasters were initially required to provide described video for not more than four hours of programming per broadcast week. However, in Broadcasting Regulatory Policy 2015-104, the Commission stated that broadcasters who were already subject to described video requirements would, by 1 September 2019, be required to provide described video for programming broadcast between 7 p.m. and 11 p.m. (primetime), seven days a week. Given that ICI EXPLORA has not been subject to any requirements relating to the provision of described video, the initial amount of not more than four hours per broadcast week, as set out in condition of licence 17 in Appendix 2 to Broadcasting Regulatory Policy 2016-436, is applicable

consistent with paragraphs 48 through 50 of Broadcasting Regulatory Policy 2016-436, which relate to the ramp-up requirement meant to increase amounts of described programming in the Canadian broadcasting system. Accordingly, the Commission **approves** the CBC's request. Those conditions of licence shall therefore be replaced by the following **condition of licence**, set out in Appendix 3 to this decision:

For all licensed television networks and stations and discretionary services (excluding ICI RDI, CBC News Network and ICI EXPLORA), the CBC shall provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

728. Further, the CBC is currently subject to conditions of licence⁹⁵ requiring it to file, by no later than 30 November of each year for the broadcast year ending the previous 31 August, a report relating to the provision of closed captioning when distributed on its DMBUs. Given the amount of programming that is available on the CBC's English- and French-language DMBUs and its commitment to include described video as well as closed captioning as part of the programming made available on those undertakings, the Commission finds that it would be appropriate to require the CBC to report also on the provision and quantity of described video on its DMBUs. Accordingly, the Commission has amended the above-noted conditions of licence to add a reference to "described video." The CBC will be required to include this information for its DMBUs pursuant to section 4 of the DMEQ.
729. In light of all of the above, for its licensed television networks and stations over the next licence term, the CBC will be required to adhere to the standard conditions of licence, expectations and encouragements relating to accessibility set out in Appendix 1 to Broadcasting Regulatory Policy 2016-436, with the exception of conditions of licence 12 and 14. This requirement is captured by **condition of licence 39** in Appendix 3 to this decision.
730. For the discretionary services documentary Channel and ICI ARTV over the next licence term, the CBC will be required to adhere to the standard conditions of licence, expectations and encouragements relating to accessibility set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436, with the exception of conditions of licence 15 and 17. This requirement is captured by **condition of licence 40** in Appendix 3 to this decision.
731. In regard to the above-noted exceptions, as set out in Appendix 4 to this decision, the Commission will require the CBC, pursuant to section 4 of the DMEQ, to file a report relating to the provision of closed captioning and described video for programming made available on audiovisual DMBUs operated by the CBC, in a format deemed acceptable by the

⁹⁵ Condition of licence 12 set out in Appendix 1 (in regard to programming broadcast on the CBC's licensed television stations), and condition of licence 15 set out in Appendix 2 (in regard to programming broadcast on the CBC's licensed discretionary services), to Broadcasting Regulatory Policy 2016-436. A parallel requirement for ICI RDI and CBC News Network is set out in condition of licence 11.c. in the appendix to Broadcasting Regulatory Policy 2015-436.

Commission, by no later than 30 November of each year for the broadcast year ending the previous 31 August, consistent with other reporting requirements.

732. For ICI EXPLORA over the next licence term, the Commission will require the CBC to adhere to the standard conditions of licence, expectations and encouragements relating to accessibility set out Appendix 2 to Broadcasting Regulatory Policy 2016-436, with the exception of condition of licence 15, which has been replaced by the above-noted amended condition of licence relating to the reporting of described video on its DMBUs. This requirement is captured by **condition of licence 41** in Appendix 3 to this decision.
733. For the mainstream news services CBC News Network and ICI RDI over the next licence term, the Commission will require the CBC to adhere to the standard conditions of licence, expectations and encouragement relating to accessibility set out in Broadcasting Regulatory Policy 2015-436, with the exception of condition of licence 11.c., which is replaced by the above-noted amended condition of licence that includes a reference to described video. This requirement is captured by **condition of licence 42** in Appendix 3 to this decision.
734. In addition, the Commission considers that it is important for the CBC to ensure that programming, regardless of viewing platform, is accessible for Canadians with disabilities, including people who are deaf, hard-of-hearing, blind or partially sighted. This view is consistent with the Commission's long-standing approach regarding accessibility, with paragraph 3(1)(p) of the *Broadcasting Act*, and with the *Accessible Canada Act*'s objective of realizing a Canada without barriers for persons with disabilities. Accordingly, an expectation to that effect for the CBC's audiovisual DMBUs is set out in Appendix 4 to this decision.
735. During the current COVID-19 pandemic, there has been an increased prevalence of sign language interpretation at press conferences during emergency situations. The presence of sign language interpretation is an important accessibility feature that the Commission expects the CBC to include for the audience when available, in the manner set out by the CBC.
736. Finally, although the CBC appears to be making good progress to ensure that the online programming provided on its DMBUs is accessible to persons with disabilities, there are still areas where improvement is needed. For example, the CBC noted there is still a handful of digital-first pieces and non-broadcast live streams that are not closed captioned on CBC Gem. It further noted that it does not provide described video for all non-live video content, closed captioning for all live audio and video content, or audio description⁹⁶ for all information video content that is visual but not included in the audio track.
737. Accordingly, as set out in Appendix 4 to this decision, for all of the CBC's audiovisual DMBUs:
- The Commission expects the CBC to ensure that if sign language interpretation is available, the interpretation is included onscreen, and that the onscreen text of the programming does not interfere with the interpretation.

⁹⁶ "Audio description" refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.

- The Commission expects the CBC to adhere to the expectations and encouragements set out in Appendix 4 to this decision that are adaptations of the conditions of licence, expectations and encouragements relating to accessibility set out in Appendices 1 and 2 to Broadcasting Regulatory Policy 2016-436, and of the conditions of licence, expectations and encouragement relating to accessibility set out in the appendix to Broadcasting Regulatory Policy 2015-436.
- Where sign language interpretation is available but the signer is not provided in the camera shot, but included as a separate video feed, the Commission encourages the CBC to insert the separate feed as a picture within a picture, regardless of the platform.

Viewer advisories and programming codes

738. Paragraph 3(1)(g) of the *Broadcasting Act* states that programming originated by broadcasting undertakings should be of high standard.

739. In regard to the above, the Commission’s overarching desired outcome to achieve, the tools to be used to achieve that outcome, and the tools to be used to measure and report on whether that outcome is being achieved are as follows:

Specific outcome to achieve (audiovisual and audio services)	Tools to achieve outcomes (regulatory requirements, expectations or encouragements)	Measurement tools or reports to evaluate whether outcomes are being achieved
<p>The CBC makes available to listeners and viewers the information they need to make responsible viewing and listening choices for themselves and their families regardless of the viewing platform.</p>	<p>For content on licensed audiovisual services: Standard conditions of licence relating to adherence to various programming codes set out in:</p> <ul style="list-style-type: none"> • Broadcasting Regulatory Policy 2016-436 (standard requirements for television stations, discretionary services, and on-demand services); and • Broadcasting Regulatory Policy 2015-436 (standard conditions of licence for Canadian discretionary services operating as national news services) <p>For content on licensed radio stations:</p> <ul style="list-style-type: none"> • Condition of licence relating to adherence to the <i>Equitable Portrayal Code</i> • Expectation that listeners have access to the information they need to make responsible listening choices for themselves and their families 	<p>Complaints</p>

	<p>For content on audiovisual DMBUs:</p> <ul style="list-style-type: none"> • Expectation that viewers have access to the information they need to make responsible viewing choices for themselves and their families <p>For content on audio DMBUs:</p> <ul style="list-style-type: none"> • Expectation that listeners have access to the information they need to make responsible listening choices for themselves and their families 	
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740. For its licensed radio stations, the CBC submitted that it has developed standards for its programming that are consistent with the Commission’s standards and the various Canadian Association of Broadcasters codes. It stated that these standards also apply to its audio programming on its digital platforms. The public broadcaster’s overall programming standards are set out on its webpage under “[Programming Policies](#)”.

741. In the CBC’s view, for the most part, there is little need for advisories. It stated that it is very sensitive to its audiences’ concerns, and that any issues that may arise regarding sensitive language/content are few and far between. The CBC further stated that sensitive language/content warnings for the most part are standardized, while some are customized depending on the program. It added that while journalistic features may include sensitive language/content, they are unlikely to be either pervasive or repetitive, and that pre-recorded shows including sensitive language/content will include a warning. Finally, the CBC indicated that non-journalistic features with pervasive coarse language are restricted from airing before 9 p.m.

742. In regard to program logs, the CBC indicated that radio logging systems are not set up the same way as those for television and cannot flag content. Instead, programs are vetted prior to broadcast and, if the need arises, advisories are inserted.

743. Finally, for all of its licensed audiovisual services, the CBC indicated that it would adhere to the standard conditions of licence set out in Broadcasting Regulatory Policy 2016-436 (for its licensed television stations and discretionary services) and Broadcasting Regulatory Policy 2015-436 (for its national news services) requiring it to adhere to *The Broadcast Code for Advertising to Children*, the *Equitable Portrayal Code*, the *Journalistic Independence Code*, and the *Violence Code*, which includes the classification system and viewer advisories.

744. The CBC stated that it strives to adhere not only to the conditions of licence for its licensed services, but also to paragraph 3(1)(g) of the *Broadcasting Act*, pursuant to which the programming originated by broadcasting undertakings should be of high standard; and the CAB’s *Equitable Portrayal Code*, *Violence Code* and *Code of Ethics*.

745. The CBC noted that ICI TOU.TV includes viewer advisories in advance of all of its programming based on the content, but that since CBC Gem is a newer platform, it is still in the process of developing a strategy for its viewer advisories. The CBC added that advisories

are provided for podcasts where there is mature content, including sensitive language or the discussion of specific situations that could be triggering (such as stories about sexual assault or suicide). It noted that these advisories are embedded within the podcast's audio so that they appear whether a listener is accessing the podcast through the CBC's own platforms or on a third-party platform.

746. Finally, as it relates to parental controls, the CBC noted that CBC Gem, CBC Listen, ICI TOU.TV and Radio-Canada OHdio do not have "Parental Control" functionality⁹⁷ to allow Canadians to block programming based on classification. In a February 2022 response to Commission questions, the CBC stated that it would be working in the following fiscal year on developing profiles to allow users of a household to create their own personalized profile.
747. None of the parties to this proceeding raised issues or concerns in regard to this issue.
748. In the Commission's view, the CBC should ensure that radio listeners and television viewers, regardless of platform, have the information they need to make responsible viewing and listening choices for themselves and their families. Given the amount of programming that is available on the CBC's DMBUs, it is reasonable and logical to expect the public broadcaster to offer the same level and amount of information available on its traditional platforms to allow listeners and viewers to make responsible choices for themselves and their families.
749. In light of the above, and consistent with paragraph 3(1)(g) of the *Broadcasting Act*, in regard to the CBC's licensed television networks and stations and discretionary services, as set out in Appendix 3 to this decision, the CBC will be required to adhere to the standard conditions of licence, expectations and encouragements for television stations set out in Appendix 1 to Broadcasting Regulatory Policy 2016-436; the standard conditions of licence, expectations and encouragements for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436; and to the standard conditions of licence for Canadian discretionary services operating as national news services set out in the appendix to Broadcasting Regulatory Policy 2015-436, as they pertain to viewer advisories, ratings classifications and programming codes.
750. In addition, the Commission notes that some programming available on the CBC's DMBUs may be accessed on demand and that scheduling strategies do not apply to all DMBU content. As such, providing Canadians with as much information as possible is all the more important for ensuring that they can make informed choices about programming they watch themselves and with their families. Accordingly, the Commission expects the CBC to ensure that, in regard to the provision of viewer advisories and ratings classifications, its DMBUs adhere to the requirements set out for its licensed services.

⁹⁷ A number of parental controls are available in the traditional system, such as the watershed period, onscreen ratings, V-chip and other blocking technologies.

751. For the CBC's audio DMBUs, the Commission also expects the public broadcaster to ensure that, in regard to the provision of listener advisories, it adheres to the requirements set out for its radio stations.

Other issues

Standards conditions of licence, and adherence to codes and standards

752. Since the 2013 renewal of the broadcasting licences for the CBC's audiovisual and audio services, many of the standard conditions of licence that apply to those services have changed. In its applications, the CBC committed to transitioning to all of the new applicable standard conditions of licence for its next licence term.

753. Accordingly, in Appendix 3 to this decision, the Commission has set out **conditions of licence** relating to the standard conditions of licence that apply to the different types of audiovisual services operated by the CBC, along with any applicable exceptions to those standard conditions of licence.

754. Further, certain industry codes that the CBC must adhere to are now included in standard conditions of licence that apply to its various audiovisual and audio services. In regard to other codes and standards not covered by those standard conditions of licence, for the CBC's licensed audiovisual services, the Commission has set out in Appendix 3 to this decision separate **conditions of licence** relating to adherence to standards relating to advertising to children (the CBC's *Policy 1.3.8: Advertising Directed to Children Under 12 Years of Age*, and, as a minimum, the CAB's *The Broadcast Code for Advertising to Children*, which sets out restrictions on the broadcast of commercial messages between programs directed to pre-schoolers [children from 0 to 5 years of age]).

755. In regard to the CBC's licensed audio services, the Commission has set out in Appendix 3 to this decision a **condition of licence** relating to adherence to the *Equitable Portrayal Code*, as well as a **condition of licence** relating to the requirement for the CBC not to broadcast any commercial message of content category 5 (Advertising) except during programs that are available to the network only on a sponsored basis, and as required to fulfill the requirements of the legislation of the Parliament of Canada pertaining to elections.

756. In regard to the CBC's audiovisual and audio DMBUs, in Appendix 4 to this decision, the Commission has set out expectations relating to adherence to the following:

- the standards for children's advertising set out in the CBC's *Policy 1.3.8: Advertising Directed to Children Under 12 Years of Age*, and, at a minimum, the Commission expects the CBC's DMBUs to adhere to the standards set out in the CAB's *The Broadcast Code for Advertising to Children*;
- not displaying any commercial message immediately before, during, or immediately after any child-directed programming;
- the *Equitable Portrayal Code*;

- the *Violence Code*; and
- the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services* (set out in Broadcasting Public Notice 2003-10).

Secretary General

Related documents

- *Various television and radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2022-92, 29 March 2022
- *Various television and radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2021-266, 5 August 2021
- *The Canadian Radio-television and Telecommunications Commission Accessibility Reporting Regulations*, Telecom and Broadcasting Regulatory Policy CRTC 2021-215, 7 July 2021
- *Various television and radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-201, 22 June 2020
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2019-379, 25 November 2019, as amended by Broadcasting Notices of Consultation CRTC 2019-379-1, 28 January 2020; 2019-379-2, 8 April 2020; 2019-379-3, 22 June 2020; 2019-379-4, 10 November 2020; 2019-379-5, 18 December 2020; 2019-379-6, 14 January 2021; and 2019-379-7, 9 February 2021
- *Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Information Bulletin CRTC 2019-304, 29 August 2019
- *Co-development of a new Indigenous Broadcasting Policy*, Broadcasting Notice of Proceeding CRTC 2019-217, 20 June 2019
- *Licensing of a national, multilingual multi-ethnic discretionary service*, Broadcasting Decision CRTC 2019-172 and Broadcasting Order CRTC 2019-173, 23 May 2019
- *Call for comments on a Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Notice of Consultation CRTC 2018-488, 20 December 2018
- *Various television and radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2018-407, 29 October 2018
- *APTN – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-340, 31 August 2018
- *TV5/UNIS TV – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-334, 31 August 2018
- *Cable Public Affairs Channel – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-329, 29 August 2018

- *Canal M – Licence renewal and renewal of mandatory distribution order*, Broadcasting Decision CRTC 2018-307, 23 August 2018
- *Various television and radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2017-269, 27 July 2017
- *Licensing of new radio stations to serve the urban Indigenous communities in Vancouver, Edmonton, Calgary, Ottawa and Toronto*, Broadcasting Decision CRTC 2017-198, 14 June 2017
- *OMNI Regional – National, multilingual multi-ethnic discretionary service*, Broadcasting Decision CRTC 2017-152 and Broadcasting Order CRTC 2017-153, 15 May 2017
- *Standard requirements for on-demand services*, Broadcasting Regulatory Policy CRTC 2017-138, 10 May 2017
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *ICI Musique and ICI Radio-Canada Première – Licence amendments*, Broadcasting Decision CRTC 2016-381, 21 September 2016
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016
- *Revised standard conditions of licence for Canadian discretionary services operating as national news services*, Broadcasting Regulatory Policy CRTC 2015-436, 23 September 2015
- *Let's Talk TV – Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015
- *Let's Talk TV – The way forward - Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *CBC News Now – Complaint regarding the “Duchess of Cambridge hoax call”*, Broadcasting Decision CRTC 2013-645, 3 December 2013
- *Distribution of the programming service of ARTV inc. by licensed terrestrial broadcasting distribution undertakings*, Broadcasting Order CRTC 2013-375, 8 August 2013
- *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, 28 May 2013
- *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012
- *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news – Definition of “broadcast day” for mainstream sports services*, Broadcasting Regulatory Policy CRTC 2009-562-2, 25 May 2012

- *Complaint regarding the broadcast of a headline on The National by the Canadian Broadcasting Corporation*, Broadcasting Decision CRTC 2011-715, 17 November 2011
- *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011
- *Definition of emerging Canadian artists on commercial radio*, Broadcasting Regulatory Policy CRTC 2011-316, 12 May 2011
- *Sens – Category 2 specialty service*, Broadcasting Decision CRTC 2011-114, 21 February 2011
- *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010
- *Criteria for assessing applications for mandatory distribution on the digital basic service*, Broadcasting Regulatory Policy CRTC 2010-629, 27 August 2010
- *Implementation of the Accessibility Policy with respect to new Category 2 pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-355, 8 June 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as corrected by Broadcasting Regulatory Policy CRTC 2009-430-1, 17 December 2009
- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009, as corrected by *Policy determinations resulting from the 27 April 2009 public hearing – Correction relating to the allocation of Local Programming Improvement Fund funding*, Broadcasting Regulatory Policy CRTC 2009-406-1, 4 March 2010
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003
- *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993
- *New Media*, Broadcasting Public Notice CRTC 1999-84/Telecom Public Notice CRTC 99-14, 17 May 1999

Appendix 1 to Broadcasting Decision CRTC 2022-165

Canadian Broadcasting Corporation services for which the broadcasting licences have been renewed from 1 September 2022 until 31 August 2027

French-language television network

ICI TÉLÉ

English-language television network

CBC Television

French-language radio networks

ICI Musique

ICI Radio-Canada Première

English-language radio networks

CBC Music

Radio One

French-language television stations

ICI TÉLÉ

Province	Call sign / Location
British Columbia	CBUFT-DT Vancouver
Alberta	CBXFT-DT Edmonton
Saskatchewan	CBKFT-DT Regina
Manitoba	CBWFT-DT Winnipeg
Ontario	CBLFT-DT Toronto CBOFT-DT Ottawa
Quebec	CBFT-DT Montréal
	CBVT-DT Québec
	CJBR-DT Rimouski
	CKSH-DT Sherbrooke
	CKTM-DT Trois-Rivières
	CKTV-DT Saguenay/Chicoutimi
New Brunswick	CBAFT-DT Moncton

French-language discretionary services

- ICI ARTV
- ICI EXPLORA
- ICI RDI

French-language radio stations and rebroadcasting transmitters

ICI Radio-Canada Première

Province	Call sign / Location
British Columbia	CBUF-FM Vancouver and its transmitters: CBUF-FM-1 Chilliwack CBUF-FM-2 Kelowna CBUF-FM-3 Terrace CBUF-FM-4 Prince George CBUF-FM-5 Kitimat CBUF-FM-6 Kamloops CBUF-FM-7 Dawson Creek CBUF-FM-8 Port Alberni CBUF-FM-9 Victoria CBUF-FM-10 Whistler
Alberta	CHFA-10-FM Edmonton (formerly CHFA Edmonton) and its transmitters: CBRF-FM Calgary CHFA-1-FM Lethbridge CHFA-2-FM Red Deer CHFA-3-FM Peace River CHFA-4-FM Hinton CHFA-5-FM Grande Prairie CHFA-6-FM Fort McMurray CHFA-7-FM Falher CHFA-8-FM Medicine Hat CHFA-9-FM St. Paul CHFA-11-FM Lake Louise CHFA-12-FM Banff CHFA-13-FM Jasper CHFA-14-FM Bonnyville
Saskatchewan	CBKF-FM Regina and its transmitters: CBKF-1 Gravelbourg CBKF-2 Saskatoon CBKF-FM-3 Zenon Park CBKF-FM-4 Bellegarde

	<p>CBKF-FM-5 North Battleford CBKF-FM-6 Prince Albert</p>
Manitoba	<p>CKSB-10-FM Winnipeg (formerly CKSB Saint-Boniface) and its transmitters: CKSB-1-FM Ste. Rose du Lac CKSB-2 St. Lazare CKSB-3-FM The Pas CKSB-4-FM Flin Flon CKSB-5-FM Thompson CKSB-6-FM Dryden, Ontario CKSB-7-FM Kenora, Ontario CKSB-8-FM Brandon CKSB-9-FM Fort Frances, Ontario</p>
Ontario	<p>CBEF Windsor and its transmitters: CBEF-1-FM Leamington CBEF-2-FM Windsor CBEF-3-FM Sarnia</p> <p>CJBC Toronto and its transmitters: CJBC-1-FM Belleville CJBC-2-FM Kingston CJBC-3-FM Penetanguishene CJBC-4-FM London CJBC-5-FM Peterborough</p> <p>CBOF-FM Ottawa and its transmitters: CBOF-1 Maniwaki, Quebec (to be replaced by CBOF-FM-1 Maniwaki⁹⁸, not yet in operation) CBOF-4 Rolphton CBOF-FM-6 Cornwall CBOF-FM-7 Brockville CBOF-FM-9 L'Isle-aux-Allumettes, Quebec (formerly CBOF-FM-9 Chapeau, Quebec)</p> <p>CBON-FM Sudbury and its transmitters: CBON-6 Blind River CBON-10 Matachewan CBON-12 Mattawa CBON-FM-1 Kirkland Lake CBON-FM-2 Temiskaming Shores (formerly CBON-FM-2 Haileybury) CBON-FM-5 Elliot Lake CBON-FM-7 Espanola CBON-FM-11 Dubreuilville</p>

⁹⁸ See Broadcasting Decision [2022-141](#).

	<p>CBON-FM-17 North Bay CBON-FM-18 Sault Ste. Marie CBON-FM-19 Nipigon CBON-FM-20 Thunder Bay CBON-FM-21 Gogama CBON-FM-22 Geraldton CBON-FM-23 Manitouwadge CBON-FM-24 Kapuskasing CBON-FM-25 Timmins CBON-FM-26 Hearst CBON-FM-27 Wawa CBON-FM-28 Chapleau CBON-FM-29 Marathon</p>
Quebec	<p>CBF-FM Montréal and its transmitters: CBF-FM-7 Radisson CBF-FM-9 Mont-Laurier CBF-FM-13 Saint-Michel-des-Saints CBF-FM-14 Mont-Tremblant (formerly CBF-FM-14 Saint-Jovite) CBF-FM-15 Rivière-Rouge (formerly CBF-FM-15 L'Annonciation) CBF-FM-20 Saint-Donat CBFG-FM Chisasibi CBFG-FM-1 Kuujjuaq CBFG-FM-2 Kuujjuarapik CBFH-FM Waskaganish CBFM-FM Mistissini CBFV-FM Waswanipi CBFW-FM Wemindji (formerly CBFW-FM Nouveau-Comptoir) CBF-FM-8 Trois-Rivières and its transmitters: CBF-16 Clova CBF-17 Lac-Édouard CBF-FM-18 Parent (formerly CBF-18 Parent) CBF-FM-19 La Tuque CBFA-FM-1 Manouane (formerly a transmitter of CBFG-FM Chisasibi) CBFA-FM-2 Obedjiwan (formerly a transmitter of CBFG-FM Chisasibi) CBFG-FM-3 Weymontachie (formerly CBAF-3 Weymontachie, a transmitter of CBFG-FM Chisasibi)</p> <p>CBF-FM-10 Sherbrooke and its transmitters: CBF-FM-2 Magog CBF-FM-6 Lac-Mégantic CBF-FM-11 Asbestos/Danville CBF-FM-12 Victoriaville</p>

	<p>CBGA-FM Matane and its transmitters: CBGA-3-FM Rivière-au-Renard CBGA-4-FM Lac-au-Saumon CBGA-8-FM Îles-de-la-Madeleine CBGA-9-FM Cloridorme CBGA-10-FM Gaspé CBGA-11-FM Saint-Maxime-du-Mont-Louis (formerly CBGA-11-FM Mont-Louis-En-Haut) CBGA-12-FM Marsoui CBGA-13-FM Gros-Morne CBGA-14-FM Grande-Vallée CBGA-15-FM L'Anse-à-Valleau CBGA-FM-1 New Carlisle CBGA-FM-6 Murdochville (formerly CBGA-6 Murdochville) CBGA-FM-7 Sainte-Anne-des-Monts CBGA-FM-16 Chandler CBGA-FM-17 New Richmond CBGA-FM-18 Percé CBGA-FM-19 Port-Daniel-Gascons (formerly CBGA-FM-19 Port-Daniel) CBGA-FM-20 Pointe-à-la-Garde CBGA-FM-21 Matapédia (formerly CBGA-1 Grande-Anse)</p> <p>CBJ-FM Saguenay/Chicoutimi and its transmitters: CBJ-2 Chapais CBJ-FM-1 Chibougamau CBJ-FM-3 Dolbeau-Mistassini (formerly CBJ-FM-3 Dolbeau) CBJ-FM-4 L'Anse-Saint-Jean CBJ-FM-5 Petit-Saguenay CBJ-FM-6 La Baie</p> <p>CBSI-FM Sept-Îles and its transmitters: CBSI-FM-5 Natashquan (formerly CBSI-5 Natashquan) CBSI-8 La Romaine (to be replaced by CBSI-FM-8 La Romaine, not yet in operation) CBSI-14 Aguanish (to be replaced by CBSI-FM-14 Aguanish, not yet in operation) CBSI-23 Port-Menier CBSI-FM-2 Schefferville CBSI-FM-3 Churchill Falls, Newfoundland and Labrador CBSI-FM-4 Labrador City/Wabush, Newfoundland and Labrador CBSI-FM-6 Fermont (formerly CBSI-6 Fermont) CBSI-FM-7 Havre-Saint-Pierre CBSI-FM-15 Harrington Harbour CBSI-FM-16 Tête-à-la-Baleine CBSI-FM-17 Gros-Mécatina (formerly CBSI-FM-17</p>
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	<p>La Tabatière) CBSI-FM-18 Saint-Augustin CBSI-FM-19 Vieux-Fort (formerly CBSI-FM-19 Old Fort Bay) CBSI-FM-20 Bonne-Espérance (formerly CBSI-FM-20 Rivière-Saint-Paul) CBSI-FM-21 Blanc-Sablon CBSI-FM-24 Baie-Comeau</p> <p>CBV-FM Québec and its transmitters: CBV-FM-1 Sainte-Anne-de-Beaupré CBV-FM-4 Saint-Pamphile CBV-FM-5 Saint-Fabien-de-Panet CBV-FM-6 La Malbaie CBV-FM-7 Saint-Georges (formerly CBV-FM-7 Saint-Georges-de-Beauce) CBV-FM-8 Thetford Mines CBV-FM-9 Baie-Saint-Paul</p> <p>CHLM-FM Rouyn-Noranda and its transmitters: CBF-FM-1 Senneterre (formerly CBF-1 Senneterre) CBF-FM-3 Lebel-sur-Quévillon (formerly CBF-3 Lebel-sur-Quévillon) CBF-FM-4 Matagami CBFY-FM Ville-Marie CBFZ-FM Témiscaming CHLM-FM-1 Malartic CHLM-FM-2 La Sarre</p> <p>CJBR-FM Rimouski and its transmitter: CJBR-FM-1 Rivière-du-Loup</p>
New Brunswick	<p>CBAF-FM Moncton and its transmitters: CBAF-FM-1 Fredericton/Saint John CBAF-FM-2 Allardville CBAF-FM-3 Campbellton CBAF-FM-4 Edmundston CBAF-FM-18 Grande-Anse/Caraquet CBAF-FM-21 Bon Accord CBAF-FM-22 Saint-Quentin (formerly CBAF-21 Saint-Quentin) CBAF-FM-23 Kedgwick (formerly CBAF-20 Kedgwick)</p>
Nova Scotia	<p>CBAF-FM-5 Halifax and its transmitters: CBAF-FM-6 Middleton CBAF-FM-7 Digby CBAF-FM-8 Weymouth CBAF-FM-9 Yarmouth CBAF-FM-10 New Glasgow</p>

	CBAF-FM-11 Mulgrave CBAF-FM-12 Margaree CBAF-FM-13 Cheticamp CBAF-FM-14 Sydney CBAF-FM-16 Port au Port, Newfoundland and Labrador CBAF-FM-17 St. John's, Newfoundland and Labrador
Prince Edward Island	CBAF-FM-15 Charlottetown and its transmitters: CBAF-FM-19 Urbainville CBAF-FM-20 St. Edward/St. Louis

ICI Musique

Province	Call sign / Location
British Columbia	CBUX-FM Vancouver and its transmitter: CBUX-FM-1 Victoria
Alberta	CBCX-FM Calgary and its transmitter: CBCX-FM-1 Edmonton
Manitoba	CKSB-FM Winnipeg and its transmitters: CKSB-FM-1 Regina, Saskatchewan CKSB-FM-2 Saskatoon, Saskatchewan
Ontario	CBBX-FM Sudbury CBOX-FM Ottawa CJBC-FM Toronto and its transmitters: CJBC-FM-1 Windsor CJBC-FM-2 Kitchener/Brantford (formerly CJBC-FM-2 Paris)
Quebec	CBFX-FM Montréal and its transmitters: CBFX-FM-3 Malartic (formerly CBFX-FM-3 Amos) CBFX-FM-4 Rouyn-Noranda CBFX-FM-5 Gaspé CBFX-FM-6 Mont-Laurier CBFX-FM-1 Trois-Rivières (formerly a transmitter of CBFX-FM Montréal) CBFX-FM-2 Sherbrooke (formerly a transmitter of CBFX-FM Montréal) CBJX-FM Saguenay/Chicoutimi and its transmitter: CBJX-FM-1 Dolbeau-Mistassini (formerly CBJX-FM-1 Dolbeau) CBRX-FM Rimouski and its transmitters: CBRX-FM-1 Matane

	CBRX-FM-2 Sept-Îles CBRX-FM-3 Rivière-du-Loup CBVX-FM Québec and its transmitters: CBVX-FM-1 Sainte-Anne-de-Beaupré CBVX-FM-2 La Malbaie CBVX-FM-3 Baie-Saint-Paul
New Brunswick	CBAL-FM Moncton and its transmitters: CBAL-FM-1 Allardville CBAL-FM-2 Grande-Anse/Caraquet (formerly CBAL-FM-2 Lameque) CBAL-FM-3 Campbellton CBAL-FM-4 Fredericton/Saint John CBAL-FM-5 Edmundston
Nova Scotia	CBAX-FM Halifax and its transmitters: CBAX-FM-1 Charlottetown, Prince Edward Island CBAX-FM-2 St. John's, Newfoundland and Labrador CBAX-FM-3 Yarmouth

English-language television stations

CBC Television

Province / Territory	Call sign / Location
British Columbia	CBUT-DT Vancouver
Alberta	CBRT-DT Calgary CBXT-DT Edmonton
Saskatchewan	CBKT-DT Regina
Manitoba	CBWT-DT Winnipeg
Ontario	CBET-DT Windsor CBLT-DT Toronto CBOT-DT Ottawa
Quebec	CBMT-DT Montréal
New Brunswick	CBAT-DT Fredericton
Nova Scotia	CBHT-DT Halifax
Prince Edward Island	CBCT-DT Charlottetown
Newfoundland and Labrador	CBNT-DT St. John's
Northwest Territories	CFYK-DT Yellowknife

English-language discretionary services

- CBC News Network
- documentary Channel

English-language radio stations and rebroadcasting transmitters

Radio One

Province / Territory	Call sign / Location
British Columbia	<p>CBCV-FM Victoria and its transmitters: CBCV-FM-1 Metchosin/Sooke CBKJ Gold River CBKO Coal Harbour CBKU Sayward CBRV-FM Alert Bay CBTQ-FM Port Alberni CBTT-FM Tahsis CBTW-FM Woss Camp CBUW-FM Powell River CBCV-FM-2 Port Alice (formerly CBUX Port Alice) CBUY-FM Port Hardy CBXZ-FM-1 Ucluelet (formerly CBXQ Ucluelet) CBXZ-FM Tofino CBYT-FM Campbell River</p> <p>CBTK-FM Kelowna and its transmitters: CBKY Keremeos CBRG-FM Princeton CBRJ-FM Phoenix (Greenwood) CBRK Kimberley CBRO-FM Christina Lake CBRR-FM Cranbrook CBTA-FM Trail CBTE-FM Crawford Bay CBTK-FM-1 Field (formerly CBRD Field) CBTK-FM-2 Grand Forks (formerly CBRJ Grand Forks) CBTK-FM-3 New Denver (formerly CBUI New Denver) CBTK-FM-4 Braeloch CBTN-FM Fernie CBTO-FM Revelstoke CBTP-FM Penticton CBTS-FM Creston CBUB-FM Osoyoos CBUC-FM Salmon Arm CBUD-FM Bonnington Falls</p>

	<p> CBUG Kaslo CBUJ-FM Winlaw CBUM-FM Nakusp CBUN Salmo CBUQ-FM Radium Hot Springs (Windermere) CBXE-FM Golden CBYC-FM Canal Flats CBYL-FM Lumby CBYN-FM Nelson CBYR-FM Rock Creek CBYS-FM Sparwood CBYV-FM Vernon CBYX-FM Enderby </p> <p> CBU Vancouver and its transmitters: CBRU-FM Squamish CBU-1-FM Abbotsford CBU-2-FM Vancouver CBU-3-FM Pemberton (formerly CBXK Pemberton) CBUE-FM Hope CBYF-FM Chilliwack CBYH-FM Harrison Hot Springs CBYW-FM Whistler CKZU Vancouver </p> <p> CBYG-FM Prince George and its transmitters: CBKG Granisle CBKQ-FM Dawson Creek CBRS-FM Smithers CBRV-FM Vanderhoof CBTC-FM McBride CBTI-FM Moricetown CBTU-FM Tumbler Ridge CBTV-FM Valemount CBTX-FM Bella Bella CBUO-FM Fort Nelson CBUR-FM Houston CBUV-FM Fort St. James CBUZ-FM Chetwynd CBWF Mackenzie CBXB-FM Burns Lake CBXO-FM Ocean Falls CBXR-FM Fort Fraser CBYG-FM-2 Hudson's Hope (formerly CBXU Hudson's Hope) CBYD-FM Bella Coola CBYI-FM Hagensborg </p>
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	<p> CBYJ-FM Fort St. John CBYW Wells/Barkerville CBYY-FM Quesnel (formerly CBYY-FM Kersley) </p> <p> CBYK-FM Kamloops and its transmitters: CBKM Blue River CBKN Shalalth CBYK-FM-2 Cache Creek (formerly CBKS Cache Creek and CBWA Ashcroft) CBKZ Clearwater CBYK-FM-1 Williams Lake (formerly CBRL Williams Lake) CBRN-FM North Bend CBRZ Bralorne CBTF-FM Falkland CBTG Gold Bridge CBTY-FM Lytton CBUH-FM Chase (formerly CBUH Chase) CBUL-FM Lillooet (formerly CBUL Lillooet) CBUP Merritt CBUS-FM 100 Mile House/Prespatou CBUU-FM Clinton CBYE-FM Logan Lake CBYO-FM Barriere CBXA Mica Dam CBYU-FM Alexis Creek CBYZ-FM Vavenby </p> <p> CFPR Prince Rupert and its transmitters: CBKA Stewart CBRH New Hazelton CBTD-FM Kispiox (formerly CBTD Kispiox) CBTH-FM Terrace CBTM-FM Masset CBTZ-FM Kitwanga CBUK-FM Kitimat CBYA-FM New Aiyansh (formerly CBYA-FM Aiyansh) CBYB-FM Port Clements CBYQ-FM Queen Charlotte </p>
Alberta	<p> CBR Calgary and its transmitters: CBR-1-FM Calgary CBR-2-FM Crownsnest Pass (formerly CBXC Coleman) CBRA-FM Coutts/Milk River CBRB-FM Banff CBRC-FM Harvie Heights CBRD-FM Red Deer CBRE-FM Exshaw </p>

	<p>CBRI-FM Etzikom CBRL-FM Lethbridge CBRM-FM Medicine Hat CBRP-FM Pincher Creek CBRQ-FM Lake Louise</p> <p>CBX Edmonton and its transmitters: CBX-1-FM Bonnyville CBX-2-FM Edmonton CBXA-FM Chateh CBXC-FM Grande Cache (formerly CBXC Grande Cache) CBXD-FM Edson (formerly CBXD Edson) CBXF-FM Fort Vermilion (formerly CBKC Fort Vermilion) CBXG-FM Peace River CBXH-FM Jean d'Or CBXI-FM Hinton CBXJ-FM Jasper CBXK-FM Fox Lake CBXL-FM High Level (formerly CBKD High Level) CBXM-FM Manning CBXN-FM Fort McMurray CBXP-FM Grande Prairie CBXS-FM Swan Hills CBXV-FM Fox Creek CBXW-FM Rainbow Lake (formerly CBXX Rainbow Lake)</p>
Saskatchewan	<p>CBK Regina and its transmitters: CBKM-FM Meadow Lake CBKR-FM Regina</p> <p>CBK-1-FM Saskatoon</p> <p>CBKA-FM La Ronge and its transmitters: CBDH-FM Uranium City CBKA-FM-1 Creighton CBKB-FM Beauval CBKC-FM Île-à-la-Crosse CBKD-FM Buffalo Narrows CBKE-FM La Loche CBKG-FM Fond du Lac CBKH-FM Stony Rapids/Black Lake CBKI-FM Stanley Mission CBKJ-FM Pinehouse Lake CBKK-FM Patuanak CBKL-FM Montreal Lake CBKN-FM Island Falls CBKO-FM Denare Beach</p>

	CBKP-FM Southend CBKV-FM Cumberland House CBKW-FM Pelican Narrows
Manitoba	CBW Winnipeg and its transmitters: CBW-1-FM Winnipeg CBWA-FM Manigotagan CBWV-FM Brandon CBWW-FM Dauphin CBWX-FM Fisher Branch CBWY-FM Jackhead CBWZ-FM Fairford CBWK-FM Thompson and its transmitters: CBDE-FM Brochet CBDG-FM Shamattawa CBDI-FM Poplar River CBDS-FM Pukatawagan CBDU-FM Lynn Lake CBWB-FM Wabowden CBWC-FM Moose Lake CBWD-FM Wasagomach CBWE-FM Easterville CBWF-FM Flin Flon CBWG-FM Gillam CBWH-FM Grand Rapids CBWI-FM Ilford CBWJ-FM The Pas CBWL-FM Snow Lake CBWM-FM Oxford House CBWN-FM Gods Lake Narrows CBWO-FM Nelson House CBWP-FM Leaf Rapids CBWQ-FM South Indian Lake CBWR-FM Little Grand Rapids CBWU-FM Cranberry Portage CHFC Churchill
Ontario	CBCL-FM London and its transmitter: CBCL-FM-1 Tillsonburg CBCS-FM Sudbury and its transmitters: CBCA-FM Attawapiskat CBCC-FM Hearst CBCE-FM Little Current CBCG-FM Elk Lake CBCI-FM Fort Albany

	<p> CBCJ-FM Timmins CBCN-FM North Bay CBCR-FM Kirkland Lake CBCS-FM-1 Temagami (formerly CBEU Temagami) CBCU-FM Chapleau CBCY-FM Temiskaming Shores (formerly CBCY-FM Haileybury) CBEC-FM Elliot Lake CBEY-FM Moosonee (formerly CBEY Moosonee) CBEZ-FM Britt CBLF Foleyet CBLJ-FM Wawa CBLO Mattawa CBOK-FM Kapuskasing CBSM-FM Sault Ste. Marie </p> <p> CBEW-FM Windsor and its transmitters: CBEE-FM Chatham CBEG-FM Sarnia CBEW-FM-1 Leamington </p> <p> CBLA-FM Toronto and its transmitters: CBCB-FM Owen Sound CBCM-FM Penetanguishene CBCO-FM Orillia CBCP-FM Peterborough CBLA-FM-1 Crystal Beach CBLA-FM-3 Wingham CBLA-FM-4 Shelburne CBLA-FM-5 Bancroft (formerly CBLV Bancroft) CBLR-FM Parry Sound CBLU-FM Huntsville CBLY-FM Haliburton CBOD-FM Maynooth </p> <p> CBLA-FM-2 Kitchener/Brantford (formerly CBLA-FM-2 Paris) </p> <p> CBO-FM Ottawa and its transmitters: CBCD-FM Pembroke CBCD-FM-1 Deep River (formerly CBLI Deep River) CBCK-FM Kingston CBCW-FM Whitney CBO-FM-1 Belleville CBOB-FM Brockville CBOC-FM Cornwall CBOM Maniwaki, Quebec (to be replaced by CBOF-FM-1 Maniwaki⁹⁹, not yet in operation) </p>
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⁹⁹ See Broadcasting Decision [2022-141](#).

	<p>CBQT-FM Thunder Bay and its transmitters: CBCF-FM Fort Hope CBEA-FM Red Lake CBEB-FM Manitouwadge CBES Ignace CBLB Schreiber CBLE Beardmore CBLG-FM Geraldton CBLM-FM Marathon (formerly CBLM Marathon and CBEH Terrace Bay) CBLN-FM Nakina (formerly CBLN Nakina) CBLS-FM Sioux Lookout (formerly CBLS Sioux Lookout and CBQW Hudson) CBLW-FM White River CBOI Ear Falls (to be replaced by CBOI-FM Ear Falls, not yet in operation) CBQH-FM Dryden CBQI-FM Atikokan CBQL-FM Savant Lake CBQN-FM Osnaburgh CBQP-FM Pickle Lake CBQQ-FM Fort Frances CBQS-FM Sioux Narrows CBQT-FM-1 Hornepayne (formerly CBLH Hornepayne) CBQT-FM-2 Armstrong (formerly CBOL Armstrong) CBQU-FM Pikangikum CBQV-FM Sandy Lake CBQX-FM Kenora CBQY-FM Nipigon</p>
Quebec	<p>CBME-FM Montréal and its transmitters: CBME-FM-1 Montréal CBMG-FM Cowansville</p> <p>CBVE-FM Québec and its transmitters: CBJE-FM Chicoutimi CBMA-FM Rouyn-Noranda CBMB-FM Sherbrooke CBMC-FM Thetford Mines CBMD Chapais CBMF-FM Mont-Tremblant (formerly CBMF-FM Saint-Jovite) CBMH-FM Schefferville CBMI-FM Baie-Comeau CBMJ-FM Murdochville (formerly CBMJ Murdochville) CBMK-FM Lebel-sur-Quévillon (formerly CBMK Lebel-sur-Quévillon) CBMM-FM Senneterre (formerly CBMM Senneterre)</p>

	<p>CBMN-FM Malartic (formerly CBMN Malartic and CBML Val-d'Or) CBMR-FM Fermont CBMS-FM Blanc-Sablon CBMT-FM Gros-Mécatina (formerly CBMT-FM La Tabatière) CBMU-FM Harrington Harbour CBMV-FM Vieux-Fort (formerly CBMV-FM Old Fort Bay) CBMX-FM Saint-Augustin CBMY-FM Bonne-Espérance (formerly CBMY-FM Rivière-Saint-Paul) CBMZ-FM Trois-Rivières CBSE-FM Sept-Îles CBVA-FM Escuminac CBVB-FM Chandler CBVC-FM Chibougamau CBVE-1-FM La Tuque (formerly CBVE-1 La Tuque) CBVF-FM Port-Daniel-Gascons (formerly CBVF-FM Port-Daniel (Est)) CBVG-FM Gaspé CBVM-FM Îles-de-la-Madeleine CBVN-FM New Carlisle CBVP-FM Percé CBVR-FM New Richmond</p> <p>CBMP-FM Chisasibi (Fort-George) and its transmitters: CBMQ-FM Waskaganish CBMW-FM Wemindji CBVS-FM Mistissini CBVW-FM Waswanipi</p>
New Brunswick	<p>CBAM-FM Moncton and its transmitters: CBAA-FM Allardville CBAE-FM Campbellton CBAM-FM-1 Sackville</p> <p>CBD-FM Saint John and its transmitters: CBD-FM-1 St. Stephen (formerly CBAO St. Stephen) CBZA-FM Grand Manan</p> <p>CBZF-FM Fredericton and its transmitters: CBAN-FM Edmundston CBZB-FM Boiestown CBZC-FM Bon Accord CBZD-FM Doaktown CBZF-FM-1 McAdam (formerly CBAX McAdam) CBZW-FM Woodstock</p>

Nova Scotia	<p>CBHA-FM Halifax and its transmitters: CBAP-FM Shelburne CBAZ-FM Sheet Harbour CBHB-FM Mulgrave CBHC-FM Truro CBHL-FM Liverpool CBHM-FM Middleton CBHN-FM New Glasgow CBHY-FM Yarmouth</p> <p>CBI Sydney and its transmitters: CBHF-FM Northeast Margaree CBHI-FM Inverness CBIB-FM Bay St. Lawrence CBIC-FM Cheticamp CBIS-FM Sydney</p>
Prince Edward Island	<p>CBCT-FM Charlottetown and its transmitters: CBCT-FM-1 St. Edward CBCT-FM-2 Elmira</p>
Newfoundland and Labrador	<p>CBDQ-FM Labrador City</p> <p>CBG Gander and its transmitters: CBGC-FM Carmanville CBGY Bonavista Bay CBNG-FM Glovertown</p> <p>CBN St. John's and its transmitters: CBN-1-FM St. John's CBNL-FM Clarenville CBNM-FM Marystown CBNO-FM Swift Current CBNQ-FM Trepassey CBNR-FM Ramea CBNS-FM St. Alban's CBNU-FM Fermeuse CBNV-FM Placentia CBNX-FM St. Vincent's</p> <p>CBT Grand Falls-Windsor (formerly CBT Grand Falls and to be replaced by CBT-FM Grand Falls-Windsor, not yet in operation) and its transmitters: CBTB-FM Baie Verte CBTJ-FM Hampden CBTL-FM Millertown CBTR-FM Roddickton</p>

	<p>CBY Corner Brook and its transmitters: CBDT-FM Deer Lake CBNA-FM St. Anthony (formerly CBNA St. Anthony) CBNC-FM Stephenville CBNE-FM Port-aux-Basques CBNF-FM Bonne Bay CBNH-FM St. Andrew's CBNJ-FM Port Saunders CBYM-FM Mount St. Margaret CBYP-FM Portland Creek</p> <p>CFGB-FM Happy Valley—Goose Bay (formerly CFGB-FM Goose Bay) and its transmitters: CBGF-FM Fox Harbour CBND-FM Postville CBNI-FM Makkovik CBNN-FM Hopedale CBNP-FM Port Hope Simpson CBNZ-FM Nain (formerly CBNZ Nain) CBQA-FM Churchill Falls CFGB-FM-1 Cartwright (formerly CBNK Cartwright) CKZN-SW St. John's</p>
Yukon	<p>CFWH-FM Whitehorse and its transmitters: CBDB Watson Lake CBDC-FM Mayo (formerly CBDC Mayo) CBDF-FM Haines Junction CBDK Teslin CBDL-FM Destruction Bay CBDM Beaver Creek (Takhini River Subdivision) CBDN Dawson CBQF Carmacks CBQJ Ross River CBQK-FM Faro CBUA-FM Atlin, British Columbia CFWH-FM-1 Whitehorse</p>
Northwest Territories	<p>CFYK-FM Yellowknife and its transmitters: CBAU-FM Fort Providence (formerly CBQC Fort Providence) CBDJ-FM Hay River CBDY-FM Fort Simpson (formerly CBDO Fort Simpson) CBQB-FM Behchoko (formerly CBQB-FM Rae-Edzo) CBQD-FM Fort Resolution CBQG Wrigley CBQO-FM Deline (Fort Franklin) CBQZ-FM Fort Chipewyan, Alberta (formerly CBKE Fort Chipewyan, Alberta)</p>

	<p>CFYK-FM-1 Fort Smith (formerly CBDI Fort Smith)</p> <p>CHAK Inuvik and its transmitters: CBAC-FM Tuktoyaktuk (formerly CBAC Tuktoyaktuk) CBAH-FM Fort McPherson (formerly CBQM Fort McPherson) CBAK-FM Aklavik CBDW-FM Norman Wells CBIN-FM Cambridge Bay, Nunavut CBIO-FM Kugluktuk (Coppermine), Nunavut CBQE-FM Fort Good Hope CBXY-FM Tulita (formerly CBQI Tulita)</p>
Nunavut	<p>CFFB Iqaluit and its transmitters: CBIH-FM Cape Dorset CBII-FM Igloolik CBIJ-FM Pangnirtung CBIK-FM Pond Inlet CBIL-FM Resolute Bay CFFB-1-FM Cambridge Bay CFFB-2-FM Kugluktuk (Coppermine) CFFB-FM-3 Iqaluit CBQR-FM Rankin Inlet CBIA Gjoa Haven CBIG-FM Arviat (Eskimo Point) CBIQ-FM Taloyoak (Spence Bay) CBQR-FM-1 Baker Lake</p> <p>CFFB-FM-5 Kuujuaq, Quebec and its transmitters: CFFB-FM-4 Kuujuarapik, Quebec CFFB-FM-6 Inukjuaq, Quebec CFFB-FM-7 Salluit, Quebec CFFB-FM-8 Puvirnituk, Quebec</p>

CBC Music

Province	Call sign / Location
British Columbia	CBU-FM Vancouver and its transmitters: CBDN-FM Dawson City, Yukon CBNY-FM Yellowknife, Northwest Territories (formerly CFYK-FM Yellowknife, Northwest Territories) CBU-FM-1 Victoria CBU-FM-2 Metchosin/Sooke CBU-FM-3 Kelowna CBU-FM-4 Kamloops CBU-FM-5 Prince George CBU-FM-6 Quesnel CBU-FM-7 Chilliwack CBU-FM-8 Whitehorse, Yukon
Alberta	CBR-FM Calgary and its transmitters: CBBC-FM Lethbridge CBR-FM-1 Red Deer CBX-FM Edmonton
Saskatchewan	CBK-FM Regina and its transmitters: CBK-FM-1 Prince Albert CBK-FM-2 Warmley CBK-FM-3 Yorkton CBK-FM-4 Swift Current CBK-FM-5 North Battleford CBKS-FM Saskatoon
Manitoba	CBW-FM Winnipeg and its transmitter: CBWS-FM Brandon
Ontario	CBBS-FM Sudbury CBE-FM Windsor CBL-FM Toronto and its transmitters: CBBK-FM Kingston CBBL-FM London CBBP-FM Peterborough CBL-FM-1 Huntsville CBL-FM-2 Kitchener/Brantford (formerly CBL-FM-2 Paris) CBL-FM-3 Orillia CBL-FM-4 Owen Sound CBOQ-FM Ottawa CBQ-FM Thunder Bay

Quebec	CBM-FM Montréal and its transmitters: CBM-FM-1 Sherbrooke CBM-FM-2 Québec CBM-FM-3 Iqaluit, Nunavut
Nova Scotia	CBH-FM Halifax and its transmitters: CBA-FM Moncton, New Brunswick CBCH-FM Charlottetown, Prince Edward Island CBH-FM-1 Middleton CBH-FM-2 Mulgrave CBZ-FM Fredericton/Saint John, New Brunswick CBI-FM Sydney
Newfoundland and Labrador	CBN-FM St. John's and its transmitters: CBN-FM-1 Grand Falls-Windsor CBN-FM-2 Corner Brook CBN-FM-3 Deer Lake CBN-FM-4 Stephenville CBN-FM-5 Marystown CBN-FM-6 Baie Verte

Appendix 2 to Broadcasting Decision CRTC 2022-165

Definitions of terms and expressions applicable to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, and to the appendices of that decision

The list of definitions set out below applies to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, including the appendices to that decision, and in particular:

- the conditions of licence, expectations and encouragements for the Canadian Broadcasting Corporation's (the Corporation) various English- and French-language licensed audiovisual and audio services set out in Appendix 3; and
- the expectations, encouragements, and reporting and submission requirements for the Corporation's various digital media broadcasting undertakings set out in Appendix 4.

Definitions

“Broadcast day” shall, for the Corporation's English- and French-language licensed audio programming services, have the same meaning as that set out in section 2 of the *Radio Regulations, 1986*, specifically, “the total number of hours devoted to broadcasting for a period beginning at six o'clock in the forenoon and ending at midnight on the same day.”

“Broadcast day” shall, for the Corporation's English- and French-language licensed television networks, television stations and discretionary services ICI RDI, CBC News Network and documentary Channel, have the same meaning as that set out in section 2 of the *Television Broadcasting Regulations, 1987*, specifically, “the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee.”

“Broadcast day” shall, for the Corporation's discretionary services ICI ARTV and ICI EXPLORA, mean a period of up to 24 consecutive hours, as selected by the Corporation, or any other period approved by the Commission.

“Broadcasting” shall have the same meaning as that set out in section 2 of the *Broadcasting Act*, specifically, “any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place.”

“Broadcast week” shall have the same meaning as that set out in section 2 of the *Radio Regulations, 1986*, specifically, “seven consecutive broadcast days, beginning on Sunday.”

“Broadcast year” shall have the same meaning as that set out in subsection 15(1) of the *Radio Regulations, 1986*, section 2 of the *Television Broadcasting Regulations, 1987*, and section 1 of the *Discretionary Services Regulations*, specifically, the period beginning on September 1 and ending on August 31 of the following year.

“Canadian programming expenditures” shall have the same meaning as that set out in the appendix to *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993.

“Canadian selection” shall have the same meaning as that set out in subsection 2.2(2) of the *Radio Regulations, 1986*, specifically, “a musical selection

(a) that meets at least two of the following conditions, namely,

(i) the music is or lyrics are performed principally by a Canadian,

(ii) the music is composed entirely by a Canadian,

(iii) the lyrics are written entirely by a Canadian,

(iv) the musical selection consists of a live performance that is

(A) recorded wholly in Canada, or

(B) performed wholly in and broadcast live in Canada, and

(v) the musical selection was performed live or recorded after September 1, 1991, and a Canadian who has collaborated with a non-Canadian receives at least fifty per cent of the credit as composer and lyricist according to the records of a recognized performing rights society;

(b) that is an instrumental performance of a musical composition that meets the conditions set out in subparagraph (a)(ii) or (iii);

(c) that is a performance of a musical composition that a Canadian has composed for instruments only; or

(d) that has already qualified as a Canadian selection under regulations previously in effect.”

“Content category” shall have the same meaning as that set out in section 2 of the *Radio Regulations, 1986*, specifically, “a content category of broadcast matter that is described in the appendix to [*Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010].”

“Content subcategory” shall have the same meaning as that set out in section 2 of the *Radio Regulations, 1986*, specifically, “a content subcategory of broadcast matter that is described in the appendix to [*Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010].”

“Designated group”, consistent with the meaning set out in the *Employment Equity Act*, refers to women, Indigenous Peoples, persons with disabilities and racialized persons.

“Digital media broadcasting undertaking” (DMBU) shall have the same meaning as that set out in the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012, which is as follows:

The undertaking provides broadcasting services, in accordance with the interpretation of “broadcasting” set out in *New Media*, Broadcasting Public Notice CRTC 1999-84/Telecom Public Notice CRTC 99-14, 17 May 1999, that are:

- a) delivered and accessed over the Internet; or
- b) delivered using point-to-point technology and received by way of mobile devices.

For the purpose of the reporting and submission requirements imposed on DMBUs, when the Commission refers to all DMBUs the Corporation operates, the Corporation shall use the list of DMBUs that must be submitted each year pursuant to the reporting and submission requirement 1 set out in Appendix 4 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022.

“English-language radio stations” include the licensed radio stations listed under the headings “English-language radio networks” and “English-language radio stations and rebroadcasting transmitters” in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022.

“English-language audiovisual programming services” includes the licensed services listed under the headings “English-language television network,” “English-language television stations” and “English-language discretionary services” in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding CBC News Network) as well as the English-language audiovisual digital media broadcasting undertakings operated by the Corporation.

“French-language radio stations” include the licensed radio stations listed under the headings “French-language radio networks” and “French-language radio stations and rebroadcasting transmitters” in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022.

“French-language audiovisual programming services” includes the licensed services listed under the headings “French-language television network,” “French-language television stations” and “French-language discretionary services” in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding ICI RDI) as well as the French-language audiovisual digital media broadcasting undertakings operated by the Corporation.

“Independent production” means a production made by an independent production company.

“Independent production company” means a Canadian company (i.e., a company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadian citizens or permanent residents of Canada) whose business is the production of film, videotape or live programs for distribution and in which the Corporation and any company related to the Corporation owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

“Indigenous musical selection” means a musical selection written or performed by a person who self-identifies as Indigenous, which includes First Nations, Métis and Inuit, and who resides in Canada.

“Indigenous producer” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and who resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and who reside in Canada. In regard to the definition of “independent production company,” a “Canadian company” also includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

“Local programming” in regard to audio services shall have the same meaning as that set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, specifically:

Local programming includes programming that originates with the station or is produced separately and exclusively for the station. It does not include programming received from another station and rebroadcast simultaneously or at a later time; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station.

In their local programming, licensees must incorporate spoken word material of direct and particular relevance to the community served. This must include local news, weather, sports coverage, and the promotion of local events and activities.

“Local programming” in regard to audiovisual services shall have the same meaning as that set out in *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 15 December 2006, specifically, “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.”

“LGBTQ2 producer” means an individual who self-identifies as LGBTQ2 and is a Canadian citizen or is a permanent resident of Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as LGBTQ2 and are Canadian citizens or permanent residents of Canada.

“Metropolitan market” and “non-metropolitan market” shall, consistent with *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009, and *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008, be defined as follows:

Metropolitan television markets are those television markets in which the population with a knowledge of the official language of the station (i.e., English or French), as defined by Statistics Canada, is one million or more and non-metropolitan markets are those television markets in which the population with a knowledge of the official language of the station is less than one million.

“Montréal Census Metropolitan Area” shall have the same meaning as that set out by [Statistics Canada](#) on its webpage [Statistical Area Classification by Province and Territory - Variant of SGC 2016 - 24462 – Montréal](#).

“Musical selection” shall have the same meaning as that set out in section 2 of the *Radio Regulations, 1986*, specifically, “any live or recorded music of one minute or more in duration that is broadcast uninterrupted, and includes a medley and a montage.”

“Official minority language community (OLMC) producer” means a company that meets the definition of “independent production company” and that, if operating in the Province of Quebec, produces original English-language programming, or, if operating outside of the Province of Quebec, produces original French-language programming. To be considered an OLMC producer in Canada, a production company must:

- a) if it produces original programs in English, have its head office in the province of Quebec and be owned and operated by a resident of the province of Quebec;
- b) if it produces original programs in French, have its head office outside the province of Quebec and be owned and operated by a resident outside of the province of Quebec.

“Original first-run Canadian program” means the first broadcast of a program that has not been broadcast, distributed or made available by another licensed broadcasting undertaking or digital media broadcasting undertaking that broadcasts in Canada.

“Original first-run Canadian program aimed at children under 13 years of age” means the first broadcast of a program that has not been broadcast, distributed or made available by another licensed broadcasting undertaking or digital media broadcasting undertaking that broadcasts in Canada, unless that undertaking also contributed to pre-production financing of the program.

“Producer with disabilities” means an individual who self-identifies as having one or more disabilities and is a Canadian citizen or permanent resident of Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as having one or more disabilities and are Canadian citizens or permanent residents of Canada. According to the *Accessible Canada Act*, “disability” means any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment — or a functional limitation — whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person’s full and equal participation in society.

“Program” shall have the same meaning as that set out in section 2 of the *Broadcasting Act*, specifically, “sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text”.

“Program categories” in regard to television services are defined on the Commission’s website under “[Television Program Categories](#)”.

“Programs of national interest in the English-language market” means English-language Canadian programs drawn from program categories 2(b) Long-form documentary and 7 Drama and comedy, along with specific Canadian award shows that qualify as programs of national interest.

“Programs of national interest in the French-language market” means French-language Canadian programs drawn from program categories 2(b) Long-form documentary; 7 Drama and comedy; 8(a) Music and dance; 8(b) Music video clips; 8(c) Music video programs; and 9 Variety, along with specific Canadian award shows that celebrate Canadian creative talent that qualify as programs of national interest.

“Racialized producer” means an individual who self-identifies as a racialized person and is a Canadian citizen or permanent resident of Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as a racialized person and are Canadian citizens or permanent residents of Canada. Consistent with the definition set out in the funding glossary of the Department of Canadian Heritage, “racialized person” means a person from a “racialized community”, which is a community of shared heritage who has been historically disadvantaged as a group and may experience discrimination based on colour, culture and/or race.

Appendix 3 to Broadcasting Decision CRTC 2022-165

Terms, conditions of licence, expectations and encouragements applicable to all licensed undertakings listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals, Broadcasting Decision CRTC 2022-165, 22 June 2022*

Terms

The licence will take effect 1 September 2022 and expire 31 August 2027.

For the purposes of the conditions of licence, expectations and encouragements set out below, “the Corporation” shall mean the Canadian Broadcasting Corporation.

Conditions of licence

Applicable to audiovisual and audio services

Balanced programming offer

1. The Corporation shall, on its licensed television networks and stations, discretionary services, and radio networks and stations, present a reasonably balanced programming offering drawn from diverse categories of programming for a diversity of listeners and viewers. Programming shall include original Canadian programming, original first-run Canadian programming, programs of national interest and Canadian selections from multiple music categories. In-house and independent programming shall originate from, reflect and be relevant to all regions of Canada as well as Indigenous Peoples living in Canada, Canada’s official language minority communities and Canadians in all their diversity. This balanced diverse audio and audiovisual programming shall be discoverable and promoted on all of the Corporation’s licensed audio and audiovisual services.

Applicable to audiovisual services

Expenditures on Canadian independent productions by Indigenous producers, producers from official language minority communities, racialized producers, producers with disabilities, producers who self-identify as LGBTQ2, and women who self-identify as belonging to these communities

2. For the broadcast year beginning 1 September 2022 and ending 31 August 2023:
 - a) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by English-language official language minority community (OLMC) producers.
 - b) The Corporation shall devote not less than 3% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by French-language OLMC producers from the regions of Atlantic Canada, Ontario, Western Canada and the North combined.

3. The Corporation may count expenditures made for the acquisition of or investment in Canadian independent programming by English-language and French-language digital media broadcasting undertakings that it operates towards fulfilling the requirements set out in conditions of licence 2.a) and b), respectively.
4. For the broadcast year beginning 1 September 2023 and ending 31 August 2024:
 - a) Subject to conditions of licence 4.c) and e), the Corporation shall devote not less than 30% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - b) Subject to conditions of licence 4.d) and f), the Corporation shall devote not less than 6.7% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - c) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers.
 - d) The Corporation shall devote not less than 1% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers.
 - e) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by English-language OLMC producers.
 - f) The Corporation shall devote not less than 3.5% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by French-language OLMC producers from the regions of Atlantic Canada, Ontario, Western Canada and the North combined.
5. For the purpose of determining compliance with condition of licence 4:
 - a) The Corporation may count expenditures made for the acquisition of or investment in English-language Canadian independent programming by digital media broadcasting undertakings (DMBU) that it operates towards fulfilling the requirements set out in each of conditions of licence 4.a), c) and e).

- b) The Corporation may count expenditures made for the acquisition of or investment in French-language Canadian independent programming by DMBUs that it operates towards fulfilling the requirements set out in each of conditions of licence 4.b), d) and f).
 - c) Where there are multiple identified groups within a production team, the Corporation shall identify, in the production report required pursuant to condition of licence 71 in this appendix, the expenditure allocations for each group, and shall not double-count the same funds to different groups.
 - d) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 4.c) and e) above may be counted for the purpose of determining compliance with condition of licence 4.a). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 4.a) to Canadian independent productions from Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - e) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 4.d) and f) above may be counted for the purpose of determining compliance with condition of licence 4.b). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 4.b) to Canadian independent productions from Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
6. For the broadcast year beginning 1 September 2024 and ending 31 August 2025:
- a) Subject to conditions of licence 6.c) and e), the Corporation shall devote not less than 30% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - b) Subject to conditions of licence 6.d) and f), the Corporation shall devote not less than 9% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - c) The Corporation shall devote not less than 8% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers.

- d) The Corporation shall devote not less than 1% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers.
- e) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by English-language OLMC producers.
- f) The Corporation shall devote not less than 4% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by French-language OLMC producers from the regions of Atlantic Canada, Ontario, Western Canada and the North combined.

7. For the purpose of determining compliance with condition of licence 6:

- a) The Corporation may count expenditures made for the acquisition of or investment in English-language Canadian independent programming by digital media broadcasting undertakings (DMBU) that it operates towards fulfilling the requirements set out in each of conditions of licence 6.a), c) and e).
- b) The Corporation may count expenditures made for the acquisition of or investment in French-language Canadian independent programming by DMBUs that it operates towards fulfilling the requirements set out in each of conditions of licence 6.b), d) and f).
- c) Where there are multiple identified groups within a production team, the Corporation shall identify, in the production report required pursuant to condition of licence 71 in this appendix, the expenditure allocations for each group, and shall not double-count the same funds to different groups.
- d) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 6.c) and e) above may be counted for the purpose of determining compliance with condition of licence 6.a). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 6.a) to Canadian independent productions from Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
- e) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 6.d) and f) above may be counted for the purpose of determining compliance with condition of licence 6.b). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 6.b) to Canadian independent productions from Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.

8. For the broadcast year beginning 1 September 2025 and ending 31 August 2026:
 - a) Subject to conditions of licence 8.c) and e), the Corporation shall devote not less than 30% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - b) Subject to conditions of licence 8.d) and f), the Corporation shall devote not less than 12.3% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
 - c) The Corporation shall devote not less than 8% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers.
 - d) The Corporation shall devote not less than 1.8% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers.
 - e) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by English-language OLMC producers.
 - f) The Corporation shall devote not less than 5% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by French-language OLMC producers from the regions of Atlantic Canada, Ontario, Western Canada and the North combined.
9. For the purpose of determining compliance with condition of licence 8:
 - a) The Corporation may count expenditures made for the acquisition of or investment in English-language Canadian independent programming by digital media broadcasting undertakings (DMBU) that it operates towards fulfilling the requirements set out in each of conditions of licence 8.a), c) and e).
 - b) The Corporation may count expenditures made for the acquisition of or investment in French-language Canadian independent programming by DMBUs that it operates towards fulfilling the requirements set out in each of conditions of licence 8.b), d) and f).

- c) Where there are multiple identified groups within a production team, the Corporation shall identify, in the production report required pursuant to condition of licence 71 in this appendix, the expenditure allocations for each group, and shall not double-count the same funds to different groups.
- d) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 8.c) and e) above may be counted for the purpose of determining compliance with condition of licence 8.a). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 8.a) to Canadian independent productions from Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
- e) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 8.d) and f) above may be counted for the purpose of determining compliance with condition of licence 8.b). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 8.b) to Canadian independent productions from Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.

10. For the broadcast year beginning 1 September 2026 and ending 31 August 2027:

- a) Subject to conditions of licence 10.c) and e), the Corporation shall devote not less than 35% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
- b) Subject to conditions of licence 10.d) and f), the Corporation shall devote not less than 15% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
- c) The Corporation shall devote not less than 8% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by Indigenous producers.
- d) The Corporation shall devote not less than 1.8% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by Indigenous producers.

- e) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its English-language audiovisual programming services to expenditures on programs produced by English-language OLMC producers.
- f) The Corporation shall devote not less than 6% of the amount it allocates to Canadian independent programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by French-language OLMC producers from the regions of Atlantic Canada, Ontario, Western Canada and the North combined.

11. For the purpose of determining compliance with condition of licence 10:

- a) The Corporation may count expenditures made for the acquisition of or investment in English-language Canadian independent programming by digital media broadcasting undertakings (DMBU) that it operates towards fulfilling the requirements set out in each of conditions of licence 10.a), c) and e).
- b) The Corporation may count expenditures made for the acquisition of or investment in French-language Canadian independent programming by DMBUs that it operates towards fulfilling the requirements set out in each of conditions of licence 10.b), d) and f).
- c) Where there are multiple identified groups within a production team, the Corporation shall identify, in the production report required pursuant to condition of licence 71 in this appendix, the expenditure allocations for each group, and shall not double-count the same funds to different groups.
- d) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 10.c) and e) above may be counted for the purpose of determining compliance with condition of licence 10.a). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 10.a) to Canadian independent productions from Indigenous producers, English-language official language minority community (OLMC) producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.
- e) Expenditures made for the purpose of meeting the minimum expenditure requirements set out in conditions of licence 10.d) and f) above may be counted for the purpose of determining compliance with condition of licence 10.b). The Corporation shall, at its discretion, devote the remaining expenditures required to be made pursuant to condition of licence 10.b) to Canadian independent productions from Indigenous producers, French-language OLMC producers, racialized producers, producers who self-identify as LGBTQ2, and producers with disabilities.

12. Subject to conditions 3 through 11, the licensee may claim, for the purpose of its expenditures on Canadian independent programming set out in those conditions of licence, a 50% credit against its requirements relating to expenditures made on Canadian independent programming produced by Indigenous Peoples, racialized persons, persons with disabilities, and persons who self-identify as LGBTQ2, who also self-identify as women.

13. For the purposes of calculating the expenditure requirements pursuant to conditions of licences 2.a), 4.a), 4.c), 4.e), 6.a), 6.c), 6.e), 8.a), 8.c), 8.e), 10.a), 10.c) and 10.e), the denominator includes total expenditures on Canadian independent programming for the Corporation's English-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding CBC News Network), and the English-language digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted English-language licensed television services (network, television stations and discretionary services, excluding CBC News Network).
14. For the purposes of calculating the expenditure requirements pursuant to conditions of licences 2.b), 4.b), 4.d), 4.f), 6.b), 6.d), 6.f), 8.b), 8.d), 8.f), 10.b), 10.d) and 10.f), the denominator includes total expenditures on Canadian independent programming for the Corporation's French-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding ICI RDI), and the French-language digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted French-language licensed television network, television stations and discretionary services, excluding ICI RDI).

Over-and under-expenditures and eligibility for independent productions from Indigenous producers, producers from official language minority communities, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2, and women who self-identify as belonging to these communities

15. In each broadcast year of the licence term, excluding the final year,
 - a) The Corporation may expend an amount on independent productions from Indigenous producers, producers from official language minority communities (OLMC), racialized producers, producers with disabilities and producers who self-identify as LGBTQ2 that is up to 10% less than the minimum required expenditure for that year calculated in accordance with each of conditions of licence 2, 4, 6, 8 and 10, respectively. In such case, the Corporation shall ensure it expends in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
 - b) Where the Corporation expends an amount for that year on independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2 that is greater than the minimum required expenditure calculated in accordance with each of conditions of licence 2, 4, 6, 8 and 10, respectively, the Corporation may deduct that amount from the total minimum required expenditure in one or more of the remaining years of the licence term.

- c) Notwithstanding conditions of licence 15.a) and 15.b), over the course of the licence term, the Corporation shall expend on independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 2, 4, 6, 8 and 10.
 - d) In the two years following the end of the licence term commencing 1 September 2022, the Corporation shall report and respond to any Commission enquiries relating to expenditures made by the licensee on independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2.
 - e) The Corporation shall be responsible for any failure to comply with requirements relating to expenditures on independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2 that occurred during the licence term commencing 1 September 2022, that is identified in that two-year period.
16. For the purposes of conditions of licence 2, 4, 6, 8 and 10, only programming costs counting towards expenditures on independent productions from Indigenous producers, producers from OLMCs, racialized producers, producers with disabilities and producers who self-identify as LGBTQ2, as defined in Appendix 2 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, shall be considered eligible expenditures in this regard for licensed audiovisual services and for audiovisual digital media broadcasting undertakings.

Expenditures – French-language Quebec regional productions

17. The Corporation shall devote not less than 3% of the amount it allocates to independent Canadian programming expenditures on its French-language audiovisual programming services to expenditures on programs produced by French-language producers from the regions of Quebec (including northern Quebec), excluding the Montréal Census Metropolitan Area.
18. The Corporation may count expenditures made for the acquisition of or investment in Canadian independent programming by French-language digital media broadcasting undertakings that it operates towards fulfilling the requirements set out in condition of licence 17.
19. For the purposes of calculating the expenditure requirement pursuant to condition of licence 17, the denominator includes total expenditures on Canadian independent programming for the Corporation's French-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding ICI RDI), and the French-language digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted

French-language licensed television services (network, television stations and discretionary services, excluding ICI RDI).

Expenditures – French-language Canadian programming

20. Each broadcast year, the Corporation shall devote not less than 85% of the amount it allocates to programming expenditures on its French-language audiovisual programming services to Canadian programming expenditures.
21. The Corporation may count expenditures made for the acquisition of or investment in Canadian programming by the French-language audiovisual digital media broadcasting undertakings that it operates towards fulfilling the requirement set out in condition of licence 20.
22. For the purposes of calculating the expenditure requirement pursuant to condition of licence 20, the denominator includes total expenditures on programming for the Corporation's French-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding ICI RDI), and the French-language audiovisual digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted French-language licensed television services (network, television stations and discretionary services, excluding ICI RDI).

Expenditures – English-language Canadian programming

23. Each broadcast year, the Corporation shall devote not less than 85% of the amount it allocates to programming expenditures on its English-language audiovisual programming services to Canadian programming expenditures.
24. The Corporation may count expenditures made for the acquisition of or investment in Canadian programming by the English-language audiovisual digital media broadcasting undertakings that it operates towards fulfilling the requirement set out in condition of licence 23.
25. For the purposes of calculating the expenditure requirement pursuant to condition of licence 23, the denominator includes total expenditures on programming for the Corporation's English-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding CBC News Network), and the English-language audiovisual digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted English-language licensed television services (network, television stations and discretionary services, excluding CBC News Network).

Expenditures – French-language programs of national interest

26. Each broadcast year, the Corporation shall devote not less than 42% of the amount it allocates to Canadian programming expenditures on its French-language audiovisual programming services to the acquisition of or investment in Canadian French-language programs of national interest.
27. The Corporation may count expenditures made for the acquisition of or investment in Canadian programs of national interest by the French-language audiovisual digital media broadcasting undertakings that it operates towards fulfilling the requirement set out in condition of licence 26.
28. For the purposes of calculating the expenditure requirement pursuant to condition of licence 26, the denominator includes total expenditures on Canadian programming for the Corporation's French-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding ICI RDI), and the French-language audiovisual digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted French-language licensed television services (network, television stations and discretionary services, excluding ICI RDI).

Expenditures – English-language programs of national interest

29. Each broadcast year, the Corporation shall devote not less than 55% of the amount it allocates to Canadian programming expenditures on its English-language audiovisual programming services to the acquisition of or investment in Canadian English-language programs of national interest.
30. The Corporation may count expenditures made for the acquisition of or investment in Canadian programs of national interest by the English-language audiovisual digital media broadcasting undertakings that it operates towards fulfilling the requirement set out in condition of licence 29.
31. For the purposes of calculating the expenditure requirement pursuant to condition of licence 29, the denominator includes total expenditures on Canadian programming for the Corporation's English-language licensed television services (network, all television stations and all discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, excluding CBC News Network), and the English-language audiovisual digital media broadcasting undertakings that the Corporation operated in the reported broadcast year. The requirement (the numerator) is imposed on the above-noted English-language licensed television services (network, television stations and discretionary services, excluding CBC News Network).

Over-and under-expenditures and eligibility for Canadian programming and programs of national interest

32. In each broadcast year of the licence term, excluding the final year,
- a) The Corporation may expend an amount on Canadian programming expenditures (CPE) that is up to 10% less than the minimum required expenditure for that year calculated in accordance with each of conditions of licence 20, 23, 26 and 29, respectively. In such case, the Corporation shall ensure that it expends in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
 - b) Where the Corporation expends an amount for a year of the licence term on Canadian programming that is greater than the minimum required expenditure calculated in accordance with each of conditions of licence 20, 23, 26 and 29, respectively, the Corporation may deduct that amount from the total minimum required expenditure in one or more of the remaining years of the licence term.
 - c) Notwithstanding conditions of licence 32.a) and 32.b), over the course of the licence term, the Corporation shall expend on Canadian programming and programs of national interest (PNI), at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 20, 23, 26 and 29.
 - d) In the two years following the end of the previous licence term commencing 1 September 2022, the Corporation shall report and respond to any Commission enquiries relating to expenditures on Canadian programming, including PNI, made by the licensee.
 - e) The Corporation shall be responsible for any failure to comply with requirements relating to expenditures on Canadian programming, including PNI, that occurred during the licence term commencing 1 September 2022, that is identified in that two-year period.
33. For the purposes of conditions of licence 20, 23, 26 and 29, only programming costs counting towards Canadian programming expenditures (CPE) as defined in Appendix 2 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, shall be considered eligible CPE for licensed audiovisual services and audiovisual digital media broadcasting undertakings.

Exhibition – English-language original first-run Canadian programming aimed at children under 13 years of age

34. The Corporation shall broadcast a minimum of one hour per broadcast week, averaged over the broadcast year, of original first-run Canadian programming aimed at children under 13 years of age on its English-language licensed television network and stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022.

Exhibition – Local audiovisual programming

35. The Corporation shall ensure that not less than seven hours of English-language audiovisual local programming is broadcast during each broadcast week on its English-language conventional television network and stations in English-language non-metropolitan markets.

36. The Corporation shall ensure that not less than five hours of French-language audiovisual local programming is broadcast each broadcast week on its French-language conventional television network and stations in French-language non-metropolitan markets.

For French-language stations serving official language minority communities in Vancouver, British Columbia; Edmonton, Alberta; Regina, Saskatchewan; Winnipeg, Manitoba; Ottawa and Toronto, Ontario; and Moncton, New Brunswick, the five hours of local programming that must be broadcast over the broadcast week may be averaged over the entire broadcast year.

37. The Corporation shall ensure that each of its French-language television stations broadcasts local news seven days a week during each broadcast week, except holidays, as defined in the *Interpretation Act*, excluding Sundays as a holiday.

Described video

38. For the licensed audiovisual services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding ICI RDI, CBC News Network and ICI EXPLORA), the Corporation shall provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

Standard conditions of licence

39. For the licensed television networks and stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, the Corporation shall adhere to the standard conditions of licence, expectations and encouragements set out in Appendix 1 to *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exception of conditions of licence 5, 6, 12 and 14.

40. For the discretionary services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding ICI EXPLORA, ICI RDI and CBC News Network), the Corporation shall adhere to the standard conditions of licence, expectations and encouragements set out in Appendix 2 to *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exception of conditions of licence 15 and 17.

41. For the discretionary service ICI EXPLORA, the Corporation shall adhere to the standard conditions of licence, expectations and encouragements set out in Appendix 2 to *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exception of condition of licence 15.
42. For the discretionary services ICI RDI and CBC News Network, the Corporation shall adhere to the standard conditions of licence, expectations and encouragement set out in *Revised standard conditions of licence for Canadian discretionary services operating as national news services*, Broadcasting Regulatory Policy 2015-436, 23 September 2015, with the exception of condition of licence 11.c.

Additional conditions of licence for the French-language discretionary service ICI RDI

43. This broadcasting undertaking is designated as a discretionary service operating as a national news service.
44. The Corporation shall ensure that at least one-third of original programs and program segments broadcast by ICI RDI each broadcast year are produced in the regions of Atlantic Canada, Ontario, Western Canada, the North, and Quebec (excluding Montréal).

Additional condition of licence for the English-language discretionary service CBC News Network

45. This broadcasting undertaking is designated as a discretionary service operating as a national news service.

Advertising and commercial messages

46. The Corporation shall adhere to the standards for children's advertising set out in the Corporation's *Policy 1.3.8: Advertising Directed to Children Under 12 Years of Age*. As a minimum, the Corporation shall adhere to the standards set out in the Canadian Association of Broadcasters' *The Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission.
47. The Corporation shall not broadcast any commercial message during any child-directed programming, nor broadcast any child-directed commercial message between programs directed to children of pre-school age. For the purpose of this condition, programs directed to children and scheduled before 12:00 noon during school-day morning hours will be deemed to be programs directed to children of pre-school age.

Applicable to audio services

Quotas on musical selections

48. For its English- and French-language licensed radio stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, the Corporation shall:

- a) in each broadcast week, devote at least 50% of its musical selections from content category 2 (Popular Music) to Canadian selections;
- b) in each broadcast week, devote at least 20% of its musical selections from content category 3 (Special Interest Music) to Canadian selections;
- c) in each broadcast week, devote at least 25% of its musical selections from content subcategory 31 (Concert) to Canadian selections;
- d) in each broadcast week, devote at least 20% of its musical selections from content subcategory 34 (Jazz and blues) to Canadian selections;
- e) in each broadcast week, for its English-language stations, devote a minimum of 5% of its musical selections broadcast to Indigenous musical selections broadcast in their entirety;
- f) in each broadcast week, for the 2022-2023, 2023-2024 and 2024-2025 broadcast years, for its French-language stations, devote a minimum of 2.5% of its musical selections broadcast to Indigenous musical selections broadcast in their entirety; and
- g) in each broadcast week, for the 2025-2026 and 2026-2027 broadcast years, for its French-language stations, devote a minimum of 3% of its musical selections broadcast to Indigenous musical selections broadcast in their entirety.

Quotas on French-language vocal musical selections

49. The Corporation shall devote at least 85% of its vocal musical selections from content category 2 (Popular Music) broadcast each broadcast week on its French-language licensed radio stations to French-language vocal music selections. At least 50% of the content category 2 selections broadcast in languages other than French shall be Canadian selections.

Additional condition of licence for CBEF Windsor, Ontario– Local audio programming

50. The Corporation shall ensure that not less than 15 hours of local programming is broadcast on its radio station CBEF Windsor during each broadcast week.

Adherence to the *Equitable Portrayal Code*

51. For the English- and French-language licensed radio stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, the Corporation shall adhere to the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.

Commercial messages

52. For the English- and French-language licensed radio stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, the Corporation shall not broadcast any commercial message of content category 5 (Advertising) except:

- a) during programs available to the network only on a sponsored basis, or
- b) as required to fulfill the requirements of the legislation of the Parliament of Canada pertaining to elections.

Ombudsmen

- 53. The Corporation shall maintain two Offices of the Ombudsman, one for all of the Corporation's French-language services and one for all of the Corporation's English-language services, for complaints related to the Corporation's Journalistic Standards and Practices. The Ombudsmen shall report directly to the President of the Corporation and, through the President, to the Corporation's Board of Directors.
- 54. The Corporation shall ensure that the Ombudsmen report bi-annually and concurrently to the President and the Board of Directors, including at least once in the annual reports of the Offices of the Ombudsman.
- 55. The Corporation's Board of Directors shall, in a timely manner, publicly respond to the recommendations presented in the annual reports of the Offices of the Ombudsman.
- 56. The Corporation shall file with the Commission a copy of the most recent public annual report submitted by each Ombudsman to the Corporation's Board of Directors by 30 November of each year.
- 57. The Corporation shall file with the Commission management's responses to the annual reports of the two Offices of the Ombudsman at the same time that the annual reports are filed with the Commission.
- 58. The Corporation shall follow these steps when selecting an Ombudsman:
 - a) openly seek candidates from outside as well as from inside the Corporation;
 - b) after appropriate consultation, the President and CEO of the Corporation shall establish a selection committee of four members;
 - c) two members, including the selection committee chair, shall be from the public. People currently employed by the Corporation or employed by the Corporation within the previous three years will be excluded from nomination as public members;
 - d) the other selection committee members shall consist of one representative of the Corporation's management and one representative of the Corporation's working journalists;
 - e) at least one of the above selection committee members shall be Indigenous or from an equity-seeking community such as racialized Canadians, Canadians with disabilities, and Canadians who self-identify as LGBTQ2;

- f) selection committee members representing the Corporation and its working journalists shall jointly select the selection committee chair from among the two public members;
- g) the selection committee shall examine applications for the position of Ombudsman and select a candidate to be recommended for appointment by the President and CEO;
- h) when evaluating candidates for the position of Ombudsman, the selection committee shall consider candidates' awareness of and sensitivity to the diversity, experiences and voices of Indigenous Peoples in Canada and Canadians; and
- i) each Ombudsman is appointed for a term of five years. This term may be extended once for no more than five additional years. The Ombudsmen's contracts cannot be terminated except for gross misconduct or in instances where the Ombudsmen's actions have been determined to be inconsistent with the Corporation's [Code of Conduct](#).

Consultations – Indigenous Peoples and official language minority communities

59. The Corporation shall hold formal consultations beginning in the 2022-2023 broadcast year and at least once every two (2) years with Indigenous Peoples, groups and communities and with English- and French-language official language minority communities (OLMC). These consultations shall be gender balanced and shall be representative of each of the regions of Atlantic Canada, Quebec, Ontario, Western Canada and the North. These consultations shall discuss:

- a) broadcasting issues of importance to Indigenous Peoples, groups and communities, and to OLMCs, including reflective and relevant audio and audiovisual Canadian programming, with a particular emphasis on the reflection and relevance of news and information, children's and youth programming, and programs of national interest to Indigenous Peoples and OLMCs, on all licensed services and digital media broadcasting undertakings;
- b) the results of the perception public opinion research as described in condition of licence 71 in this appendix in order to determine whether:
 - measures must be taken to ensure that relevant and reflective programming is provided for these communities;
 - the Corporation is adequately measuring whether its programming is meeting the needs of Indigenous Peoples, groups and communities, and of OLMCs, through perception public opinion research or other appropriate mechanisms; and
 - the manner in which the Corporation is consulting (or surveying depending on the group) is done in a culturally sensitive, meaningful and methodologically sound manner.

60. In parallel with the consultations identified in condition of licence 59, the Corporation shall hold consultations with Indigenous creators, independent Indigenous producers, and official language minority community (OLMC) producers and creators of audio and audiovisual content in each of the regions of Atlantic Canada, Quebec, Ontario, Western Canada and the North. During these consultations with producers, the Corporation shall discuss the relevance of the audio and audiovisual programming being produced for Indigenous Peoples and each OLMC and develop collaboration strategies for content creation.
61. In choosing the programming it broadcasts to Canadians, the Corporation shall take into consideration the results of the consultations required by conditions of licence 59 and 60 and the results of perception public opinion research as outlined in condition of licence 71 in this appendix.
62. For each broadcast year of the new licence term, commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission a report on the efforts it has taken to ensure that the needs of Indigenous Peoples, groups and communities, and of official language minority communities are being addressed in its audio and audiovisual programming choices. The Corporation shall also demonstrate how it will address any concerns or issues raised during the consultations specified in conditions of licence 59 and 60, or any adjustments that would be required to its programming strategies in order to be relevant to these communities.

As a part of these reports, the Corporation shall report separately on the consultations undertaken in the French- and English-language markets and indicate how it will adjust its programming approaches in each language market as a result of the consultations.

Consultations – Racialized persons, persons with disabilities and persons who self-identify as LGBTQ2

63. The Corporation shall, by no later than the 2024-2025 broadcast year and at least once every two years, hold formal consultations with groups representing racialized persons, persons with disabilities and persons who self-identify as LGBTQ2. These consultations shall be gender balanced and shall be representative of each of the regions of Atlantic Canada, Quebec, Ontario, Western Canada and the North. These consultations shall discuss:
- a) broadcasting issues of importance to these communities, including reflective and relevant Canadian audio and audiovisual programming, with a particular emphasis on the reflection and relevance of news and information, children's and youth programming, and programs of national interest to racialized persons, persons with disabilities and persons who self-identify as LGBTQ2, on all licensed services and digital media broadcasting undertakings;
 - b) the results of the required perception public opinion research as described in condition of licence 71 in this appendix in order to determine whether:
 - measures must be taken to ensure that relevant and reflective programming is provided for these communities;

- the Corporation is adequately measuring whether its programming is meeting the needs of these communities through perception public opinion research or other appropriate mechanisms; and
- the manner in which the Corporation is consulting (or surveying, depending on the community) is done in a culturally sensitive, meaningful and methodologically sound manner.

64. In the period preceding the start of condition of licence 63, the Corporation shall establish advisory committees, representative of a range of racialized persons, persons with disabilities and persons who self-identify as LGBTQ2, in order to facilitate outreach into these various communities and to discuss the approach the Corporation intends to take toward meeting the requirements set out in condition of licence 63. The Corporation may dissolve these advisory committees once it has undertaken the consultations required by condition of licence 63.
65. The Corporation shall report, by no later than 30 November for each broadcast year, on the steps it has taken toward meeting the requirements set out in condition of licence 63 and the results of the discussions it has undertaken further to condition of licence 64. The Corporation may cease filing these reports once it has undertaken the consultations required by condition of licence 63.
66. In parallel with the consultations identified in condition of licence 63, commencing by no later than the 2024-2025 broadcast year, the Corporation shall hold consultations with racialized producers and creators, producers and creators with disabilities and producers and creators who self-identify as LGBTQ2 in each of the regions of Atlantic Canada, Quebec, Ontario, Western Canada and the North. During these consultations, the Corporation shall discuss the relevance of the audio and audiovisual programming being produced for these equity-seeking communities living in Canada and develop collaboration strategies for content creation.
67. In choosing the programming it broadcasts to Canadians, the Corporation shall take into consideration the results of the consultations required by conditions of licence 63 and 66 and the results of its perception public opinion research as outlined in condition of licence 63 in this appendix.
68. For each broadcast year of the new licence term, commencing by no later than the 2024-2025 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission a report on the efforts it has taken to ensure that the needs of racialized persons, persons with disabilities and persons who self-identify as LGBTQ2 are being addressed by the Corporation in its programming choices. The Corporation shall also demonstrate how it will address any concerns or issues raised during the consultations specified in conditions of licence 63 and 66 or any adjustments that would be required to its programming strategies in order to be relevant to these communities.

As a part of these reports, the Corporation shall report separately on the consultations undertaken in the French- and English-language markets and indicate how it will adjust its programming approaches in each language market as a result of these consultations.

69. If the Corporation commences the consultations required by conditions of licence 63 and 66 before the beginning of the 2024-2025 broadcast year, it shall provide the report required by condition of licence 68 by no later than 30 November 2024 and, for each subsequent broadcast year, by no later than 30 November following the end of each broadcast year.

Public opinion research

70. The Corporation shall file with the Commission the final reports prepared twice a year following its perception survey conducted in the spring and fall of each year. The Corporation shall submit the report for the spring survey by 30 June each broadcast year and the report for the fall survey by 28 February each broadcast year.
71. For each broadcast year of the licence term, commencing with the 2022-2023 broadcast year, the Corporation shall undertake perception public opinion research among Canadians to determine how the Corporation's audio and audiovisual programming reflects the needs and interests of Canada's diverse population, including Indigenous Peoples, as well as the relevance of this programming to these populations. The Corporation may conduct this perception public opinion research using mechanisms already in place (such as its existing perception survey) or it can conduct qualitative research (for instance, by way of focus groups and/or the established consultations that the Corporation will be required to hold every two years with underrepresented groups as described in conditions of licence 59, 60, 63 and 66 or any other type of research or survey that is appropriate in order to have meaningful results).
72. For each broadcast year of the new licence term, commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission, in a form deemed acceptable by the Commission, a report that assesses the results of the perception public opinion research specified in condition of licence 71. This report shall include the results of the following key data points:

CBC/Radio-Canada offers content that...

- a. informs me on what is happening in other regions of the country
- b. informs me on what is happening in my community
- c. reflects the multicultural diversity of Canada
- d. reflects a diversity of opinions on numerous issues
- e. supports and promotes new and emerging talents

CBC/Radio-Canada...

- f. is a trusted source of information
- g. is a leader in Canadian content
- h. has programming that I can relate to

- i. is independent and impartial
- j. reflects persons with disabilities
- k. reflects Indigenous Peoples
- l. reflects the LGBTQ2 community
- m. reflects racialized persons
- n. offers relevant programming for children under 13 years of age
- o. offers relevant programming for youth (ages 13 – 17)
- p. makes Canadian programming easily discoverable on its services
- q. makes Indigenous programming easily discoverable on its services.

For the data points relating to the relevance of children's and youth programming, the Corporation will be required to consult adults who identify as being parents of children and/or youth.

73. When filing its report, the Corporation shall ensure, for the 17 key data points outlined in condition of licence 72, to include details relating to the survey methodology as well as the complete questions cross-referenced with demographics in a format of its choice. The Corporation must ensure, at a minimum, that it cross-references the 17 key data points with the following demographic details:
- official language (English/French);
 - age group (18-34; 35-49; 50-64; 65+);
 - service (licensed television services, licensed radio services, audiovisual digital media broadcasting undertakings (DMBUs), audio DMBUs); and
 - location (metropolitan vs non-metropolitan areas, and region [Atlantic, Quebec, Ontario, the Prairies, British Columbia, and the Territories if sample size permits]).
74. To ensure the achievement of measurable and meaningful results should the Corporation choose to measure the key data points set out in condition of licence 72 using a perception survey, it shall oversample the following communities: Indigenous Peoples, official minority language communities, Northern and remote communities, racialized Canadians, Canadians with disabilities, and Canadians who self-identify as LGBTQ2. The Corporation shall present the results for the sample of total population and shall separate the results of these oversampled groups in a designated section for clear reference and comparison. The Corporation must report on the results of the 17 key data points for these equity-seeking communities set out in condition of licence 72. Should it not be possible to oversample certain groups or communities for technical or population reasons, the Corporation may use qualitative methods such as focus groups or discussion groups (such as those required in conditions of licence 63 and 66) in order to measure the same issues as the quantitative survey and report on whether the Corporation's programming reflect the needs and interests of these populations as well as whether its programming is relevant to them.

Production report – Audiovisual

75. For each broadcast year of the licence term, commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission a production report that includes all of the information required pursuant to *Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Information Bulletin CRTC 2019-304, 29 August 2019. The Corporation shall supply program-level data for entries pertaining to programs produced by independent producers, as well as by affiliated production companies. The Corporation shall file the requested information for programs broadcast during the broadcast year reported on only.
76. The Corporation shall supply program-level data on the following for audiovisual services as part of the production report specified in condition of licence 75:
- date of copyright of program;
 - date on which the program was first broadcast on a licensed service and/or made available on a digital media broadcasting undertaking;
 - the duration of the program in hours and minutes;
 - whether it was an original program;
 - if it was an original first-run program, the service on which the program was first-run;
 - the licensed service(s) on which the program was first broadcast or the digital media broadcasting undertaking(s) on which the program was first made available;
 - for the purpose of allocating expenditures, whether the program was sourced from official language minority community producers or Quebec regional producers (outside Montréal);
 - whether the program was aimed at children and youth. If yes, identify the target audience age-group (preschool 0-5 years old, children 6-12 years old or youth 13-17 years old); and
 - if the program was made available on a digital media broadcasting undertaking, the number of times the program was streamed. The Corporation shall publicly provide the criteria it uses to determine what constitutes a “stream” for the purpose of this requirement.
77. Commencing with the 2023-2024 broadcast year and by no later than 30 November following the end of each subsequent broadcast year, the Corporation shall supply program-level data on the following for audiovisual services as part of the production report specified in condition of licence 75:

- of the total number of producers, directors, showrunners (if applicable), writers, cinematographers and editors that worked on the program, how many self-identified as Indigenous Peoples, as being from racialized communities, as persons with disabilities, and as LGBTQ2;
- for the purposes of conditions of licence 4, 6, 8 and 10, if a program is eligible based on the definitions of Indigenous producers, racialized producers, producers with disabilities or producers who self-identify as LGBTQ2 set out in Appendix 2 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, identify whether this program must be counted in order to meet the expenditure requirements set out in those conditions of licence; and
- for the purposes of condition of licence 12, whether a program was produced by an Indigenous producer, a racialized producer, a producer with disabilities, or a producer who self-identifies as LGBTQ2, and who also self-identifies as a woman.

Programming report – Audio

78. For each broadcast year of the licence term, commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission an audio programming report for the licensed radio stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, which shall provide the following information:

- a) the criteria the Corporation uses to define emerging artists;
- b) the total number of musical selections by Indigenous artists and by emerging Canadian artists broadcast on a monthly basis on each of the Corporation's radio stations; and
- c) a description of the marketing initiatives and strategies, including those for cross-promotion and those that support the discoverability of Indigenous artists and of Canadian artists, including emerging artists, on all licensed radio stations.

79. In addition to the report required by condition of licence 78, the Corporation shall file for the ICI Radio-Canada Première and Radio One stations listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, the following information:

- a) the provision of programming aimed at children and youth (preschool 0-5 years old, children 6-12 years old or youth 13-17 years old); and
- b) for each month, the average number of hours of local and regional programming broadcast on a weekly basis per radio station.

Diversity of workforce

80. The Corporation shall publicly provide by no later than **22 December 2022** a list of positions within the Corporation that it considers to have a direct impact on the diversity of audio and audiovisual programming and on programming decision-making (including but not limited to commissioning, purchasing and scheduling programming).
81. For each broadcast year of the licence term, commencing with the 2023-2024 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission a report on the number of employees who are hired during each broadcast year into the positions set out in the list required in condition of licence 80 and who belong to the following communities: Indigenous Peoples, racialized Canadians, Canadians with disabilities, Canadians who self-identify as LGBTQ2 and women who self-identify as belonging to these communities.
82. For each broadcast year of the licence term, commencing with the 2023-2024 broadcast year, and by no later than 30 November following the end of each broadcast year, the Corporation shall file with the Commission a report on the number of employees staffing the positions set out in the list required in condition of licence 80, who were retained or promoted during each broadcast year and who belong to the following communities: Indigenous Peoples, racialized Canadians, Canadians with disabilities, Canadians who self-identify as LGBTQ2 and women who self-identify as belonging to these communities.

Self-identification consultation and report

83. The Corporation shall conduct a consultation on the parameters of self-identification with industry stakeholders who produce and create audio and audiovisual content, including Indigenous creators and producers, racialized creators and producers, creators and producers with disabilities, and creators and producers who self-identify as LGBTQ2. Further, during this consultation, the Corporation must discuss with stakeholders the subject matter of anonymity and privacy measures and establish best practices for reporting purposes to protect the identities of people who voluntarily self-identify as a member of one of the designated groups or as LGBTQ2. The Corporation must report on these self-identification parameters as well as best practices surrounding privacy issues to the Commission before 30 November 2023.
84. The Corporation must use the report on parameters for self-identification and best practices surrounding privacy issues specified in condition of licence 83 to gather information and report on its expenditures on programming produced by Indigenous producers, racialized producers, producers with disabilities, and producers that self-identify as LGBTQ2 (conditions of licence 4, 6, 8 and 10), to report on Indigenous musical selections quotas (conditions of licence 48.e) through 48.g), and to report on Indigenous Peoples and diverse Canadians occupying key creative roles in the audiovisual production report (condition of licence 77) and in the diverse workforce reports (conditions of licence 81 and 82).

Expectations

Applicable to audiovisual and audio services

News during times of crisis

1. The Commission expects the Corporation to maintain local, regional and national news broadcasts in a crisis or emergency on its audiovisual and audio services.

For the purpose of this expectation, “crisis or emergency” is defined as an imminent threat to life or property affecting a community, a group of people or all of society. Events that qualify as a crisis or emergency may include, but are not limited to, natural disasters as well as social, economic, political, or health threats.

Applicable to audiovisual services

Exhibition – English- and French-language independent productions

2. The Commission expects the Corporation to ensure that in each broadcast year not less than 80% of the total Canadian audiovisual programming broadcast across all of the Corporation’s licensed audiovisual services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding ICI RDI and CBC News Network), other than news, sports and current affairs programming (program categories 1 News, 2(a) Analysis and interpretation, 6(a) Professional sports and 6(b) Amateur sports), are devoted to programs produced by Canadian independent production companies.
3. The Commission expects the Corporation to ensure that in each broadcast year not less than 80% of French-language programs of national interest the Corporation broadcasts on the French-language licensed audiovisual services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding ICI RDI) are produced by Canadian independent production companies.
4. The Commission expects the Corporation to ensure that in each broadcast year not less than 60% of English-language programs of national interest the Corporation broadcasts on the English-language licensed audiovisual services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding CBC News Network) are produced by Canadian independent production companies.
5. The Commission expects the Corporation to ensure that in each broadcast year not less than 50% of Canadian programs broadcast on ICI ARTV are produced by Canadian independent production companies.
6. The Commission expects the Corporation to ensure that in each broadcast year not less than 75% of the original first-run Canadian programming broadcast on the documentary Channel is produced by Canadian independent production companies.

7. The Commission expects the Corporation to ensure that in each broadcast year not less than 25% of all Canadian programs broadcast by the Corporation on the documentary Channel, other than news, sports, and current affairs programming (program categories 1 News, 2(a) Analysis and interpretation, 6(a) Professional sports and 6(b) Amateur sports), are produced by Canadian independent production companies.
8. The Commission expects the Corporation to ensure that in each broadcast year not less than 75% of the total hours of Canadian programming aimed at children under 13 years of age and original first-run Canadian programming aimed at children under 13 years of age broadcast by the Corporation across all of its English- and French-language licensed audiovisual services listed in Appendix 1 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022 (excluding ICI RDI and CBC News Network) are produced by Canadian independent production companies.

Applicable to audio services

Local audio programming

9. The Commission expects the Corporation to ensure that not less than 15 hours of local programming each broadcast week is broadcast on its ICI Radio-Canada Première radio stations CBAF-FM-5 Halifax, Nova Scotia and CBAF-FM-15 Charlottetown, Prince Edward Island.
10. The Commission expects the Corporation to maintain a minimum number of hours of local and regional programming each broadcast week on its Radio One and ICI Radio-Canada Première stations as set out in Appendix 5 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022.

Listener advisories

11. The Commission expects the Corporation to ensure that, when choosing programming made available on the licensed radio stations that it operates, listeners have the information they need, such as listener advisories, to make responsible listening choices for themselves and their families.

Training programs for Indigenous Peoples, racialized persons, persons with disabilities and persons who self-identify as LGBTQ2

12. The Commission expects the Corporation to continue offering and developing internal training programs, media and production career-related outreach programs for youth, and internship programs for students and youth from Indigenous communities, racialized persons, persons with disabilities and persons who self-identify as LGBTQ2.

Ombudsmen

13. The Commission expects the Corporation to ensure that Canadians are aware of how and where they can send complaints to the Offices of the Ombudsman. Furthermore, the Commission expects the Corporation to ensure that Canadians understand that if they are unsatisfied with a decision of an Ombudsman, they can forward their complaint to the Commission for its consideration.

Journalistic Standards and Practices

14. The Commission expects the Corporation to create an internal mechanism for its journalists to provide relevant feedback to the Corporation regarding the interpretation and implementation of its Journalistic Standards and Practices.
15. The Commission expects the Corporation, in any future review of its Journalistic Standards and Practices (JSP), to consult with a variety of equity-seeking communities to capture a wide spectrum of lived experiences to ensure that the JSP is not a barrier to open and honest reporting.

Anonymity and privacy concerns

16. The Commission expects the Corporation to develop anonymity and privacy measures to protect the identities of its employees who voluntarily self-identify as being a part of an equity-seeking community, and to apply the same safeguards for those who voluntarily self-identify as LGBTQ2 for reporting purposes.

Encouragements

Applicable to audio services

Local audio programming

1. The Commission encourages the Corporation to increase the minimum number of hours of local French-language programming broadcast each broadcast week on its ICI Radio-Canada Première stations in Windsor, Ontario; Halifax, Nova Scotia; and Charlottetown, Prince Edward Island.

Ombudsmen

2. The Commission encourages the Corporation to increase the Ombudsmen's capacity to review journalistic complaints pertaining to Indigenous Peoples and other equity-seeking communities (such as racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2). In order to improve that capacity throughout the licence term, the Commission encourages the Corporation to use available resources, such as diversity and inclusion committees and training that could enhance the Ombudsmen's knowledge of and sensitivity to issues relating to the aforementioned communities.

Appendix 4 to Broadcasting Decision CRTC 2022-165

Expectations, encouragements, and reporting and submission requirements applicable to the Canadian Broadcasting Corporation's digital media broadcasting undertakings

For the purposes of the expectations, encouragements, and reporting and submission requirements set out below, “the Corporation” shall mean the Canadian Broadcasting Corporation.

Digital media broadcasting undertakings

The expectations, encouragements, and reporting and submission requirements set out in this appendix apply to the Corporation's digital media broadcasting undertakings (DMBU) as identified by the Corporation in accordance with reporting and submission requirement 1 set out below in the present appendix.

Expectations

Applicable to audiovisual and audio digital media broadcasting undertakings

Balanced programming offer

1. The Commission expects the Corporation to present on all of the audio and audiovisual digital media broadcasting undertakings it operates a reasonably balanced programming offer consistent with condition of licence 1 set out in Appendix 3 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022.

News during times of crisis

2. The Commission expects the Corporation to maintain local, regional and national news broadcasts in a crisis or emergency on its audiovisual and audio digital media broadcasting undertakings.

For the purpose of this expectation, “crisis or emergency” is defined as an imminent threat to life or property affecting a community, a group of people or all of society. Events that qualify as a crisis or emergency may include, but are not limited to, natural disasters as well as social, economic, political, or health threats.

Branded content

3. The Commission expects the Corporation to clearly distinguish all branded content and programming that it broadcasts and makes available from the news, current affairs, and public affairs content made available on its audiovisual or audio digital media broadcasting undertakings.

4. The Commission expects the Corporation to ensure that no journalist or host will be involved in the inception, creation, production, or dissemination of any advertising or branded content on any of its audiovisual or audio digital media broadcasting undertakings.
5. The Commission expects the Corporation to measure whether branded content on any of its audiovisual or audio digital media broadcasting undertakings is confusing to Canadians.
6. The Commission expects the Corporation to establish and maintain guidelines on branded (advertising) content and continue to make those guidelines available on its corporate website during the next licence term.

Consideration of results of consultations and public opinion research

7. The Commission expects the Corporation to take into consideration the results of the consultations required by conditions of licence 59 and 60 set out in Appendix 3 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, and the results of its public opinion research as outlined in condition of licence 71 set out in that same appendix in choosing the programming it makes available to Canadians across all of its digital media broadcasting undertakings.

Applicable to audiovisual digital media broadcasting undertakings

English- and French-language independent productions

8. The Commission expects the Corporation to ensure that in each broadcast year not less than 75% of the total hours of Canadian audiovisual programming aimed at children under 13 years of age and original first-run Canadian programming aimed at children under 13 years of age made available by the Corporation across all of its audiovisual digital media broadcasting undertakings are produced by Canadian independent production companies.
9. The Commission expects the Corporation to ensure that not less than 80% of all original first-run Canadian audiovisual programming made available during each broadcast year on the Corporation's digital media broadcasting undertakings in both language markets, other than news, sports, programming aimed at children under 13 years of age, and current affairs programming (program categories 1 News, 2(a) Analysis and interpretation, 6(a) Professional sports and 6(b) Amateur sports), are produced by Canadian independent production companies.

Accessibility

10. The Commission expects the Corporation to ensure that the programming made available on the audiovisual digital media broadcasting undertakings that it operates is accessible for Canadians with disabilities, including people who are deaf, hard-of-hearing, blind or partially sighted.

11. The Commission expects the Corporation to ensure that for the programming made available on the audiovisual digital media broadcasting undertakings that it operates, if sign language interpretation is available:
 - a). the interpretation is included onscreen; and
 - b). onscreen text of the programming does not interfere with the interpretation.
12. The Commission expects the Corporation, for all of the audiovisual digital media broadcasting undertakings (DMBU) that it operates:
 - a) to ensure that programming that includes closed captioning on traditional platforms also includes the closed captioning when that programming is made available on those DMBUs;
 - b) to caption 100% of the English- and French-language programs made available exclusively or that are initially made available on those DMBUs prior to being broadcast on any of the Corporation's licensed services;
 - c) to ensure that advertising, sponsorship messages and promos inserted into the English- and French-language audiovisual programming made available on those DMBUs are closed captioned; and
 - d) to implement a monitoring system to ensure that the programming made available on those DMBUs includes closed captioning.
13. In regard to the quality of closed captioning on all audiovisual digital media broadcasting undertakings operated by the Corporation, the Commission expects the Corporation:
 - a) for its French-language undertakings, to adhere to the requirements set out in the appendix to *Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning Working Group*, Broadcasting Regulatory Policy CRTC 2011-741-1, 21 February 2012; and
 - b) for its English-language undertakings, to adhere to the requirements set out in the appendix to *English-language closed captioning mandatory quality standards relating to the accuracy rate for live television programming*, Broadcasting Regulatory Policy CRTC 2019-308, 30 August 2019.
14. The Commission expects the Corporation, for all of the audiovisual digital media broadcasting undertakings (DMBU) that it operates, to:
 - a) provide audio description for all the key elements of Canadian information programs, including news programming;

- b) acquire and make available described versions of programming such that all programming that was offered with described video at some point in the broadcasting system is offered with described video when it is made available on those DMBUs;
- c) provide described video for all English- and French-language programming made available on those DMBUs or that are initially made available on those DMBUs prior to being broadcast on any of the Corporation's licensed services, and that is drawn from program categories 2b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11a) General entertainment and human interest and 11b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age);
- d) display a standard described video logo and broadcast an audio announcement indicating the presence of described video at the beginning of each described program; and
- e) disclose accessibility information for the programming it makes available.

Viewer advisories

15. The Commission expects the Corporation to ensure that, when choosing programming made available on the audiovisual digital media broadcasting undertakings that it operates, viewers have the information they need, such as viewer advisories, to make responsible viewing and listening choices for themselves and their families.

Adherence to codes, and commercial messages

16. The Commission expects the Corporation to adhere to the following codes as appropriate for audiovisual digital media broadcasting undertakings:

- the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission;
- the *Violence Code*, as amended from time to time and approved by the Commission; and
- the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003.

17. The Commission expects the Corporation, as appropriate for all audiovisual digital media broadcasting undertakings that it operates, to:

- a) adhere to the standards for children's advertising set out in the Corporation's *Policy 1.3.8: Advertising Directed to Children Under 12 Years of Age*. As a minimum, the Commission expects the Corporation to adhere to the standards set out in the Canadian Association of Broadcasters' *The Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission; and

- b) not display any commercial message immediately before, during, or immediately after any child-directed programming.

Applicable to audio digital media broadcasting undertakings

Adherence to codes, and commercial messages

18. The Commission expects the Corporation to adhere to the following codes as appropriate for audio digital media broadcasting undertakings:

- the standards for children’s advertising set out in the Corporation’s *Policy 1.3.8: Advertising Directed to Children Under 12 Years of Age*. As a minimum, the Commission expects the Corporation’s to adhere to the standards set out in the Canadian Association of Broadcasters’ *The Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission;
- not displaying any commercial message immediately before, during, or immediately after any child-directed programming;
- the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission; and
- the *Violence Code*, as amended from time to time and approved by the Commission.

Listener advisories

19. The Commission expects the Corporation to ensure that, when choosing programming made available on the audio digital media broadcasting undertakings that it operates, listeners have the information they need, such as listener advisories, to make responsible listening choices for themselves and their families.

Encouragements

Applicable to audiovisual digital media broadcasting undertakings

Accessibility

1. The Commission encourages the Corporation to repeat the standard described video logo and audio announcement indicating the presence of described video following each insertion of advertising as applicable on its audiovisual digital media broadcasting undertakings.
2. Where sign language interpretation is available but the signer is not provided in the camera shot, but included as a separate video feed, the Commission encourages the Corporation to insert the separate feed as a picture within a picture, regardless of the platform.

Applicable to audio digital media broadcasting undertakings

Local audio programming

3. The Commission encourages the Corporation to increase the minimum number of hours of local French-language content from its ICI Radio-Canada Première stations in Windsor, Ontario; Halifax, Nova Scotia; and Charlottetown, Prince Edward Island that is made available on its audio digital media broadcasting undertakings.

Reporting and submission requirements

Audiovisual and audio digital media broadcasting undertakings

1. Pursuant to section 4 of the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012, by no later than 1 September of each year, the Corporation shall submit to the Commission a list of services that it considers to have operated as digital media broadcasting undertakings during the previous broadcast year in accordance with the definition set out in section 4 of that exemption order.
2. Pursuant to section 4 of the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012, the Corporation shall file, for each broadcast year of the licence term, and by no later than 30 November following the end of each broadcast year, for each digital media broadcasting undertaking identified in accordance with reporting and submission requirement 1, a statement of accounts for each broadcast year in a form deemed acceptable by the Commission.

Audiovisual digital media broadcasting undertakings

3. Pursuant to section 4 of the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012, the Corporation shall file, for each broadcast year of the licence term, and by no later than 30 November following the end of each broadcast year, a report relating to the provision of closed captioning and described video for programming made available on audiovisual digital media broadcasting undertakings operated by the Corporation, in a format deemed acceptable by the Commission, consistent with other reporting requirements.

Audio digital media broadcasting undertakings

4. Pursuant to section 4 of the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting*

undertakings), Broadcasting Order CRTC 2012-409, 26 July 2012, the Corporation shall submit, for each broadcast year of the licence term, commencing with the 2022-2023 broadcast year, and by no later than 30 November following the end of each broadcast year, the following information relating to the audio digital media broadcasting undertakings that it operates:

- a) the total number of musical selections made available and the total number of Indigenous musical selections and Canadian selections made available;
- b) the total number of musical selections streamed and the percentage of Canadian selections streamed;
- c) the total number of musical selections streamed that were performed by emerging Canadian artists;
- d) the total number of musical selections streamed that were performed by Indigenous artists;
- e) a description of the marketing initiatives and strategies used to cross-promote and support the discoverability of Indigenous artists on its digital media broadcasting undertakings;
- f) a description of the marketing initiatives and strategies used to cross-promote and support the discoverability of Canadian artists, including emerging artists, on its digital media broadcasting undertakings; and
- g) the number of Canadian podcasts available on an annual basis including the duration of each podcast in minutes.

The Corporation shall publicly provide the criteria it uses to determine what constitutes a “stream” for the purpose of this reporting requirement.

5. Pursuant to section 4 of the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012, the Corporation shall file, for each broadcast year of the licence term, and by no later than 30 November following the end of each broadcast year, a report on the programming for children and youth made available on the audio digital media broadcasting undertakings (DMBU) it operates, detailing the following information:
 - a) the number of individual content items (programs, podcasts, audio stories and novels, playlists) aimed at children and youth that are made available on the Corporation’s audio DMBUs, and the number of rebroadcast programs originally offered on the licensed services Radio One and ICI Radio-Canada Première that are made available on a monthly basis on the Corporation’s DMBUs, by content category; and

- b) a description of initiatives and steps taken to make children's and youth programming discoverable on the Corporation's audio DMBUs.

Consultations

- 6. Pursuant to section 4 of the Exemption order for digital media broadcasting undertakings, set out in the appendix to *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012, the Corporation shall file, in regard to the reports required pursuant to conditions of licence 62, 68, 72 and 75 set out in Appendix 3 to *Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals*, Broadcasting Decision CRTC 2022-165, 22 June 2022, the information requested in those reports in regard to its digital media broadcasting undertakings (DMBU). The Corporation shall file this information according to the timeframes specified in the above-noted conditions of licence. Further, this information relating to the Corporation's DMBUs shall be included in the same reports required pursuant to those conditions of licence.

Appendix 5 to Broadcasting Decision CRTC 2022-165

Number of hours per broadcast week of local and regional programming broadcast on the Canadian Broadcasting Corporation's Radio One and ICI Radio-Canada Première radio programming undertakings (as of 22 June 2022)

Radio One radio programming undertakings

Province/Territory	Originating station	Local programming	Local and regional programming
British Columbia	CBCV-FM Victoria	23.5	39.5
	CBTK-FM Kelowna	19.5	35
	CBU Vancouver	39.5	39.5
	CBYG-FM Prince George	11	35
	CBYK-FM Kamloops	10.5	35
	CFPR Prince Rupert	-	35
Alberta	CBR Calgary	38.5	39.5
	CBX Edmonton	29	39.5
Saskatchewan	CBK Regina	33.5	33.5
	CBK-1-FM Saskatoon	11	33.5
	CBKA-FM La Ronge	-	33.5
Manitoba	CBW Winnipeg	38.5	38.5
	CBWK-FM Thompson	4.5	38.5
Ontario	CBCL-FM London	20.5	31.5
	CBCS-FM Sudbury	21	31
	CBEW-FM Windsor	12	32.5
	CBLA-FM Toronto	33.5	37.5
	CBLA-FM-2 Kitchener/Brantford (formerly CBLA-FM-2 Paris)	12.5	37.5
	CBO-FM Ottawa	35.5	38.5
	CBQT-FM Thunder Bay	12	31.5
Quebec	CBME-FM Montréal	39	39
	CBVE-FM Québec	20	34.5

New Brunswick	CBAM-FM Moncton	10.5	37
	CBD-FM Saint John	11.5	36.5
	CBZF-FM Fredericton	19.5	36.5
Nova Scotia	CBHA-FM Halifax	41	41.5
	CBI Sydney	21	37.5
Prince Edward Island	CBCT-FM Charlottetown	21	36.5
Newfoundland and Labrador	CBDQ-FM Labrador City	-	42
	CBG Gander	-	42.5
	CBN St. John's	41	42
	CBY Corner Brook	12	42
	CFGB-FM Goose Bay (Happy Valley–Goose Bay)	11.5	42
	CBT Grand Falls	-	42.5
Northwest Territories	CFYK-FM Yellowknife	35	42
	CHAK Inuvik	18	45.5
Yukon	CFWH-FM Whitehorse	26.5	32
Nunavut	CBQR-FM Rankin Inlet	-	52.5
	CFFB Iqaluit	38.5	52.5

ICI Radio-Canada Première radio programming undertakings

Province/Territory	Originating station	Local programming	Local and regional programming
British Columbia	CBUF-FM Vancouver	31.5	31.5
Alberta	CHFA-10-FM Edmonton	27.5	31.5
Saskatchewan	CBKF-FM Regina	27.5	31.5
Manitoba	CKSB-10-FM Winnipeg	27.5	31.5
Ontario	CBEF Windsor	15	31.5
	CBOF-FM Ottawa	35	35
	CBON-FM Sudbury	27	31.5
	CJBC Toronto	26	31.5
Quebec	CBF-FM Montréal	36.5	36.5
	CBF-FM-8 Trois-Rivières	29	29

	CBF-FM-10 Sherbrooke	31.5	31.5
	CBFG-FM Chisasibi	15	15
	CBGA-FM Matane	27	29
	CBJ-FM Saguenay	29	29
	CBSI-FM Sept-Îles	27	29
	CBV-FM Québec	32.5	32.5
	CHLM-FM Rouyn-Noranda	29	29
	CJBR-FM Rimouski	29	29
New Brunswick	CBAF-FM Moncton	42.5	42.5
Nova Scotia	CBAF-FM-5 Halifax	15	42.5
Prince Edward Island	CBAF-FM-15 Charlottetown	15	42.5

Appendix 6 to Broadcasting Decision CRTC 2022-165

Distribution Order CRTC 2022-166

Distribution of the digital discretionary service of the Canadian Broadcasting Corporation known as ICI RDI by persons licensed to carry on broadcasting distribution undertakings

- 1) Pursuant to paragraph 9(1)(h) of the *Broadcasting Act*, the Commission orders licensees of broadcasting distribution undertakings to distribute the programming service ICI RDI to all subscribers living in Anglophone markets as part of the digital basic service, on the following terms and conditions:
 - a) This order applies to all licensed distribution undertakings, including terrestrial and direct-to-home (DTH) distribution undertakings. The licensees of these undertakings are collectively referred to in this order as distribution licensees.
 - b) In the case of a DTH distribution undertaking licensee, an Anglophone market will be defined by the service area of a terrestrial distribution undertaking with which it competes. DTH distribution undertakings are also required to distribute ICI RDI to subscribers living outside Quebec in areas where there is no terrestrial distribution undertaking.
 - c) Notwithstanding the foregoing, distribution licensees shall not be required to distribute ICI RDI's programming service pursuant to this Order unless the licensee or a third party:
 - I. ensures the transmission of the services by any technological means available to the broadcasting distribution undertaking's head end or satellite uplink centre or to another location agreed upon by the broadcasting distribution undertaking and the service; and
 - II. bears the costs of the transmission to the connection point.
 - d) Each distribution licensee distributing the programming service shall remit to the licensee of the programming service a wholesale rate of \$0.13 per subscriber per month where the service is distributed as part of the basic service.
 - e) This order shall take effect 1 September 2022 and will stay in effect until 31 August 2027.

For the purposes of this Order, "Anglophone market," "basic service," "DTH distribution undertaking," "licensed," "programming service" and "terrestrial distribution undertaking" shall have the same meanings as those set out in the *Broadcasting Distribution Regulations*.

Appendix 7 to Broadcasting Decision CRTC 2022-165

Distribution Order CRTC 2022-167

Distribution of the digital discretionary service of the Canadian Broadcasting Corporation known as CBC News Network by persons licensed to carry on broadcasting distribution undertakings

- 1) Pursuant to paragraph 9(1)(h) of the *Broadcasting Act*, the Commission orders licensees of broadcasting distribution undertakings to distribute the programming service of CBC News Network to all subscribers living in Francophone markets as part of the digital basic service, on the following terms and conditions:
 - a) This order applies to all licensed distribution undertakings, including terrestrial and DTH distribution undertakings. The licensees of these undertakings are collectively referred to in this order as distribution licensees.
 - b) In the case of a DTH distribution undertaking licensee, a Francophone market will be defined by the service area of a terrestrial distribution undertaking with which it competes. DTH distribution undertakings are also required to distribute CBC News Network to subscribers living inside Quebec in areas where there is no terrestrial distribution undertaking.
 - c) Notwithstanding the foregoing, distribution licensees shall not be required to distribute the CBC News Network programming service pursuant to this order unless the licensee or a third party:
 - I. ensures the transmission of the services by any technological means available to the broadcasting distribution undertaking's head end or satellite uplink centre or to another location agreed upon by the broadcasting distribution undertaking and the service; and
 - II. bears the costs of the transmission to the connection point.
 - d) Each distribution licensee distributing the programming service shall remit to the licensee of the programming service a wholesale rate of \$0.20 per subscriber per month where the service is distributed as part of the basic service.
 - e) This order shall take effect 1 September 2022 and will stay in effect until 31 August 2027.

For the purposes of this Order, “basic service,” “DTH distribution undertaking,” “Francophone market,” “licensed,” “programming service” and “terrestrial distribution undertaking” shall have the same meanings as those set out in the *Broadcasting Distribution Regulations*.

Dissenting Opinion by Caroline J. Simard, Vice-Chairperson, Broadcasting [translation]

Summary

I welcome and share the motivation to reach the majority decision under the banners of digital platforms and of equity, inclusion and diversity. However, I am of the opinion that the gains realized for Canadians in the majority decision are too small and that the trade-off is unnecessarily onerous.

This trade-off is directed at the very heart of the Canadian broadcasting system. The list of conditions of licence that are abandoned in the majority decision is long and includes the pivotal protections responsible for the recognized success of the Canadian broadcasting system and of the national public broadcaster. I consider that the general laissez-faire approach proposed in the majority decision in regard to traditional and digital platforms carries real and unnecessary risks of undermining the mandate of the Canadian Broadcasting Corporation (CBC) and the Canadian broadcasting policy as set out in the *Broadcasting Act* (the Act). I cannot take this risk for the public broadcasting service financed through public funds in the billions of dollars.

In my view, the reasons supporting the conditions of licence imposed and in particular those not imposed include irregularities that are sufficiently serious for me not to subscribe to the conclusions of the majority decision. These irregularities raise issues of consistency, predictability, fairness and the future performance assessment of the CBC in delivering programming in accordance with its mandate as set out in paragraphs 3(1)(l) and (m) of the Act.

The impact of these irregularities is assessed in light of the minimum five-year period imposed by the Act, that is, the 2022-2027 period, without the Commission being able to correct the situation except upon application by the CBC. The mandatory consultation that was held with the CBC prior to the imposition of the conditions of licence in this case, which is also provided for in the Act, does not legitimize the conclusions of the majority decision.

Note

I concur with the conclusions of the dissenting opinion of Monique Lafontaine, Regional Commissioner for Ontario.

Reasons for the dissenting opinion of Dr. Caroline J. Simard, Vice-Chairperson, Broadcasting

Introduction

The renewal process for the broadcasting licences for the CBC's English- and French-language audio and audiovisual services marks an important milestone. For the first time, a licensee is being authorized by the Commission to include some of its digital media broadcasting undertakings in the new licensing framework for its audiovisual services. The modesty of the CBC's initial request was passed over in silence in the majority decision when the flex approach took on unsolicited and unexpected importance.

This exercise was unusually complex. There is no doubt that the current Act applies in this case. However, it is being applied in a legislative and regulatory environment of which the levels of instability and uncertainty are of a rare magnitude. Significant amendments to the Act are being deliberated in Parliament. There have been no recent reviews of the regulatory framework for the provision of audio and audiovisual services via digital platforms or of the national public broadcaster's mandate in the digital age. In my view, the majority decision sets the bar for other broadcasting undertakings (in one sense or another) for which conditions of licence or conditions of service will eventually be established by the Commission.

In my view, the key issue consisted in finding the balance between “innovation” and “reassurance” without compromising the fulfilment of the CBC's mandate set out in paragraphs 3(1)(l) and (m) of the Act and, more broadly, the Canadian broadcasting policy set out in subsection 3(1) of the Act.¹ I believe that, in the public interest, the majority decision should not give the CBC free rein to strike that balance on its own before certain regulatory changes have materialized.

I cannot subscribe to the reasons provided in support of the majority decision to completely eliminate specific conditions of licence relating to the exhibition of television content (with a few rare exceptions) for the national public broadcaster and to forego the imposition of conditions of licence that are carefully designed to achieve this balance.

These reasons behind this dissenting opinion can be summarized according to the following topics: 1) a short-sighted risk assessment; 2) a so-called results-based approach that misses the mark; 3) a regulatory burden that should be assessed at the level of a national public broadcaster providing a public broadcasting service; and 4) questionable accountability on the part of the CBC.

1. A short-sighted risk assessment

In my view, the imposition or non-imposition of conditions of licence is done with particular attention to the wording of each condition of licence, while not losing sight of the overall picture of the package of conditions of licence imposed on licensees. The full ensemble must be presented in a coherent and comprehensive manner in keeping with the fulfilment of the CBC's mandate and the Canadian broadcasting policy set out in subsection 3(1) of the Act.

¹ For convenience, I have reproduced paragraphs 3(1)(l) and (m) of the Act, which describe the CBC's mandate as follows: 3(1)(l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains; 3(1)(m): the programming provided by the Corporation should (i) be predominantly and distinctively Canadian, (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions, (iii) actively contribute to the flow and exchange of cultural expression, (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities, (v) strive to be of equivalent quality in English and in French, (vi) contribute to shared national consciousness and identity, (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and (viii) reflect the multicultural and multiracial nature of Canada

In the current context of change, it is my view that the non-renewal of a critical mass of conditions of licence and the non-imposition of new conditions of licence relating to the exhibition of programs that meet the objectives set out in the CBC's mandate and the Canadian broadcasting policy carry the risk of jeopardizing the fulfilment of that mandate. For example, not imposing a minimum number of hours of exhibition in a condition of licence relating to local programming, including news, broadcast in metropolitan markets because the CBC far exceeded the minimum targets imposed in 2013 seems short-sighted.² It is not because the CBC complied with, and even exceeded, its conditions of licence imposed in 2013 relating to the exhibition of this programming that such conditions of licence are no longer required for the next licence term.

The confidence shown in the national public broadcaster in the majority decision on the basis of its compliance history appears questionable to me on several levels, notably in regard to the lack of consideration of the different context (compared with the prevailing context during the last licence term) in which the CBC will be offering its content on its traditional and digital platforms. In addition to existing and new challenges, there will also be the consideration of opportunities available to the CBC through technological innovations. With online news, who knows how the CBC will leverage its digital platforms, or other digital platforms, to innovate (one hopes) and, at the same time, rethink the exhibition of traditional television news reports?

I would now like to address another substantive issue. I am of the view that conditions of licence currently constitute the tool at the Commission's disposal under the Act to ensure that the CBC fulfills its mandate. By deciding not to impose conditions of licence, the Commission is at the same time renouncing the corollary powers conferred upon it in the Act. Without providing an exhaustive list, I note the Commission's powers to enforce obligations by order under subsection 12(2) of the Act, to bring alleged contraventions by the CBC before Parliament (section 25) and to prosecute an offence punishable on summary conviction (section 33).

Looking forward, if the power to impose administrative monetary penalties (AMPs) were granted to the Commission, this power should be based on legal obligations, not political commitments. Similar penalties already apply to CBC counterparts carrying out their activities in other jurisdictions. The non-renewal of the flagship conditions of licence relating to the exhibition of television content could have an impact on the implementation of such AMPs if such a power is eventually granted to the Commission pursuant to the Act.

² According to my interpretation of the majority decision, condition of licence 37 in Appendix 3 requires each of the CBC's French-language television stations to broadcast local news seven days a week, every week, except holidays, **without specifying that this condition of licence is limited to television stations in non-metropolitan French-language markets**. Therefore, read in isolation, this condition of licence could be interpreted as applying equally to television stations in the **metropolitan** French-language market, such as Montréal. This interpretation would, to my understanding, be inconsistent with the introduction to the majority decision and its paragraphs 459, 460 and 461. Paragraph 459 clearly establishes that **no conditions of licence are being imposed for the provision of local programming in metropolitan English- and French-language markets**. Paragraph 460 explicitly confirms that "[...] the Commission is maintaining the current requirements regarding the broadcast of seven hours of local programming per broadcast week in English-language non-metropolitan markets, including on CFYK-DT Yellowknife, and the broadcast of **five hours per broadcast week in French-language non-metropolitan markets**." In my view, a logical and contextual interpretation of paragraph 461 would be that its requirement to "[...] **broadcast five hours per week of local programming and that each station broadcast local news seven days a week**, except holidays [...]" applies exclusively to television stations in **non-metropolitan** French-language markets.

2. A so-called results-based approach that misses the mark

The majority decision proposes an approach that is different from the results-based approach applicable prior to the majority decision coming into force. The essence of this new approach consists in imposing conditions of licence requiring the CBC to file reports to demonstrate how its programming choices take into account public opinion research (or perception surveys) and public consultations. No binding measurable targets will be set by either the Commission or the CBC, either before or as part of this public opinion research and public consultation.

I am not convinced that this new approach improves the fulfillment of the national public broadcaster's mandate. Nor am I convinced that this new approach will better serve the Canadian broadcasting policy and the public interest.

In fact, the reconciliation between this new approach and the public interest raises questions. It appears very uncertain to me that this new approach based on an "enhanced measurement framework" will have a significant impact on the content broadcast by the CBC, which Canadians have the right to receive from the national public broadcaster. As my main concern, I wonder how the results will be measured without a specific target. Further, the monitoring carried out under this new approach, the way it will be done and how often it will be done will be determining factors for the achievement of successful results. Pragmatically, the majority decision does not set out any means to correct the situation, should that be necessary, and this is highly problematic. In the meantime, the passage of time will not be to the benefit of Canadians who access their content via their television sets for reasons that were well documented during the hearing.

I appreciate the concern set out in the majority decision in regard to ensuring not only that Canadians have access to programming that fulfills the CBC's mandate, but also that this programming is relevant to them. I do not believe, however, that verifying the relevance of programming through reports justifies a removal of conditions of licence relating to the exhibition of this scale of television content. I believe that these conditions of licence and the reports that will be submitted to provide information on the relevance of CBC programming are complementary for the achievement of this outcome and for serving the public interest.

Ultimately, I do not believe that this new approach, which will have no binding force, serves the public interest any more than objective and measurable targets that could have been pre-established in conditions of licence. The net loss of transparency and objectivity in setting targets under this new approach does not allow me to conclude that it does.

Beyond this reporting framework, I question how the majority decision strikes the right balance to ensure respect for a regulatory burden that is proportionate to the fulfillment of the CBC's mandate, the Canadian broadcasting policy, and the results set out in the majority decision.

In the majority decision, it is stated that a continuum was used, **at one end, more comprehensive prudent regulation to ensure results, and at the other end, little or no regulatory intervention**. In applying this continuum, does the majority decision imply that there was no need to guarantee results for the types of programming that are not subject to a condition of licence? For example, was it not necessary to guarantee results for the exhibition of a minimum number of hours of local programming, including news, in metropolitan areas, as well

as the exhibition of French-language children’s and youth programming, or programming from independent producers? How is it that no conditions of licence were imposed in this regard? Several other questions can also be raised, such as in regard to the administered approach for sorting through the **current conditions of licence**, that is, those that are renewed, those that are not, and those that will now be relegated to the status of expectations or encouragements. The same line of questioning applies to the **new conditions to be imposed**: those that are imposed, those that are not, and those that are relegated to the status of expectations or encouragements.

In this case at hand, according to my reading, these explanations are not provided in the majority decision, nor are any explanations justifying the marked asymmetries between similar activities that can be observed when considered as a whole. For example, exhibition requirements are imposed for local French-language audio programming for the radio station CBEF Windsor (15 hours of local French-language programming per week) because of the importance of this programming to the communities served by this station. However, no similar conditions of licence are imposed in other official language minority communities that nevertheless requested such an intervention for the same reason.

Once a decision is made to impose a new condition of licence, the same type of consideration applies to such newly imposed conditions of licence. Is it necessary to guarantee results? If so, which results? To illustrate this, with the advances made in regard to the broadcast of Indigenous content, I note that no conditions of licence relating to the exhibition of news on radio in Indigenous languages are being imposed. Since CBC representatives confirmed during the oral phase of the hearing that they already offer news segments in Indigenous languages (Dene, Inuvialuit, Gwich’in and Inuktitut), why not make this a firm commitment captured by a condition of licence?³ Without adding to the regulatory burden, this would officially seal the deal.⁴

As another example, the restraint with which condition of licence 48 relating to the broadcast of music on CBC radio has been imposed raises a concern regarding the risk that the applicable objectives may not be met. This condition of licence refers to “Indigenous musical selections” without requiring **diversity in Indigenous languages and cultures**. Adding such a requirement in this condition of licence would have avoided, in my opinion, a concentration of Indigenous musical selections, especially of current hits, and would have favoured a real discovery of Indigenous talent.

3. A regulatory burden that should be assessed at the level of a national public broadcaster offering a public broadcasting service

Two key additions in the majority decision are most certainly data collection and expenditure requirements for equity-seeking independent producers. The data allow for making clearer decisions, informing the public and, eventually, improving the work carried out in regard to the monitoring of compliance. With this information, the Commission will be able to develop a more forward-looking and proactive approach. For example, detailed knowledge of current trends on

³ Transcript, virtual hearing on 12 January 2021, line 1650.

⁴ As another example, but in another area, in my opinion, the opportunity should have been taken to highlight the leadership work done by the CBC on gender parity issues by crystallizing the requirement to reflect women’s participation in **key positions** in **big-budget** production projects in its production report.

both traditional and digital listening and viewing platforms will inform this work. Specifically for the CBC, the reports will also provide information on the results of public consultations and public opinion research in regard to the relevance of CBC programming on its own traditional and digital platforms.

Also new is the multi-platform expenditure requirement, which is designed to ensure that the needs of equity-seeking communities are reflected in the public broadcaster's programming. I agree with the majority decision that it is necessary to require this type of contribution from the national public broadcaster.

This progress is accompanied by a concern that the regulatory burden on the CBC not be so great so as to compromise its ability to fulfill its mandate. This concern relates to one of the seven regulatory objectives set out in subsection 5(2) of the Act that the Commission must consider when exercising its regulatory and supervisory powers.

However, in my view, the evidence on the record does not demonstrate that these additions represent challenges to the CBC in fulfilling its mandate. In concrete terms, it relates to questions regarding the impact that submitting the enhanced audiovisual production report, the consultation reports, the workforce diversity reports, the targeted audio report and the public perception survey report would have on the CBC's operations. Further, what does the addition of equity-seeking expenditure requirements for independent productions mean in regard to the regulatory burden?

If the motivation behind the majority decision is to preserve a balanced regulatory burden, the reports are proposed as substitutes for the conditions of licence governing the CBC's broadcasting activities on all platforms. Let's be clear: conditions of licence and reports serve very different functions. The data contained in these reports constitute an invaluable tool to **foster and support** binding compliance functions with direct action on the broadcast of content. However, they are not a substitute for applicable binding legal tools, such as conditions of licence, to enforce that compliance.

From a broader perspective, this regulatory burden is commensurate with the role of the national public broadcaster. As reiterated during the hearing, the CBC's activities and programming are the cornerstone of the notion of the public element. From this angle, the confirmation by Catherine Tait, President and Chief Executive Officer of the CBC, during the oral phase of the public hearing, that it is the CBC's intention to maintain existing rebroadcasting transmitters during the next licence term is ignored in the majority decision.⁵ Given the importance of this issue, the majority decision should have been explicit, and should have reassured Canadians, particularly those without access to broadband, that the wave of rebroadcasting transmitter closures that occurred during the previous licence term will not be repeated in the next licence term.

Several stakeholders suggested that the CBC should make an additional and greater effort than that of private broadcasters in this transition. Given the CBC's unique role, mandate and capabilities, does this mean that the majority decision has set the bar for determining the

⁵ Transcript, virtual hearing on 12 January 2021, line 947.

regulatory burden of other broadcasting undertakings operating in Canada? In order not to jeopardize the fulfillment of the CBC's mandate or the Canadian broadcasting policy at the end of the current CBC licence renewal exercise or the eventual revision of the legislative and regulatory framework, my reading of the public record called for caution in lifting the conditions of licence before continuing to manage change with the other players in the private and public sectors.

In the majority decision, the great sacrifices made to obtain reports seem to me excessive and disproportionate, not only to the achievement of legislated and regulated objectives, but also in light of the other avenues available to achieve that objective. An investment by the national public broadcaster to improve traceability and discoverability is certainly one of them. These investments in technology would have improved the measurement framework in other ways, and in combination with revised and improved data collection. In a prospective view, all players would have benefited from such concerted efforts in regard to traceability and discoverability. These efforts would have resulted, in the longer term, in a reduction in the regulatory burden (reduced reporting or logs, for example) and a considerable increase in the effectiveness and efficiency of compliance activities for the industry as a whole by automating operations.

4. Questionable accountability on the part of the CBC

Contrary to the majority decision, I believe it is highly questionable to delegate this important component of the regulator's role, which consists in imposing performance targets on the licensee via conditions of licence. Even without addressing the issue of competencies, this approach raises serious questions about transparency. By eliminating the majority of the conditions of licence set out in 2013, the majority decision eliminates at the same time a clear, measurable, and pre-established framework of all of the applicable conditions of licence (and expectations and encouragements).

Consider as an example the subject of news in a general sense. This was the topic that generated the most comments in this public process (53% of the 10,000 interventions received). There was much praise in regard to the relevance and quality of the CBC's English- and French-language services, both on radio and television. On the other hand, serious problems relating to the CBC's mandate were also raised. There are many examples. Certain interveners indicated that they do not have access to signal reception from CBC radio stations, while others did not have access to news reports at the beginning of the pandemic. Canadians called for the Commission to intervene so that they have access to news that is relevant and reflects them on a regular basis. Intervenors expressed concerns over budget cuts and exhibition hours for local, regional and national news for the next licence term.

Consequently, without a condition of licence requiring minimum thresholds for hours of exhibition of local programming, including news, in metropolitan areas or expenditures for local programming in the majority decision, how can the CBC be held accountable? Relying on the power of public opinion to ensure compliance seems, in my view, insufficient given the potential responsibilities and consequences at stake. In addition, it is reasonable to anticipate confusion and a lack of predictability, including from the main stakeholder, the CBC. In short, it is my view that the design of the hybrid exhibition-expenditure approach in the majority decision has given the national public broadcaster a degree of flexibility that, without measurable and pre-

established benchmarks, may create problems of interpretation during the next licence term and at the next licence renewal.

In my view, this lack of specific and measurable targets in the broadcasting licences that will take effect 1 September 2022 is to be seen in the light of the conditions of licence to which private broadcasting companies of major groups must be accountable. In metropolitan areas, for the Anglophone market, the exhibition requirements for large groups are 14 hours per week (of which 1 hour is not news). In the Francophone market, for the Montréal metropolitan market, TVA Group Inc. is required to broadcast 25 hours of local programming, while Bell Media Inc. is required to broadcast 8.5 hours of local programming for the 2021-2022 broadcast year.⁶ The disparity between the legal obligations imposed on the CBC and those imposed on private broadcasting undertakings becomes more pronounced when the CBC is exempted in the majority decision from meeting the “local programming” requirements set out in the *Policy framework for local and community television* (Broadcasting Regulatory Policy 2016-224).

In the age of disinformation and misinformation, and considering the central and pivotal role that the CBC plays in providing reliable, unbiased and objective news, there is no legally binding framework in the majority decision in regard to news presented on the CBC’s digital platforms. If they eventually do see the day, these protections would tie in with existing legal obligations, such as those relating to accessibility. They could also reassure Canadians in a number of ways, including through the adoption of measures to distinguish between advertising and news content when both are displayed on their digital platforms.

I find it important to note that, in response to what is stated in paragraph 15 of the majority decision, I am of the view that the CBC’s accountability to the government, to Parliament, to its Board of Directors and to the Auditor General does not absolve the Commission from fulfilling its own mission and its own mandate under the Act. There is nothing in the public record that allows me to conclude otherwise. The Commission performs different functions from other entities, and its role in requiring accountability remains important based on the Act currently in force.

As a result of the foregoing, contrary to the views expressed in the majority decision, I am of the view that at this stage in the development of content delivery on online platforms, it is still important that conditions of licence expressly and clearly provide for the accountability of the national public broadcaster in regard to exhibition on conventional platforms.

Conclusions

As a general principle, I was open to the idea of exploring different models that combine or do not combine exhibition and expenditure requirements for the CBC to meet its regulatory obligations. However, I believe that the exhibition-expenditure model adopted in the majority decision has, on the one hand, prematurely and unnecessarily sacrificed the requirements for the exhibition of Canadian content on traditional platforms and, on the other hand, given the CBC excessive latitude through expenditure requirements without real limits. Adding conditions of

⁶ See TVA Group Inc. (Broadcasting Decision 2017-147) and Bell Media Inc. (Broadcasting Decision 2020-116).

licence to require reporting does not justify this and is not the right remedy to reassure Canadians.

My interpretation of the public record is also different from that reflected in the majority decision in regard to how to manage this change. The goal was to determine optimal conditions for the national public broadcaster to continue providing Canadians with programming on its traditional platforms that meets the parameters of its mandate set out in the Act while it strives to provide quality and relevant programming online.

The question is not to determine **whether** the CBC could do so without conditions of licence, but rather what comfort level the regulator can establish on behalf of Canadians to manage this transition while respecting the operational imperatives to which the CBC must adhere. I cannot sign off on this agreement under the seal of confidence that the CBC will fulfill its mandate because it has met and even exceeded conditions of licence that were guaranteed to succeed in advance or because the CBC is accountable to other entities for different matters.

I do not have the same appreciation of the public record as reflected in the majority decision in regard to the regulatory burden on the CBC and how to balance it. In a forward-looking and long-term perspective, it seems to me important that the CBC, in line with its role, mandate and capacities, contributes towards playing a pivotal role in this transition from radio and television content to audio/audiovisual in compliance with the Act and to actively develop the future of the traceability and discoverability of Canadian works.

Dissenting Opinion by Commissioner Monique Lafontaine

1. Introduction

The majority decision relates to the renewal of the various television and radio broadcasting licences of the Canadian Broadcasting Corporation/La Société Radio-Canada (CBC/Radio-Canada or the Corporation).¹ I disagree with the portion of the majority decision that relates to the licensing framework for television programming.² In my view, that portion of the majority decision is not supported by the public record, the legislative framework, Commission policies, past Commission decisions or the applicant's proposal. In addition, the majority decision does not sufficiently support the attainment of, and in many instances is inconsistent with, the public policy objectives of the *Broadcasting Act*.³

I have reviewed the dissenting opinion of CRTC Vice-Chairperson, Broadcasting, Dr. Caroline J. Simard, and agree with the conclusions set out in her dissenting opinion.

At the outset, I wish to confirm that I fully support the new expenditure requirements approved in the majority decision by way of conditions of licence for the creation of Canadian programming by content creators who are members of equity-seeking communities.⁴ I also support the expansion of the community and production industry consultations to include official language minority communities (official language minority community or OLMC), Indigenous Peoples, racialized persons, persons with disabilities and persons who self-identify as LGBTQ2, as well as other related measures for equity-seeking communities.

It is critical that the Canadian Radio-television and Telecommunications Commission's (Commission or CRTC) regulations, policies and decisions keep pace with the rapidly evolving digital landscape to ensure a vibrant and competitive broadcasting sector for Canada. In doing so, the Commission must take a measured approach, and balance the interests of all Canadians and all industry stakeholders who operate in the Canadian media sector. In my view, the majority decision has not achieved this. I therefore disagree with the overall licensing framework set out in the majority decision for the broadcast of Canadian programming on the Corporation's linear television services and audiovisual online platforms, for three overarching reasons.

¹ In particular, the majority decision applies to the Corporation's French- and English-language licensed conventional television networks and stations, the Corporation's discretionary services, the CBC/Radio-Canada licensed radio stations as well as its online broadcasting undertakings ("online undertakings" or "online platforms").

² The Corporation's television platforms to which this dissenting opinion applies consist of the Corporation's French- and English-language licensed conventional television networks and conventional television stations, the Corporation's three discretionary services known as ICI ARTV, the documentary Channel and ICI EXPLORA (together "linear television services" or "licensed television services") as well as the Corporation's online audiovisual broadcasting undertakings. This dissenting opinion does **not** apply to the Corporation's two discretionary news services ICI RDI and CBC News Network.

³ S.C. 1991, c. 11.

⁴ The equity-seeking communities to which the new independent production expenditure requirement applies consist of Indigenous Peoples, French- and English-language official language minority communities, racialized Canadians, Canadians with disabilities and Canadians who self-identify as LGBTQ2.

First, the cross-platform expenditure framework approved in the majority decision does not establish any minimum spending requirements for the Corporation's licensed television services. These are, however, the platforms that are most readily accessible to all Canadians, including Indigenous Peoples who reside on First Nations Reserves, individuals who reside in rural and remote communities, and persons with disabilities. Under the majority decision, CBC/Radio-Canada can spend as much of its annual budgets as it chooses on its unregulated online platforms during the next licence term. This element of the majority decision does not sufficiently balance the interests of Canadians and industry stakeholders. The extensive regulatory flexibility granted CBC/Radio-Canada also creates a significant and unnecessary competitive imbalance within the Canadian broadcasting industry.

Second, the licensing framework approved in the majority decision does not include appropriate licensing requirements that ensure the national public broadcaster will fulfill its public service mandate under the *Broadcasting Act*. The licensing requirements the majority decision does **not impose** include the following conditions of licence (i.e., legal obligations):

- the broadcast of a predominance of Canadian programs across all of the CBC/Radio-Canada linear television services (e.g., French- and English-language conventional television networks and stations, ICI ARTV, documentary Channel and ICI EXPLORA);
- minimum requirements for the broadcast of French- and English-language independently produced Canadian programming across all of the Corporation's linear television services;
- weekly requirements for the broadcast of a minimum number of hours of French-language local programming by Radio-Canada's conventional television network and stations, most of which is news, in the metropolitan market of Montréal;
- weekly requirements for the broadcast of a minimum number of hours of English-language local programming, most of which is news, by CBC's conventional television network and television stations in the metropolitan markets of Calgary, Edmonton, Ottawa, Toronto and Vancouver, as well as the weekly local programming obligation for the English-language OLMC in Montréal; and
- minimum requirements for the broadcast of French-language children's and youth programming, including original children's and youth programming, by Radio-Canada's conventional television network and stations in Quebec and across Canada.

This component of the majority decision raises a number of public policy concerns: i) it removes all minimum legal obligations from the CBC/Radio-Canada linear television licences to feature on-air programming produced by Canada's independent production sector, including producers from equity-seeking communities; ii) it significantly diminishes the Corporation's obligations to provide news programming to Canadians in major centres across the country at a time when there is a crisis in news and information programming;⁵ iii) the majority decision creates an

⁵ See the interventions of the Canadian Association of Broadcasters (CAB) and Friends of Canadian Broadcasting.

imbalance in the level of service the Corporation is required to provide to French- and English-speaking Canadians, including OLMCs in Montréal and across Canada; and iv) the majority decision creates a significant competitive imbalance within Canada's already challenged television broadcasting industry by providing a deregulatory head start to CBC/Radio-Canada.

Third, the majority decision has replaced legal licensing obligations (that is, conditions of licence) with reporting obligations, a perception survey and community/producer consultations.

Such reporting and consulting measures should, however, work concurrently with, and not as a replacement for, objective, predictable, transparent and measurable legal obligations. While such reporting and consultative measures can help inform the types of programming the Corporation should prioritize, and the types of stories that need to be told, they will not ensure that a minimum number of hours of high-quality and diverse Canadian programs will be developed, commissioned, produced, acquired and broadcast across the Corporation's linear television services over the next licence term.

The determinations in the majority decision to move away from clear outcomes-based regulation⁶ in a number of areas of public concern for CBC/Radio-Canada will, in my view, make it very difficult for the Commission, the Corporation, industry stakeholders and Canadians to determine at the Corporation's next licence renewal hearing whether the Corporation has met its statutory obligations under the *Broadcasting Act*. Without clear and measurable outcomes, there is no basis upon which to determine whether licence compliance has been achieved. This in turn significantly diminishes the Corporation's accountability and transparency to Canadians.

2. *The Importance of CBC/Radio-Canada and its Public Service Mandate*

CBC/Radio-Canada is a leading cultural institution in our country. To support its service to Canadians, the Corporation is the recipient of a significant amount of public funding from the federal government each year. To that end, CBC/Radio-Canada receives approximately \$1.1 billion annually in public monies from the federal government.⁷ The Corporation also has a broad statutory mandate under the *Broadcasting Act* to serve all Canadians across the country⁸, including Indigenous Peoples, French- and English-speaking Canadians, OLMCs, racialized persons, persons who self-identify as LGBTQ2, persons with disabilities, youth and children, and elders and aging Canadians.

3. *The Role of the Commission*

The Commission's role at the Corporation's licence renewal public hearing is to establish a licensing framework that most effectively ensures that the Corporation meets the public policy objectives and its statutory mandate set out in the *Broadcasting Act* during the next licence term. This includes establishing a comprehensive licensing framework that sets clear priorities and

⁶ Outcomes-based regulation establishes a clear outcome or desired result. It clearly determines how success can be measured. See Government of Canada, "[Outcome-based Regulations Policy](#)".

⁷ The Corporation's annual television/audiovisual budgets are also supplemented by commercial advertising revenues, subscription revenues and syndication fees.

⁸ See in particular paragraphs 3(1)(d), 3(1)(l), 3(1)(m), 3(1)(p) and 3(1)(q) of the *Broadcasting Act*.

regulatory outcomes in relation to Canadian programming, and that ensures the Corporation's accountability to Canadians over the course of the next licence term.

4. The Majority Decision is Inconsistent with the Current Legislative and Policy Context

In its decision, the majority has, in my view, made a fundamental change to the Commission's licensing approach for television broadcasting without first establishing a policy framework. The rapidly changing media landscape and the shifting ways in which Canadians consume television content should most certainly be considered by the Commission. These factors warrant a detailed review of the Exemption order for digital media broadcasting undertakings⁹ (Digital Media Exemption Order) as well as a review of the policy framework for television broadcasting set out in the *Let's Talk TV* policies of 2015.¹⁰ Such reviews, however, were not undertaken by the Commission prior to this licence renewal proceeding.

Although legislation was tabled in Parliament to amend the *Broadcasting Act* in the fall of 2020 (Bill C-10), and then again in February 2022 (Bill C-11), the first Bill (C-10) died when Parliament was prorogued in the summer of 2021, whereas the second Bill (C-11) is still making its way through the legislative process and has not yet been approved.¹¹

While the Commission's report entitled [*Harnessing Change: The Future of Programming Distribution in Canada*](#) (the Harnessing Change Report) can be instructive, it is not a policy decision issued by the Commission and should not be the basis for the Corporation's licensing framework. I note that the Harnessing Change Report itself expressly states that the mandate of CBC/Radio-Canada is not addressed in that report: "The important mandate of Canada's public broadcaster, which is to be renewed as announced in the Creative Canada Policy Framework, is not addressed in this report."¹²

I also note the submission by the Corporation regarding the Commission's Harnessing Change Report, at paragraph 6 of CBC/Radio-Canada's supplementary brief:

We strongly support the regulatory approach outlined by the Commission in *Harnessing Change*. However, we also note that the Commission's proposal assumes there will be amendments to the *Broadcasting Act* which would enable this more comprehensive form of regulation. **In the absence of these legislative changes, we believe it is necessary to continue with the regulatory approach currently in place under the *Broadcasting Act* [...]. Our proposals for a transitional regime are based on this regulatory framework and go as far as we believe is reasonable in the current context.** [emphasis added]

The key legislative and policy instruments that should, therefore, guide the Commission's decision in this proceeding with respect to television broadcasting and audiovisual content are

⁹ Set out in the appendix to Broadcasting Order 2012-409.

¹⁰ Broadcasting Regulatory Policies 2015-86, 2015-96 and 2015-104.

¹¹ At the time of writing of this dissenting opinion, Bill C-11 was adopted at second reading by the House of Commons and referred to the CHPC Standing Committee. See Parliament of Canada, [An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts](#).

¹² See also the final written submission of the Directors Guild of Canada.

the existing *Broadcasting Act*, the existing broadcasting regulations (*Television Broadcasting Regulations, 1987* and the *Discretionary Services Regulations*),¹³ the *Standard requirements for television stations, discretionary services and on-demand services*,¹⁴ the *Let's Talk TV* policy decisions of 2015,¹⁵ the *Accessibility of telecommunications and broadcasting services* regulatory policy,¹⁶ and the Digital Media Exemption Order.

The last extensive television policy review conducted by the Commission took place in 2014, and culminated with the release of the *Let's Talk TV* policies in the winter of 2015.¹⁷ While the Commission placed more emphasis on expenditure obligations than exhibition obligations in those policy determinations, it nonetheless maintained extensive Canadian programming exhibition obligations¹⁸ as well as expenditure obligations for Canadian television broadcasters.

The Commission was of the view that both these measures would ensure the creation and presentation of diverse high-quality Canadian programming in the rapidly changing digital environment. The Commission subsequently continued to apply expenditure and extensive exhibition obligations to most Canadian television broadcasters.¹⁹

Hence, there does not appear to be any Commission policy or past Commission determination that supports the licensing framework for the broadcast of Canadian television programming approved in the majority decision for Canada's public broadcaster. It also appears that the licensing framework approved in the majority decision is inconsistent with the public policy objectives set out in the *Broadcasting Act*, as discussed in detail further below.

While the Commission is not bound by precedent, it must nonetheless give regard to continuity, consistency, and predictability in regard to its past decisions to ensure regulatory certainty within the Canadian broadcasting system. This is not the case with the majority decision. Where the

¹³ SOR/87-49 and SOR/2017-159.

¹⁴ Broadcasting Regulatory Policy 2016-436.

¹⁵ Broadcasting Regulatory Policies 2015-86, 2015-96 and 2015-104.

¹⁶ Broadcasting Regulatory Policy 2009-430.

¹⁷ The Commission released a number of broadcasting policies at the conclusion of the *Let's Talk TV* proceeding including Broadcasting Regulatory Policy 2015-86 (*The way forward – Creating compelling and diverse Canadian programming*), Broadcasting Regulatory Policy 2015-96 (*A World of Choice – A roadmap to maximize choice for TV Viewers and to foster a healthy, dynamic TV market*), and Broadcasting Regulatory Policy 2015-104 (*Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*).

¹⁸ In particular, the Commission maintained the predominance of Canadian programming exhibition obligations for conventional television stations and discretionary services.

¹⁹ See for instance the following broadcasting decisions, which set out both fulsome exhibition and expenditure obligations for Canadian programming: Broadcasting Decision 2018-344 (TV5 Quebec Canada – licence renewal for TV5/UNIS TV); Broadcasting Decision 2018-340 (Aboriginal Peoples Television Network – licence renewal for APTN); Broadcasting Decision 2018-291 (Blue Ant Television General Partnership – licence renewals for discretionary services); Broadcasting Decision 2018-228 (DHX Television Ltd. – licence renewals for discretionary services); Broadcasting Decision 2017-151 (Rogers Media Inc. – licence renewals for English-language television stations, services and network); Broadcasting Decision 2017-150 (Corus Entertainment Inc. – licence renewals for English-language television stations and services); Broadcasting Decision 2017-149 (Bell Media Inc. – licence renewals for English-language television stations and services); and Broadcasting Decision 2017-147 (Quebecor Media Inc. – Group-based licence renewals for French-language television stations and services).

Commission does depart from past practices, there must be justification to do so.²⁰ In my view, no such satisfactory justification was presented in this proceeding.

Finally, it should be noted that over the last twenty-five years, any fundamental changes to the Commission's licensing approach to television broadcasting took place within the context of a full-scale policy review where input was provided from Canadians, experts and a broad range of industry stakeholders. At the conclusion of the policy proceedings, the Commission issued detailed public policies, and, where required, updated its regulations. The Commission then applied the new policy frameworks, as appropriate, at the ensuing television broadcasting licence renewal hearings.²¹

This was not done in the case at hand. In my view, the majority decision has approved a licensing framework for CBC/Radio-Canada that is fundamentally different from the Commission's licensing approach for television broadcasting, without first conducting a detailed policy review to consider what, if any, measures would be appropriate for the digital age. We are therefore left with a majority-approved programming framework that allows hundreds of millions of dollars to leave the Corporation's regulated platforms each year and flow to its unregulated online audiovisual platforms.

5. Cross-Platform Canadian Programming Expenditure Framework

The majority decision approves a cross-platform expenditure-based licensing framework that was not proposed by the Corporation, was not supported by the public record, and does not sufficiently balance the interests of Canadians and industry stakeholders.

To that end, the majority decision approves a cross-platform expenditure obligation that requires each of the Corporation's English- and French-language television and audiovisual online groups of services to spend at least 85% of their programming expenditures on Canadian programming.²² This is very close to the amounts that the Corporation had proposed to spend on Canadian programming during its next licence term, and the amount that it has historically spent. However, the majority decision has not placed any minimum requirements on the Corporation's expenditures on Canadian programming for its licensed television services. This component of

²⁰ [Canada \(Minister of Citizenship and Immigration\) v. Vavilov](#), 2019 SCC 65.

²¹ See the Commission's 1999 TV Policy (Public Notice 1999-97), and ensuing licence renewals (e.g., Decisions 2000-1 and 2000-2 – CBC/Radio-Canada licence renewals; Decision 2001-385 – TVA and CFTM-TV Montréal licence renewals; and Decision 2001-457 – CTV licence renewals); the Commission's 2010 Group-based licensing approach (Broadcasting Regulatory Policy 2010-167) and ensuing licence renewals (e.g., Broadcasting Decision 2011-444 – Bell Media Inc. group of services, licence renewals; and Broadcasting Decision 2012-242 – Quebecor Media Inc. group of services, licence renewals); and the 2015 *Let's Talk TV* policy decisions – Broadcasting Regulatory Policies 2015-86, 2015-96 and 2015-104 and the subsequent licence renewals (e.g., Broadcasting Decision 2017-147 – Quebecor Media Inc. group of services, licence renewals; Broadcasting Decision 2017-151 – Rogers Media Inc. group of services, licence renewals; Broadcasting Decision 2017-149 – Bell Media Inc. group of services, licence renewals; and Broadcasting Decision 2017-150 – Corus Entertainment Inc. group of services, licence renewals).

²² Each television group includes the Corporation's licensed television services and its online audiovisual platforms. ICI RDI and CBC News Network are excluded from the groups.

the majority decision raises a number of important public policy and administrative law concerns.

i) The Cross-platform Expenditure Framework Approved in the Majority Decision was Not Requested by CBC/Radio-Canada

The extensive regulatory flexibility approved in the majority decision through the cross-platform expenditure approach was not requested or sought by CBC/Radio-Canada in this public proceeding, contrary to the assertion at paragraph 247 of the majority decision. While CBC/Radio-Canada sought some cross-platform regulatory flexibility in its licence renewal application, it did not request the extensive flexibility regarding Canadian programming approved in the majority decision. Indeed, the Corporation did not submit that the highly flexible spending approach approved in the majority decision was required for it to ensure that it can continue to innovate, create and serve Canadians in the rapidly evolving digital media environment, or to continue to meet its mandate under the *Broadcasting Act*. In fact, the Corporation rejected a cross-platform expenditure approach at nearly every turn during this proceeding.²³

In its submissions, the Corporation affirmed that most of its programming dollars are spent on Canadian programming. Hence, expenditure requirements are not necessary for it to meet its statutory mandate under the *Broadcasting Act*. The Corporation also stated that it would be more appropriate for the Commission to establish a licensing framework for Canadian programming that establishes key broadcasting priorities for the Corporation to achieve, such as those set out in its application, in order to properly serve all Canadians, and to meet the public policy obligations under the *Broadcasting Act*.²⁴

It was not until the Corporation's response to undertakings submitted following the conclusion of the public hearing, and at the request of the Commission, that the Corporation put forward a cross-platform expenditure proposal. Although it raised concerns with a number of interveners, the Corporation's expenditure-based proposal was more reflective of the public policy objectives of the *Broadcasting Act* than the expenditure framework approved in the majority decision.

In the Corporation's response to Commission undertakings dated 3 February 2021, it proposed an expenditure-based condition of licence requiring that a minimum portion of its Canadian programming expenditures be directed to news programming. It also proposed a condition of licence that would require a minimum amount of Canadian programming expenditures to be directed to Canadian independent productions. The Corporation also proposed a minimum requirement for regional reflection in its programming. No such legal requirement measures are included in the cross-platform expenditure framework approved in the majority decision.

²³ See for instance the Corporation's licence renewal application filed on 23 August 2019; the Corporation's supplementary brief, page 11; the Corporation's response to Commission's deficiency questions dated 30 October 2019; the Corporation's oral submission at the public hearing dated 11 January 2021; and the Corporation's final written submission dated 17 March 2021.

²⁴ See CBC/Radio-Canada Public Hearing Transcript, lines 294-295 and 308-310. See also the Corporation's response to deficiency questions dated 30 October 2019 at page 3.

The Corporation concluded the public hearing by confirming at paragraph 5 of its final reply to interventions dated 17 March 2021 that a cross-platform exhibition approach, where comprehensive Canadian programming exhibition obligations are maintained for CBC/Radio-Canada's licensed television services, is its preferred licensing approach, in the interest of Canadians.

ii) Interveners in this Proceeding Did Not Call for the Cross-Platform Expenditure Framework Approved in the Majority Decision

The public record of this proceeding does not support the expenditure framework approved in the majority decision. Indeed, industry participants did not call for the extensive cross-platform flexibility approved in the majority decision for CBC/Radio-Canada.²⁵ While a number of interveners in this proceeding supported a licensing framework that included, in part, a cross-platform expenditure approach for online content, they also strongly recommended that any cross-platform approach be coupled with comprehensive Canadian programming exhibition obligations for the Corporation's linear television services. The many interveners that made this recommendation include:

- the Association des producteurs francophones du Canada (APFC); the Association québécoise de la production médiatique (AQPM); the Association québécoise des techniciens et techniciennes de l'image et du son, the Association des réalisateurs et réalisatrices du Québec, the Société des auteurs de radio, télévision et cinéma and the Union des artistes (AQTIS/ARRQ/SARTEC/UDA); the Canadian Media Producers Association (CMPA); the Directors Guild of Canada (DGC), Eagle Vision Inc. (Eagle Vision); Friends of Canadian Broadcasting; On Screen Manitoba; and the Public Interest Advocacy Center (PIAC).

A number of interveners also recommended that where a cross-platform expenditure approach is approved by the Commission, it should include expenditure limits on the amount of money that the Corporation can spend for programming for its online platforms. For example, the DGC recommended that a maximum of 25% of the Corporation's programming expenditures could be spent on the Corporation's online platforms.²⁶ This in turn would ensure that the majority of the Corporation's resources would be directed to its licensed television services while continuing to serve Canadians across a range of linear and online audiovisual options.

This approach is consistent with the Commission's well-established cross-platform group-based licensing approach approved for large station groups.²⁷ Under that approach (and in subsequent licensing decisions), the Commission limited to 25% the Canadian programming expenditures a large station group could redirect from their most highly accessible and free conventional

²⁵ See for instance the interventions of the Association of Canadian Television and Radio Artists, the Association québécoise de l'industrie du disque, du spectacle et de la vidéo, the CAB, the Ontario Association of Broadcasters, Quebecor Media Inc. (Quebecor) and the Writers Guild of Canada.

²⁶ See also the intervention of Friends of Canadian Broadcasting.

²⁷ Broadcasting Regulatory Policy 2010-167.

television stations to their discretionary services, which require a cable, IPTV or satellite subscription to access, and which typically have lower viewership.

Had a similar approach been approved in the majority decision for CBC/Radio-Canada, the interests of Canadians and Canadian creators would have been better served, while providing the Corporation with a forward-looking bridge to the online digital space. This would also have resulted in a licensing framework for CBC/Radio-Canada that is more mindful of the competitive landscape in the Canadian broadcasting industry.

iii) The Majority Decision Does Not Sufficiently Balance the Interests of Canadians who Do Not Have Access to Broadband Internet Services

Millions of Canadians cannot, and do not, access audiovisual programming over the Internet for a multitude of reasons. These include the lack of available high-speed broadband Internet services in many regions of the country such as in rural and remote communities and on many First Nations Reserves; the lack of access to broadband services due to financial barriers; limited time spent watching audiovisual online content by older and younger audiences; and limited access to accessible online audiovisual content by Canadians with disabilities.

I note the submission of On Screen Manitoba that was echoed by many interveners in this proceeding, which stated the following at paragraph 22 of its written intervention:

Substantial numbers of Canadians still watch conventional television, and some Northern, remote and rural communities in Canada do not have access to high speed internet and continue to rely entirely on conventional television viewing.

The evidence on the public record confirms that approximately 11% of Canadians are not able, or do not wish, to access broadband services.²⁸ The public record also indicates that approximately 63% of Canadians who reside in rural and remote communities do not have access to high-speed Internet services.²⁹ On First Nations Reserves, about 72% of individuals do not have access to high-speed Internet services.³⁰

The evidence in this proceeding also shows that older Canadians (average age 62),³¹ and younger Canadians (two to six years of age)³² spend more time watching television programming on

²⁸ See the CBC/Radio-Canada application, which states: “According to the CRTC’s Communications Monitoring Report, 89% of Canadian households have an internet connection and 90% have mobile.” See also CBC/Radio-Canada Public Hearing Transcript, line 211, the *CRTC Communications Monitoring Report 2019*, and interventions by Quebecor and On Screen Manitoba.

²⁹ *CRTC Communications Monitoring Report 2019*. This number has improved since the public hearing; however, about 53% of Canadians in rural and remote communities still do not have access to broadband Internet services.

³⁰ *CRTC Communications Monitoring Report 2019*.

³¹ See “Canadian Viewing Profiles, Media Technology Monitor”, August 2019, Appendix A to CBC/Radio-Canada supplementary brief (*2019 Media Technology Monitor*).

³² CBC/Radio-Canada supplementary brief, paragraph 16.

linear television services than they do online.³³ This points to the continued importance of the linear television services for many Canadians.

The Indigenous Screen Office stated the following at the public hearing regarding the inequities that may arise when government actions support online policy frameworks:

[...] any cultural, any government action, anything to online is that until there is sustained access and equitable **access to high-speed internet for all communities, shifts to digital infrastructure or digital delivery may result in an inequitable delivery of those services.**³⁴ [emphasis added]

The fact that millions of Canadians cannot access television or audiovisual programming on online platforms, including CBC/Radio-Canada's audiovisual online platforms, is of particular concern. Indeed, it means that Canadians who can only access programming on the Corporation's licensed television services may see the level of service they receive from CBC/Radio-Canada diminished during its next licence term, should the Corporation decide to direct more of its attention and resources to its online platforms.

In light of the above, the majority decision is inconsistent with the public policy objectives of the *Broadcasting Act*. In particular, it is inconsistent with subparagraph 3(1)(d)(iii), which states that the Canadian broadcasting system should serve the needs and interests, and reflect the **circumstances** of Canadian women, men and children.

iv) The Cross-platform Expenditure Framework Approved in the Majority Decision Does Not Sufficiently Take Into Consideration the Needs and Interests of Canadians with Disabilities

Canadians with disabilities including individuals who are deaf, hard of hearing and who have experienced hearing loss as well as Canadians who are blind and partially sighted are, in my view, disadvantaged by the majority decision. This is because the existing obligations requiring licensed Canadian broadcasters to provide programming that includes closed captioning, described video and audio description on their licensed television services do not apply to online audiovisual platforms.

Online platforms are governed by the Commission's Digital Media Exemption Order,³⁵ which is silent on the accessibility of audiovisual programming available on online platforms. While the Commission's *Accessibility of telecommunications and broadcasting services* regulatory policy does set out language regarding closed captioning, it is an encouragement (not a legal obligation) for broadcasters.³⁶ There are therefore no legal requirements for the Corporation to ensure that programming offered on its online audiovisual platforms includes closed captioning, described video and/or audio description.

³³2019 *Media Technology Monitor*.

³⁴ CBC/Radio-Canada Hearing Transcript, line 6890.

³⁵ Under this exemption order, the only legal requirement the Commission can impose on a broadcaster relates to the reporting of online broadcasting-related activities. See section 4 of the Digital Media Exemption Order set out in the appendix to Broadcasting Order 2012-409.

³⁶ See Broadcasting and Telecom Regulatory Policy 2009-430.

I note that the Corporation states in its application that it has adopted Standards for Digital Accessibility for its online audiovisual platforms. However, these Standards are far less stringent than the legal obligations the Corporation must respect for accessibility on its licensed television services. The Corporation states the following regarding the accessibility of its online programming at page 162 of its application:

We [CBC/Radio-Canada] **do not provide:**

- Described video of all non-live video content;
- Text transcripts of non-live audio-only or video-only content;
- Closed captions for all live audio and video content; and
- Audio descriptions of all video content that is visual but not in the audio track.
[emphasis added]

I also note the evidence on the public record showing that there is still a need for improvement in terms of the accessibility of online audiovisual content for Canadians. The Canadian National Institute for the Blind (CNIB) stated the following regarding accessible television content at paragraph 3 of its written intervention:

Canadians who are blind or partially sighted **still face barriers to accessing information due to inaccessible content**. Though the new digital age means more content is available than ever before, **barriers still exist when accessibility is not included in the design of programs and content**. Bridging the gap between the availability and accessibility of content will require programming to be readily available on both conventional and digital platforms. [emphasis added]

This was affirmed in the majority decision at paragraph 736 as follows:

[...] although the CBC appears to be making good progress to ensure that the online programming provided on its [digital media broadcasting undertakings] is accessible to persons with disabilities, **there are still areas where improvement is needed. For example, the CBC noted there is still a handful of digital-first pieces and non-broadcast live streams that are not closed captioned on CBC Gem. It further noted that it does not provide described video for all non-live video content, closed captioning for all live audio and video content, or audio description³⁷ for all information video content that is visual but not included in the audio track.**
[emphasis added]

While the majority decision includes expectations and encouragements for accessible content to be broadcast on the Corporation's online audiovisual platforms, expectations and encouragements are not legal obligations. In addition, an expectation cannot be enforced in the

³⁷ "Audio description" refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.

same manner as a condition of licence. For instance, section 25 of the *Broadcasting Act* does not apply to expectations where non-compliance issues arise during the licence term.³⁸

The following table shows the differences in licensing measures imposed on the Corporation's linear television services and online audiovisual platforms regarding closed captioning, described video and audio description.

TABLE 1: The Cross-Platform Framework Approved in the Majority Decision for Accessible Content

Accessible program measure	Licensed Television Services (CBC, Radio-Canada, ICI ARTV, documentary Channel, ICI EXPLORA) – Legal Obligations to Broadcast Accessible Content	Online Platforms (e.g. CBC Gem and ICI TOU.TV) – No Legal Obligations to Broadcast Accessible Content
Closed Captioning	Condition of licence (legal obligation): the licensee shall ensure the closed captioning of 100% of the English- and French-language programs broadcast over the broadcast day; must adhere to quality standards on closed captioning; all programs, promos and advertisements must be captioned.	Series of expectations (not legal obligations) CBC/Radio-Canada's internal Standard: no live content closed captioned for online platforms.
Video Description	Condition of licence (legal obligation): the licensee shall provide described video for all English- and French-language programs broadcast during prime time (7 p.m. to 11 p.m.), 7 days/week for a range of programs.	Series of expectations (not legal obligations) CBC/Radio-Canada's internal Standards: no described video provided for non-live content broadcast on online platforms.
Audio Description	Condition of licence (legal obligation): the licensee shall provide audio description for all the key elements of Canadian information programs, including news programming.	Series of expectations (not legal obligations) CBC/Radio-Canada's internal Standards: no audio description provided of any audiovisual online content, including for online news and information.

³⁸ Section 25 of the *Broadcasting Act* provides the Commission with a mechanism to address compliance issues regarding the Corporation and its conditions of licence. Pursuant to this section, the Commission can conduct a show cause public hearing and subsequently report to the Minister of Canadian Heritage where concerns arise regarding the Corporation's compliance with one or more of its condition(s) of licence. This provision, however, does not apply to licence expectations or encouragements such as those that relate to accessible content broadcast online.

Further, the majority decision relies in part on the complaints processes to monitor the accessibility of the Corporation's online content.³⁹ However, this places the onus on audience members, rather than the Corporation, to ensure Canadians who are deaf, hard of hearing, blind and partially sighted are well served by CBC/Radio-Canada during the next licence term.

Given the importance of accessible television programming for persons with disabilities to participate fully in Canadian society,⁴⁰ the majority decision creates a new barrier to accessible content for Canadians with disabilities. The Corporation is now authorized under the majority decision to spend unlimited resources on platforms where they are not required, by condition of licence, to provide accessible programming. The cross-platform expenditure framework approved in the majority decision is, therefore, inconsistent with paragraph 3(1)(p) of the *Broadcasting Act*, which states that "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose".

This portion of the majority decision also appears to be inconsistent with the spirit and intent of the recent *Accessible Canada Act*.⁴¹ That statute came into force in 2019 to remove barriers and prevent new ones for Canadians with disabilities in a number of areas including broadcasting. The Commission and CBC/Radio-Canada are subject to the *Accessible Canada Act*.

v) ***Broadcast Standards Codes Do Not Apply by Condition of Licence to the Corporation's Online Platforms***

Online platforms are not required to comply, by condition of licence, with broadcast standards codes, or rules relating to advertising to children. The Broadcast Standards Codes and the rules regarding advertising targeted at children are legal obligations established for licensed television services by way of conditions of licence. Their purpose is to ensure that the public policy objectives of the *Broadcasting Act* are attained, in particular the reflection of Canadian women, men and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous Peoples pursuant to subparagraph 3(1)(d)(iii) of the *Broadcasting Act*.

The Broadcast Standards Codes that apply to the Corporation's licensed television services include: the *Journalistic Independence Code*, the *Violence Code*, the *Broadcast Code for Advertising to Children* and the *Equitable Portrayal Code*. The Statement of Intent set out in the *Equitable Portrayal Code* states the following:

It is the intent of this Code that broadcasters shall strive to present equitable portrayal. This Code is intended to overcome unduly negative portrayal and stereotyping in broadcast programming, including commercial messages, based on matters of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status or physical or mental disability.

³⁹ See the table at paragraph 716 of the majority decision.

⁴⁰ See the interventions of Accessible Media Inc. and the CNIB.

⁴¹ S.C. 2019, c.10.

These legal requirements do not apply, however, to the Corporation's online platforms as they are governed by the Digital Media Exemption Order, which is silent with regard to broadcast standards and advertising to children.

Although the majority decision includes an expectation regarding compliance with broadcast standards with regard to the Corporation's online platforms, an expectation is not a legal obligation with which the Corporation must comply.

vi) The Cross-platform Canadian Programming Expenditure Obligations Approved in the Majority Decision Are Inconsistent with the Commission's Approach to Licensing Television Broadcasters

The cross-platform expenditure obligations set out in the majority decision for Canadian programming (that is, the obligations that relate to 85% of programming expenditures to be spent on Canadian programming) are inconsistent with the Commission's past practice regarding Canadian programming expenditure obligations. The Commission has in most instances over the last decade imposed a Canadian programming expenditure obligation based on a percentage of a broadcaster's previous year's gross revenues and not as a percentage of a broadcaster's programming expenditures, as the majority decision has established.⁴²

In a 2017 decision,⁴³ the Commission rejected Quebecor Media Inc.'s (Quebecor) proposal for a Canadian programming expenditure obligation based on a percentage of expenditures, stating that such a requirement would provide an inappropriate competitive advantage to Quebecor over the other large station groups. The Commission also determined that it would not establish a Canadian programming expenditure obligation based on expenditures as it would not provide sufficient regulatory certainty to the Canadian independent production community. The Commission stated the following in this regard at paragraph 42 of the above-noted 2017 decision:

The Commission is of the view that to allow certain groups to use a calculation method that differs from the others would **confer a competitive advantage relative to the other groups, since groups have greater control over their expenditures than their revenues.** Moreover, the Commission considers that **a CPE requirement based on the previous year's revenues rather than the previous year's expenditures would make Canadian programming expenditures more predictable for the creative industry,** and, to a lesser extent, for the groups themselves. [emphasis added]

⁴² See for instance the television licences renewed in Broadcasting Decision 2013-263, Appendix 6 (CBC/Radio-Canada, ICI ARTV); Broadcasting Decision 2017-151 (Rogers Media Inc.); Broadcasting Decision 2017-149 (Bell Media Inc., English-language services); Broadcasting Decision 2017-144 (Bell Media Inc., French-language services); Broadcasting Decision 2017-150 (Corus Entertainment Inc.); Broadcasting Decision 2017-147 (Quebecor Media Inc.); Broadcasting Decision 2018-344 (TV5 Québec Canada); Broadcasting Decision 2018-340 (Aboriginal Peoples Television Network); Broadcasting Decision 2018-291 (Blue Ant Media Inc.); Broadcasting Decision 2018-228 (DHX Television Ltd.); Broadcasting Decision 2020-248 (ZoomerMedia Limited); and Broadcasting Decision 2020-306 (Salt and Light Catholic Media Foundation).

⁴³ Broadcasting Decision 2017-143.

A number of interveners in this proceeding opposed an expenditure obligation based on a percentage of expenditures (rather than an obligation based on the previous year's revenues).⁴⁴ Indeed, most interveners in this public proceeding that recommended a Canadian programming expenditure obligation proposed that it be based on a percentage of the Corporation's previous year's gross revenues.⁴⁵ This provides greater regulatory certainty within the Canadian broadcasting industry because it is not based on a variable left in the hands of the broadcaster. It is also reflective of the industry standard.

Establishing a licensing framework that is largely based on an expenditure obligation that the Commission has rejected for other industry participants is not appropriate at this time. The expenditure obligation approved in the majority decision is far less stringent and less effective than an expenditure obligation based on the licensee's previous year's gross revenues. It will also provide the Corporation with a competitive advantage over most other licensed Canadian broadcasters whose expenditure obligations are based on their previous year's gross revenues. These other broadcasters also do not have the flexibility to count their online programming expenditures to satisfy their Canadian programming expenditure obligations for linear television.

6. *Comprehensive Canadian Programming Exhibition Requirements Not Imposed for CBC/Radio-Canada in the Majority Decision*

The majority decision imposes very few Canadian programming exhibition obligations across the public broadcaster's television licences (see conditions of licence 34 through 37 set out in Appendix 3 to the majority decision). The following is the list of the primary regulatory measures that were proposed by the Corporation and generally supported by many interveners in this proceeding, yet not imposed in the majority decision:⁴⁶

List of Key Canadian Programming Licensing Measures NOT IMPOSED IN the Majority Decision:

- ***Broadcast of Canadian programming:*** the conditions of licence for the broadcast of a predominance of Canadian programming on the Corporation's English- and French-language conventional networks and television stations as well as its three discretionary services ICI ARTV, the documentary Channel and ICI EXPLORA.
- ***Broadcast of French-language local programming in the metropolitan market of Montréal:*** the condition of licence for Radio-Canada's conventional television network and station to broadcast a minimum number of weekly hours of French-language local programming, most of which is news programming, in the metropolitan market of Montréal.

⁴⁴ See the interventions of AQTIS/ARRQ/SARTEC/UDA, the Writers Guild of Canada (WGC) and others.

⁴⁵ See for instance the interventions of the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), the AQPM, AQTIS/ARRQ/SARTEC/UDA, the CAB, the DGC, Friends of Canadian Broadcasting, La Table de concertation de l'industrie du cinéma et de la télévision de la Capitale-Nationale (La Table) and the WGC.

⁴⁶ Please note that there were many other proposals made by interveners to further strengthen the CBC/Radio-Canada's licences that are not discussed in this dissenting opinion.

- ***Broadcast of English-language local programming in metropolitan markets across the country:*** the conditions of licence for CBC's English-language conventional television network and stations to broadcast a minimum number of weekly hours of English-language local programming, most of which is news programming, in the metropolitan markets of Calgary, Edmonton, Ottawa, Toronto and Vancouver, as well as in the English-language OLMC of Montréal.
- ***Broadcast of French- and English-language independently produced Canadian programming:*** the conditions of licence that provide minimum requirements for the broadcast of French- and English-language Canadian independently produced programs on CBC/Radio-Canada's conventional television stations (networks and stations), ICI ARTV and the documentary Channel.
- ***Broadcast of programs of national interest in peak time:*** the conditions of licence for the broadcast of programs of national interest (PNI) during the peak viewing hours of 7 p.m. to 11 p.m. on CBC's and Radio-Canada's conventional television networks and stations, and the requirements regarding the broadcast of Canadian independently produced PNI content.⁴⁷
- ***Broadcast of French-language children's and youth programming:*** the conditions of licence for the broadcast of French-language Canadian children's and youth programming by Radio-Canada (conventional network and stations) in Quebec and across Canada. The conditions of licence include the obligation for Radio-Canada to broadcast at least 15 hours per week of Canadian programming for children under the age of 13, and the obligation for Radio-Canada to broadcast original Canadian French-language children's and youth programs.
- ***Broadcast of English-language children's and youth programming:*** the condition of licence for the broadcast of 15 hours per week of English-language Canadian programming on CBC's conventional television network and stations aimed at children under the age of 13.
- ***Broadcast of original and original first-run Canadian programs:*** the condition of licence for Radio-Canada's conventional television stations to broadcast original French-language Canadian children's and youth programming, and the obligation for the documentary Channel to license from independent production companies not less than 75% of its original, first-run Canadian content hours.
- ***Broadcast of Canadian feature films once per month on CBC:*** the condition of licence for the broadcast of one Canadian feature film during each broadcast month on the CBC's conventional television network and stations.

⁴⁷ Several interveners in this proceeding recommended that the Commission maintain the PNI exhibition obligations in the licences of the CBC/Radio-Canada conventional television networks and stations. These interveners include: AQTIS/ARRQ/SARTEC/UDA, the Association of Canadian Television and Radio Artists (ACTRA), the AQPM, the CMPA, the DGC, Eagle Vision, the WGC and others.

The determinations in the majority decision not to impose these legal obligations in the Corporation's television licences raise a number of public policy and administrative law concerns.

i) The Canadian Programming Exhibition Framework Approved in the Majority Decision is Not Supported by CBC/Radio-Canada's Application

The Corporation requested that the Commission impose the above-mentioned list of Canadian programming requirements on its linear television licences. The Corporation consistently maintained during this proceeding that these measures were appropriate and achievable for the national public broadcaster in this age of multi-platform audiovisual consumption and distribution.⁴⁸

The Corporation also submitted at the public hearing that the programming exhibition requirements in linear television licences ensure an equitable balance between content broadcast on linear television and on online audiovisual platforms for Canadian audiences. By not imposing most of the Canadian programming exhibition obligations proposed by the Corporation for CBC/Radio-Canada's linear television services, the majority decision removes important licensing safeguards that ensure a balance in the programming broadcast across the various CBC/Radio-Canada linear television services and online platforms.⁴⁹

ii) Interveners Did Not Call for the Canadian Programming Exhibition Framework Approved in the Majority Decision

The record of this public proceeding does not support the Canadian programming exhibition framework for CBC/Radio-Canada's linear television services approved in the majority decision. As stated earlier, most interveners that spoke to the issue of licence requirements proposed that the Corporation's linear television licences include appropriate and comprehensive regulatory obligations, such as those discussed above. The following is a list of many of the interveners in this proceeding that supported comprehensive Canadian programming exhibition obligations for the licences of CBC/Radio-Canada's linear television services:

- The Aboriginal Peoples Television Network (APTN); the Alberta Media Production Industries Association (AMPIA); the Association of Canadian Television and Radio Artists (ACTRA); the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ); the APFC, the AQPM; AQTIS/ARRQ/SARTEC/UDA, the Canadian Association of Broadcasters (CAB), the CMPA, the Community Media Advocacy Centre (CMAC), the DGC, Eagle Vision, the Fédération nationale des communications et Syndicat des communications de Radio-Canada, the Forum for Research and Policy in Communications (FRPC), Friends of Canadian Broadcasting, the Office of the Commissioner of Official Languages, On Screen Manitoba, the Ontario Association of

⁴⁸ See CBC/Radio-Canada Opening Remarks at the public hearing, 11 January 2021, and CBC/Radio-Canada Public Hearing Transcript, line 340.

⁴⁹ See CBC/Radio-Canada Public Hearing Transcript lines 237-238.

Broadcasters (OAB), PIAC, the Quebec English-language Production Council (QEPC), Quebecor, the Youth Media Alliance, the Writers Guild of Canada (WGC), and others.

iii) The Majority Decision's Canadian Programming Exhibition Framework Does Not Include Objective, Predictable, Transparent and Measurable Outcomes-Based Regulation in a Number of Areas of Public Concern

In my view, the majority decision's Canadian programming exhibition framework does not include objective, predictable, transparent and measurable outcomes-based regulation in a number of important programming areas. This in turn will make it very difficult for the Corporation, the Commission, industry stakeholders and Canadians to determine whether the Corporation has met its licence requirements, statutory obligations and broadcast mandate set out in the *Broadcasting Act*.

As a result of the determinations made in the majority decision, the areas that will no longer have clear outcomes-based legal requirements for Canada's national public broadcaster include the following:

- 1) the broadcast of a predominance of Canadian programs across all of the Corporations' licensed television services;
- 2) the broadcast of French- and English-language independently produced Canadian programs across all of the Corporations' licensed television services;
- 3) the broadcast of PNI, including Canadian dramas and Canadian documentaries, on CBC and Radio-Canada's conventional television networks and stations;
- 4) the broadcast of a minimum number of hours of French-language local programming/news programming by Radio-Canada's conventional television network and stations in the metropolitan market of Montréal;
- 5) the broadcast of a minimum number of hours of English-language local programming/news programming by CBC's conventional television network and stations in the metropolitan markets of Calgary, Edmonton, Ottawa, Toronto and Vancouver;
- 6) the broadcast of a minimum number of hours of English-language local/news programming by CBC's conventional network and station for the English-language official language minority community in Montréal;
- 7) the broadcast of French-language children's and youth programming on Radio-Canada's conventional television network and stations, including original French-language original children's and youth programming; and
- 8) the broadcast of Canadian feature films on CBC's conventional television network and stations.

During the public hearing, the following statement was made on a number of occasions: "What gets measured, gets done." However, with no minimum obligations for the above-noted areas of

Canadian programming, there will not be a yardstick against which the Corporation, the Commission, industry stakeholders and Canadians can determine whether the Corporation has met its licensing and/or statutory obligations. This significantly diminishes accountability to Canada and Canadians.

iv) The Majority Decision’s Canadian Programming Exhibition Framework Provides the Corporation with a Significant Competitive Advantage Over all Other Canadian Television Broadcasters

The determinations in the majority decision not to impose the Canadian programming exhibition requirements set out in the above-noted list provides CBC/Radio-Canada with an inappropriate competitive advantage over most other Canadian broadcasters.⁵⁰ This is because most other broadcasters within the Canadian broadcasting system are required to comply with both extensive Canadian programming exhibition and expenditure obligations consistent with the Commission’s television policies, past decisions and approaches to regulating the Canadian television broadcasting industry. The requirements with which most other broadcasters are required to comply include the predominance of Canadian programming exhibition obligations; local programming exhibition and expenditures obligations; as well as Canadian programming and PNI expenditure obligations as percentages of the previous year’s gross revenues.⁵¹

The Canadian broadcasting industry is under considerable pressure as a result of heightened competition from non-Canadian over-the-top streaming services, as well as the changing ways in which content is made, delivered and consumed.⁵² Putting further competitive pressure on the domestic television ecosystem before broader policy reviews are undertaken is highly inappropriate and unnecessary at this time.

v) “Past Compliance” and “Confidence” in CBC/Radio-Canada as a Basis for the Majority Decision Not Supported by the Public Record

The determinations in the majority decision not to impose the above-mentioned Canadian programming exhibition requirements are based in large part on CBC and Radio-Canada exceeding their minimum obligations in these areas during its current licence term.⁵³ The majority decision states at paragraph 23: “During the current licence term, the CBC has met all of its regulatory requirements and has even surpassed a number of them. In consideration of the relative level of confidence that may be placed on the CBC, these and other factors led the Commission to focus on desired public policy results in a number of cases, without specifying the precise means of achieving them.”

There is, however, insufficient evidence on the public record that supports this majority determination. There is also insufficient evidence on the public record that supports the

⁵⁰ A number of representatives of Canadian broadcasters raised concerns about the competitiveness of the Corporation with commercial broadcasters including Blue Ant Media Inc., the CAB, the OAB, OUTtv Network Inc. and Quebecor.

⁵¹ Note that, outside of CBC/Radio-Canada, the PNI obligations typically apply to the large private station groups and a few independent broadcasters such as Blue Ant Media Inc.

⁵² See the interventions of the CAB and Quebecor.

⁵³ In this regard, see the following paragraphs of the majority decision: 23, 25, 238, 295, 326, 328, 341 and 454.

following risk assessment made in the majority decision: “[w]here the Commission is removing certain exhibition requirements, it finds that the risk of the CBC no longer performing as it has been during the current licence term is low given the CBC’s mandate.”⁵⁴

7. *The Canadian Programming Exhibition Framework Approved in the Majority Decision is Inconsistent with the Public Policy Objectives of the Broadcasting Act*

The determinations in the majority decision not to impose the Canadian programming exhibition requirements outlined above are inconsistent with a number of public policy objectives of the *Broadcasting Act*. The following outlines these inconsistencies.

i) *The Canadian Programming Exhibition Framework Approved in the Majority Decision Includes No Predominance of Canadian Programming Exhibition Obligations*

The majority decision does not impose any predominance of Canadian programming obligations across all of the Corporation’s linear television services, contrary to the applicant’s proposal and the many recommendations on the public record in this regard. This is also a fundamental shift in the Commission’s approach to licensing Canadian television broadcasting.

In this proceeding, the Corporation proposed to maintain the predominance of Canadian programming exhibition requirements for all of its licensed television services, and confirmed that it fully supported maintaining these requirements at the oral phase of the hearing.⁵⁵ Many interveners in this proceeding, including ACTRA, ADISQ, the AQPM, APTN, AQTIS/ARRQ/SARTEC/UDA, the CAB, the DGC, the FRPC, PIAC and the WGC, also supported the inclusion of the predominance Canadian programming exhibition obligations in the Corporation’s French- and English-language television licences.

The determinations in the majority decision not to impose exhibition requirements that require the broadcast of a predominance of Canadian programming are inconsistent with the public policy objectives of the *Broadcasting Act*, in particular subparagraph 3(1)(m)(i), which reads as follows: “the programming provided by the Corporation should be predominantly and distinctively Canadian.” These determinations are also inconsistent with paragraph 3(1)(f) of the *Broadcasting Act*, which requires that Canadian broadcasters make a predominant use of Canadian creative resources in the presentation of Canadian programming.

These determinations in the majority decision are also inconsistent with the Commission’s approach to licensing television, which was affirmed in the Commission’s most recently approved television policies (the *Let’s Talk TV* policies), as outlined above. Further, the unprecedented removal of all exhibition obligations from an important Canadian broadcaster’s licence, such as that of the national public broadcaster, should be done in the context of a policy review, not a licence renewal hearing.

⁵⁴ See the majority decision, paragraph 59.

⁵⁵ Although the Corporation was seeking greater flexibility for the exhibition of Canadian programming in the evening broadcast period for ICI ARTV, documentary Channel and ICI EXPLORA, it had largely proposed to maintain its exhibition obligations on all CBC and Radio-Canada licensed television services during the broadcast day for its next licence term.

ii) The Canadian Programming Exhibition Framework Approved in the Majority Decision Sets Out No Minimum Requirements for the Broadcast of French-language Children's and Youth Programming

The majority decision does not impose any licensing obligations for the broadcast of French-language children's and youth programming in Radio-Canada's conventional television licences (network and stations). Indeed, there are no conditions of licence or expectations that require Radio-Canada's conventional television stations to broadcast a minimum number of hours of French-language children's and youth programming, including no requirements for the broadcast of original French-language children's and youth programming. The Corporation had, however, proposed to broadcast at least 80 to 110 hours during each broadcast year of original French-language Canadian children's and youth programming. It also proposed a condition of licence requiring it to broadcast 15 hours per week of French-language Canadian programming for children under the age of 13.

Children's and youth original programming is among the most expensive and difficult type of Canadian content to produce. It is also among the most valuable programming to the system, as stated by the Commission in its *Let's Talk TV* policy. Most interveners who made recommendations in this area affirmed the importance of minimum licence obligations for French-language children's and youth programming for Radio-Canada's licensed conventional television network and stations.⁵⁶

The AQPM stated the following at page 5 of its written intervention regarding the importance of licensing measures for children's and youth programming:

The AQPM also considers that ICI Radio-Canada must continue to play a leading role for our youth by offering them quality programs that call upon their imaginations and depict their reality. For this, the AQPM considers that the Corporation must continue to air a large quantity **of original programs broadcast on its free and most accessible service, that is, its linear service**. The AQPM therefore recommends that the Commission maintain the current requirements relating to the broadcast of original Canadian programs targeting children and youth. [translation; emphasis added]

At the public hearing, the AQPM stated that children's and youth programming is vital to ensure that French-speaking children learn about their culture and their heritage, and develop their language skills.⁵⁷

Further, a number of organizations representing Francophones residing in official language minority communities outside Quebec submitted that Radio-Canada is of vital importance to their communities, and in many cases is the only French-language media service that minority language communities can access.⁵⁸ In this regard, the Fédération des communautés francophones et acadienne du Canada (FCFA) stated in its intervention that the role that Radio-

⁵⁶ See for instance the interventions of the Association acadienne des artistes professionnels du Nouveau-Brunswick (AAAPNB), AQTIS/ARRQ/SARTEC/UDA, the APFC, the AQPM and La Table.

⁵⁷ CBC/Radio-Canada Public Hearing Transcript, line 8618.

⁵⁸ See the interventions of the Assemblée de la francophonie de l'Ontario (AFO) and of the Fédération des communautés francophones et acadienne du Canada.

Canada plays in the lives of children and youth is crucial to their sense of belonging to the French-language.

The majority decision not to impose any minimum licensing obligations in Radio-Canada's conventional television licences regarding the broadcast of French-language children's and youth programming was based in part due to the changing ways in which children are consuming audiovisual content.⁵⁹ However, the data the majority relies upon to support removing the licence requirements for French-language children and youth programming actually support maintaining these obligations for the public broadcaster at the present time.

In this regard, the majority decision references the *2019 Media Technology Monitor Junior Report*, which shows that 55% of children between 2 and 6 years of age prefer to watch programming on linear television. Further, 42% of 7 to 11 year olds prefer watching linear television. The majority decision notes that 58% of this latter cohort prefers to watch content on personal devices. However, such personal devices are not available to all 7 to 11 year olds across the country.

While the majority has included the issue of French-language children's and youth programming as part of the industry/community consultations and annual reporting obligations, these discussions and reporting measures will not ensure the creation or broadcast of any particular number of hours of high-quality, original, French-language children's and youth programming for French-language speakers in Canada at any given time during the licence term.

The Canadian programming exhibition framework approved in the majority decision, which sets out no requirements for the broadcast of French-language children's and youth programming, is, therefore, inconsistent with the public policy objectives of the *Broadcasting Act*, and in particular with subparagraph 3(1)(i)(i), which requires that programming within the Canadian broadcasting system include programming for children.

This portion of the majority decision is also inconsistent with subparagraph 3(1)(m)(iv) of the *Broadcasting Act*, which states the following:

[...] the programming provided by the Corporation should be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities.

It also appears to be inconsistent with section 41 of the *Official Languages Act*,⁶⁰ which requires the Commission to ensure that measures are taken to enhance the vitality of English- and French-language minority communities in Canada, to assist with their development and to foster the full recognition and use of both the English and French languages in Canada.

⁵⁹ See paragraph 327 of the majority decision.

⁶⁰ R. S.C. 1985, c. 31.

iii) The Canadian Programming Framework Approved in the Majority Decision Sets Out Insufficient Requirements for English-language Children's Programming on CBC

The majority decision imposes one minimum obligation for the exhibition of Canadian English-language children's and youth programming in the CBC conventional television licence as follows:

The Corporation shall broadcast a minimum of one hour per broadcast week, averaged over the broadcast year, of **original first-run Canadian programming aimed at children under 13 years of age** on all of its English-language licensed television network and stations [...] [emphasis added]

However, the Corporation had also proposed a condition of licence that would require CBC's English-language conventional television network and stations to broadcast 15 hours per week of Canadian programming aimed at children under the age of 13.

Many interveners in this proceeding called for minimum requirements for children's and youth programming on CBC to ensure the ongoing availability of this content on-air for younger Canadian audiences. Independent producers of children's programming appeared at the oral phase of the hearing as part of the Youth Media Alliance. They highlighted the importance of the Corporation's licensed television services for children and youth:

I live in Toronto, but I grew up in Marystown, Newfoundland. As a kid, CBC empowered me and cultivated in me an understanding of what it is to be Canadian. Growing up Filipino Canadian in a small outport town, I didn't see myself reflected in my community. But I did see me on Sharon Lois and Bram, Mr. Dressup, Degraffi Junior High and Sesame Street because stories have power, TV shows have power.⁶¹

[...] there are lots of kids in households that don't have access to digital programming [...] television is still the tool, the primary tool, I think, that parents use to access kids' content, quality kids' content, like CBC and SRC content. So it's [...] critical that CBC and SRC continue to play a leading role for young kids to make content [...] for the linear channel [...]⁶²

We also heard concerns expressed by the Indigenous Screen Office regarding the importance of children's programming on the main CBC licensed television network and stations for Indigenous children as many Indigenous children cannot rely on broadband Internet services, particularly in remote Northern communities.⁶³

In light of the above, the majority decision has not ensured that English-speaking children will have access to sufficient Canadian programming during the next licence term from the public broadcaster's licensed television services. This is inconsistent with the public policy objectives

⁶¹ CBC/Radio-Canada Public Hearing Transcript, lines 9665-9666.

⁶² CBC/Radio-Canada Public Hearing Transcript, line 9692.

⁶³ See CBC/Radio-Canada Public Hearing Transcript, line 6939.

of the *Broadcasting Act*, namely subparagraph 3(1)(i)(i), which requires that programming be made available for children.

Further, approving a minimum obligation for the broadcast of original English-language children's programming on CBC but no obligations for French-language children's programming on Radio-Canada is also inconsistent with subparagraph 3(1)(m)(iv) of the *Broadcasting Act*, which provides that:

[...] the programming provided by the Corporation should be in English and French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities.

iv) The Canadian Programming Exhibition Framework Approved in the Majority Decision Sets Out No Minimum Weekly Local Programming Obligations in the French- and English-language Metropolitan Markets Across Canada

The licensing framework approved in the majority decision does not include requirements for the broadcast of a minimum number of hours of local programming during each broadcast week, most of which is news programming, by Radio-Canada's conventional television network and stations for the French-language metropolitan market of **Montréal**.

In addition, the licensing framework approved in the majority decision does not include requirements for the broadcast of a minimum number of hours during each broadcast week of local programming by CBC's English-language conventional television network and stations for the metropolitan markets of **Calgary, Edmonton, Ottawa, Toronto and Vancouver**, as well as for the **English-language official language minority community in Montréal**.

The majority decision states the following in this regard at paragraph 459:

After reviewing the CBC's proposal, for the reasons set out above, the Commission is confident that the CBC will continue to broadcast local programming that is predominantly news in both the English- and French-language metropolitan markets. **Accordingly, the Commission finds that imposing a condition of licence relating to the broadcast of local programming in metropolitan markets is not necessary for the CBC to achieve the above-noted outcome in this regard.**" [emphasis added]

I disagree with this component of the majority decision as it raises a number of public policy and administrative law concerns.

First, CBC and Radio-Canada are leading sources of news and information for many Canadians, including those that reside in metropolitan markets. I note the following submission by the Corporation in its application at page 56 with respect to its news programming:

CBC/Radio-Canada was once again noted as Canada's most trusted Media and Entertainment brand in 2018 (Source: Gustavson Brand Trust Index 2019). **We remain committed to our role as Canada's most trusted news source.** [emphasis added]

In this proceeding, 53% of the roughly 10,000 interventions filed discussed the importance of the Corporation's news programming for Canadian audiences. Several interveners also underscored the importance of news and information programming for Canadians across the country. See for instance the interventions of ACTRA, the Canadian Media Guild (CMG), CMAC, Friends of Canadian Broadcasting, the FRPC, OUTtv Network Inc. (OUTtv), PIAC, The Ottawa Food Bank, Edmonton's Food Bank and others. The data on the public record also show that television remains the most important platform for Canadians to remain informed.⁶⁴

Second, the public record of this proceeding supports minimum obligations for the Corporation to broadcast local programming across Canada, not just in smaller markets. Indeed, several interveners including ACTRA, the CAB, the CMG, CMAC, Friends of Canadian Broadcasting, the FRPC and PIAC highlighted the importance of local programming licence obligations for CBC/Radio-Canada. This was also affirmed in the majority decision at **paragraph 446** as follows:

Most interveners from the industry and consumer groups **opposed a reduction in the amount of local programming provided by the CBC** [and Radio-Canada] on its licensed conventional audiovisual stations, while some interveners proposed increases in related requirements. [emphasis added]

The Corporation confirmed in its written submissions and at the oral phase of the public hearing that it believed that minimum obligations for local/news programming on its licensed conventional television stations was appropriate for Canadians in CBC/Radio-Canada's forward looking proposal.⁶⁵

Third, a very unfortunate outcome of the majority decision regarding the broadcast of local programming is that it appears that neither French-language nor English-language speakers in Montréal will be assured a minimum number of weekly hours of local programming on Radio-Canada or CBC's conventional television networks and stations during the next licence term. Indeed, the majority decision has not imposed minimum hourly obligations for the broadcast of local programming for both language groups in Montréal.

However, it would appear that minority French-language speakers in Vancouver, Edmonton, Calgary, Moncton, Ottawa and Toronto will be assured a minimum of five hours of French-language local programming each week under the framework approved in the majority decision.⁶⁶ I note the intervention of the English-language Arts Network (ELAN), the Quebec English-language Production Council (QEPC) and the Quebec Community Groups Network (QCGN) (together ELAN/QEPC/QCGN), which states that "OLMC/CLOSMs depend on our public broadcaster to meet our needs that cannot be met by commercial or foreign broadcasters."

⁶⁴ 2019 Media Technology Monitor.

⁶⁵ See 2019 licence renewal application of CBC/Radio-Canada; responses to undertakings filed by CBC/Radio-Canada dated 3 February 2021; and reply to interventions filed by CBC/Radio-Canada dated 17 March 2021. See also CBC/Radio Canada Public Hearing Transcript, line 1006.

⁶⁶ See paragraph 462 of the majority decision.

This component of the majority decision is inconsistent with subparagraph 3(1)(m)(iv) of the *Broadcasting Act*, which provides that the programming broadcast on CBC/Radio-Canada reflect the needs and circumstances of English- and French-language minority communities. It also appears to be inconsistent with section 41 of the *Official Languages Act*, which requires the Commission to ensure that positive measures are taken to enhance the vitality of English and French linguistic minorities in Canada.⁶⁷

Fourth, the removal of the minimum licensing obligations for local/news programming in metropolitan markets across Canada is inappropriate at this time given the crisis that has arisen in the provision of news and information. I note the following excerpt from the OUTv written intervention:⁶⁸

In our current digital age it may be that the Corporation has never been more important for Canadian society, our democracy and our culture. In a world where we are overflowing with information – both verifiably factual and false – the need for reliable sources have never been more urgent. One of the most unanticipated consequences of the digital revolution has been the demise of the traditional news outlets and journalism in particular.

Further, Canadians who reside in metropolitan markets, which includes many Indigenous Peoples, racialized persons, persons with disabilities, persons who self-identify as LGBTQ2, and members of other equity-seeking communities, should be assured a minimum number of hours of weekly local programming by their national public broadcaster. While this is true at the best of times, it is also particularly true in times of crisis, such as at the outbreak of the COVID-19 global pandemic, during which many Canadians in all markets across the country looked to CBC/Radio-Canada for reliable and trustworthy news and information.

Canadians who reside in metropolitan markets should not be compelled to access their news programming online, as suggested in the introduction to the majority decision.⁶⁹ Not all Canadians can access news and information content on online platforms in major centres for a variety of reasons. These include economic barriers to broadband services, and limited access to accessible content by persons with disabilities. It is important to recall that under the Corporation's Standards for Digital Accessibility, CBC/Radio-Canada does not, nor is it required to under the majority decision, provide closed captioning for live online news and information programming, described video for non-live online news and information programming or any audio description of any online news and information programming (whether it be live or not).

In light of the above, the majority decision not to impose minimum legal obligations for the broadcast of a minimum number of weekly hours of local programming in the metropolitan markets of Montréal, Calgary, Edmonton, Ottawa, Vancouver and Toronto is inconsistent with

⁶⁷ See the web page "[The CRTC and Official Language Minority Communities](#)" on the Commission's website, 1 June 2022.

⁶⁸ See also the interventions of the CAB and Friends of Canadian Broadcasting.

⁶⁹ Specifically, the majority decision states the following in this regard: "Canadians who live in metropolitan markets have access to multiple options when it comes to news and information audiovisual and radio programming not only on television and radio, but also when it comes to broadband Internet services."

subparagraphs 3(1)(d)(ii), 3(1)(d)(iii), 3(1)(i)(i) and 3(1)(i)(iii), and paragraphs 3(1)(l), 3(1)(m) and 3(1)(p) of the *Broadcasting Act*. These provisions require the broadcast of informative Canadian programming that includes content drawn from local, regional, national and international sources. These provisions also require the Corporation to provide programming for persons with disabilities as well as content in the English- and French-languages, including programming that reflects “the different needs and circumstances of English and French linguistic minorities”.

v) ***The Canadian Programming Exhibition Framework Approved in the Majority Decision Sets Out No Conditions of Licence for the Broadcast of French- and English-language Canadian Independent Production***

The majority decision adopts a licensing framework that sets out no conditions of licence for the broadcast of French- and English-language Canadian independently produced programming.

In its application, however, the Corporation proposed the following conditions of licence for independently produced Canadian content, all of which are currently set out in a similar form in CBC/Radio-Canada’s current broadcasting licences:⁷⁰

- At least 80% of the hours of Canadian PNI broadcast on Radio-Canada’s conventional television network and stations shall be devoted to Canadian programs produced by independent production companies.
- At least 80% of the PNI broadcast on CBC’s conventional television network and stations shall be devoted to Canadian programs produced by independent production companies.
- At least 80% of the hours of Canadian children’s and youth programming broadcast on Radio-Canada’s conventional television network and stations shall be devoted to Canadian programs produced by independent production companies.
- At least 80% of the hours of Canadian children’s and youth programming broadcast on CBC’s conventional television network and stations shall be devoted to Canadian programs produced by independent production companies.
- At least 50% of the Canadian programs broadcast by ICI ARTV shall come from independent production companies.⁷¹

⁷⁰ These conditions of licence are set out in the Corporation’s existing licences either at the same levels set out below or with slightly varying percentage obligations.

⁷¹ Note that the Corporation had proposed that the Commission remove the following condition of licence from ICI ARTV’s broadcasting licence: “The licensee shall devote at least 20%, averaged over the licence term, of the annual budgets for original Canadian production to programs produced outside Quebec. At least 50% of these amounts shall be devoted to Canadian programs from independent production companies outside Quebec.” The evidence on the public record overwhelmingly supported maintaining this condition of licence given the importance for Francophones who reside in OLMCs to access cultural and artistic programming that reflects their needs and interests. I disagree with the majority’s decision to remove this obligation from the ICI ARTV licence.

- The documentary Channel shall license from independent production companies not less than 75% of its original, first-run Canadian content hours.
- Not less than 25% of all Canadian programs broadcast by the documentary Channel, other than news, sports and current affairs programming, shall be produced by independent production companies.
- **Balanced Programming Offer:** note that the balanced programming offer condition of licence approved by the majority for CBC and Radio-Canada's conventional television services no longer includes the language that requires the Corporation to include Canadian independently produced programming in its schedule, contrary to what was proposed by the Corporation and as currently set out in CBC/Radio-Canada's conventional television licences.

The Corporation affirmed at the hearing that Canadian independent producers are important partners for CBC/Radio-Canada, and that it proposed to maintain these measures in part to reassure the industry of the public broadcaster's intent to continue to work with Canadian producers during the next licence term.⁷²

Many interveners supported licensing requirements regarding the broadcast of French- and English-language Canadian independent productions, and highlighted the importance of independently produced programs for ensuring the availability of a diversity of high-quality content in our broadcasting system for the years ahead.⁷³ In some instances, interveners proposed stronger measures for independent production than those proposed by the Corporation to ensure that CBC/Radio-Canada fully meets its statutory mandate.

I note that the public record shows that the percentage of programs produced by Canadian independent producers (for content other than news, sports and current affairs programs) fell on both CBC and Radio-Canada during the last licence term as follows:

TABLE 2: Percentage of Canadian Programs Dedicated to Independent Production by CBC and Radio-Canada's Conventional Television Networks and Stations

Conventional Television Stations that broadcast Canadian programming produced by independent producers	2014-2015 broadcast year	2018-2019 broadcast year
Radio-Canada	92%	72%
CBC	88%	81%

⁷² CBC/Radio-Canada Public Hearing Transcript, lines 62 and 63.

⁷³ See for instance the interventions of ACTRA, AMPIA, APTN, the AQPM, AQTIS/ARRQ/SARTEC/UDA, the CMPA, the DGC, the Documentary Organization of Canada, Eagle Vision, La Table, On Screen Manitoba and the WGC.

The determinations in the majority decision not to impose any minimum legal obligations regarding the broadcast of Canadian independent productions may exacerbate this downward trend.

While the majority decision includes a number of expectations regarding independently produced French- and English-language programs in the Corporation's licences, expectations are not legal obligations imposed on the Corporation, and have no force of law, as stated earlier. An expectation is also not enforceable in the same manner as a condition of licence under the *Broadcasting Act*, such as pursuant to section 25 should compliance issues arise during the Corporation's next licence term.

Parliament has determined that Canadian independently produced programs are an important and integral part of Canada's broadcasting system. The *Broadcasting Act* provides at subparagraph 3(1)(i)(v) that:

[...] the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.

The majority decision not to impose any conditions of licence within the Corporation's linear television licences regarding the broadcast of Canadian independent productions is inconsistent with the above-mentioned provisions of the *Broadcasting Act*. It is also a major shift in the Commission's licensing approach that should be addressed at a policy hearing.

Finally, a number of representatives of independent producers in this proceeding, such as the AQPM, the CMPA, and Eagle Vision, submitted that it is increasingly difficult for independent producers to negotiate program rights with the Corporation for the creation of new Canadian content and for licensing existing Canadian programming. They and others⁷⁴ therefore called for the re-implementation of terms of trade provisions in the Corporation's renewed licences to address this concern.

The challenges faced by the independent production community were affirmed in the majority decision as follows at paragraph 290:

Most of the interveners who commented on the issue of independent productions **voiced concerns over commercial deals and the fact that production negotiations are increasingly difficult** [emphasis added]

Despite this acknowledgement, the majority removed all legal obligations for the broadcast of French- and English-language Canadian independently produced programs by CBC's and Radio-Canada's licensed television services. This omission by the majority may further diminish the bargaining position of all Canadian independent producers vis-à-vis the Corporation, thereby impacting on program rights ownership and potentially weakening the Canadian independent production sector domestically and internationally.

⁷⁴ See also the intervention of ELAN/QEPC/QCGN.

vi) The Canadian Programming Exhibition Framework Approved by the Majority Does Not Set Out a Minimum Requirement for the Broadcast of Canadian Feature Films, CBC

The majority decision does not impose a condition of licence in the CBC's conventional television licences (network and stations) that requires the broadcast of one Canadian feature film per month. It should be noted that this obligation is set out in the current CBC television licences, and that the Corporation proposed to renew this condition of licence for the next licence term. Several interveners supported its renewal, including the DGC, Eagle Vision, On Screen Manitoba and the CMPA.

One of the two reasons identified in the majority decision for not imposing this condition of licence is because Canadians now have access to many online digital options for watching feature films. While it is true that many Canadians can effectively access feature films across a range of Canadian and foreign online streaming platforms, this rationale neglects the fact that millions of Canadians are not able to watch feature films on online subscription video services or on CBC Gem due to limited access to broadband Internet services and reduced access to online content by persons with disabilities. Moreover, it does not reflect the evidence on the public record that shows that Canadian audiences continue to watch feature films on traditional television.⁷⁵

It would have been appropriate for the majority decision to establish as a priority for Canada's public broadcaster to broadcast at least one Canadian feature film during each broadcast month. This would provide Canadians who continue to watch and enjoy feature length productions on conventional television with the certainty that they can continue to count on the CBC to provide them with this type of content during the next licence period.

8. Consultations, Perception Surveys and Reporting

I turn now to the portion of the majority decision that relates to consultations, perception surveys and reporting. The majority decision increases the Corporation's reporting obligations regarding the programming broadcast on its licensed television services and on its online audiovisual platforms, as well as in relation to the Corporation's hiring practices. It also expands the Corporation's obligations to consult with equity-seeking communities. While these measures are important and helpful complementary tools to regulation, they do not, and should not, replace clear, measurable, transparent and effective regulatory obligations to ensure the Corporation's contributions and accountability to all Canadians.

a) Consultations

With regard to consultations, the majority decision has rightly required that the Corporation, in addition to consulting with French- and English-language OLMCs and producers (a renewed obligation from the existing licence term) and consulting with Indigenous communities and producers (a proposal made by the Corporation in this proceeding), to also consult with other equity-seeking communities during the next licence term. These additional communities consist

⁷⁵ See intervention of the DGC.

of racialized persons, persons with disabilities and persons who self-identify as LGBTQ2 as well as producers from these communities.⁷⁶

While the consultations will help inform the Corporation about the needs and interests of the many communities that it serves, these consultations will not necessarily translate into airtime or financial resources dedicated to programming for equity-seeking communities. Indeed, these consulting measures are an important tool for determining programming strategies and the types of content and stories that need to be told, and for establishing hiring practices. They do not, however, establish minimum legal licence obligations for the manner in which the Corporation should meet its statutory mandate. That is the role and responsibility of the Commission.

b) Perception Survey

The majority decision requires the Corporation to file perception surveys that are already conducted by CBC/Radio-Canada in part as a means of replacing effective regulation. These surveys should, however, work concurrently with, and not as a replacement for, objective, predictable, transparent and measurable legal obligations.

Under the Corporation's current licence, it is required to file perception surveys for the French- and English-language OLMCs in Canada. The majority decision has expanded this requirement to include the broader perception surveys that the Corporation already conducts each year. The Corporation stated in this proceeding, however, that its perception surveys should not be used for determining regulatory compliance:

CBC/Radio-Canada's *Mandate and Vision Perception Survey* is an internal document that allows us to monitor how well Canadians believe our services fulfill both our mandate under the 1991 *Broadcasting Act* and the vision of our previous five year corporate strategy, *Strategy 2020*. [...] **We believe these types of metrics are not appropriate regulatory tools for evaluating regulatory compliance.**⁷⁷ [emphasis added]

The Corporation's perception survey was also discussed at the public hearing. The Corporation affirmed that these surveys are recollection based and help inform the Corporation to better understand the views of Canadians regarding their experience with CBC and Radio-Canada.⁷⁸ Hence, these surveys can be helpful in assisting the Corporation to better understand its audiences and their needs. They are not, however, tools for ensuring CRTC regulatory compliance.

It should also be noted that the filing of more detailed perception studies that the Corporation already conducts, while useful and informative, will not serve as effective replacements for regulation. I note that the Corporation was required to conduct and submit perception studies for the French- and English-language official language minority communities during the current

⁷⁶ The obligation for the Corporation to conduct consultations with these three additional equity-seeking communities commences in the 2024-2025 broadcast year, that is, the third year of the five-year licence term.

⁷⁷ See the Corporation's response to deficiency questions dated 30 October 2019 at pages 4-5.

⁷⁸ See CBC/Radio-Canada Public Hearing Transcript, line 378.

licence term. While the record shows that there was an improvement in the on-screen reflection of OLMCs during the current licence period, many representatives from French- and English-language minority language communities stated that they believed further progress was required in this regard.⁷⁹

c) Reporting

The majority decision has increased the number of reports that the Corporation must file with the Commission annually. It has done so, in part, as a replacement for regulation for the country's national public broadcaster.⁸⁰ The Corporation's reports to the Commission will, however, be far less effective during the next licence term given that the Canadian programming exhibition framework and cross-platform expenditure obligation approved in the majority decision include very few objective, predictable, transparent and measurable legal obligations regarding the broadcast of Canadian programming.

The Corporation is currently required to file a number of reports with the Commission each year. In its application, the Corporation proposed to maintain many of its filing obligations. It also proposed to increase its reporting obligations to the Commission to improve its transparency to Canadians, and to improve the representation of equity-seeking communities in its workforce and in its programming.

A number of interveners raised concerns during this proceeding regarding the public availability of information from the Corporation.⁸¹ While these interveners did request greater reporting obligations and transparency, they also called for a strong regulatory framework to be included in the Corporation's linear television licences. They did not call for increased reporting as a substitute to effective, outcomes-based regulation.

The following outlines the additional reporting obligations to which the Corporation will be required to adhere during its next licence term, pursuant to the majority decision, that relate to and impact television broadcasting. Most of these reports, except for the report regarding industry and community consultations, are, however, either already prepared internally by the Corporation or are similar types of reports that the Corporation had proposed to file.

- 1) ***Annual Perception Survey***: The majority decision requires the Corporation to file an expanded annual perception survey. The Corporation, however, has been conducting this survey for years. The obligation to file it with the Commission therefore places no further regulatory burden on the Corporation.
- 2) ***Audiovisual Production Report***: This is an expanded programming report from that the Corporation proposed in its original application to submit. In its submissions, the

⁷⁹ See for instance the interventions of the AAAPNB, the AFO, ELAN/QCGN/QEPC, the Fédération acadienne de la Nouvelle-Écosse, the FCFA, the Fédération de la jeunesse canadienne française, the Fédération culturelle canadienne-française and the Société Nationale de l'Acadie.

⁸⁰ See for instance the introduction to the majority decision, as well as paragraphs 32, 59, 306, 329, 367, 463 and 620 of the majority decision, which discuss the use of reports instead of regulation.

⁸¹ See the interventions of ACTRA, the APFC, AQTIS/ARRQ/SARTEC/UDA, ADISQ, the CMPA, CMAC, the DGC, the FRPC, Friends of Canadian Broadcasting, On Screen Manitoba and the WGC.

Corporation indicated that it would be amenable to filing an annual production report with the Commission.⁸² The Corporation also proposed to file digital media reports that would include data about the original first-run programs broadcast on its online platforms. This obligation does not place an undue burden on the Corporation. The majority confirmed this at paragraph 621 of the majority decision when it stated: “In the Commission’s view, this requirement [filing the audiovisual production report] will not pose a heavy administrative burden on the CBC given that it must already identify the target audiences for its programming in its current program logs and annual returns.”

- 3) ***Reports regarding the consultations with racialized persons, persons with disabilities and persons who self-identify as LGBTQ2:*** This is effectively a new additional report to be filed by the Corporation. Given the Corporation’s stated commitment at the hearing regarding equity, diversity and inclusion in the workplace and on-air, and the resources it has at its disposal, CBC/Radio-Canada should have the resources to prepare and complete these additional reports.
- 4) ***Diversity and Inclusion Filing Obligations:*** The Corporation proposed to provide a report on its diversity hiring practices that showed the percentage of diverse staff that it hired during the broadcast year and at the management level at CBC/Radio-Canada. It also proposed to provide annual statistics regarding diversity in CBC/Radio-Canada’s commissioned and in-house programs. The Corporation also proposed to file annual statistics regarding diversity in CBC/Radio-Canada’s commissioned programs. Instead of these proposed diversity reports, the majority has required the Corporation to file Diversity of Workforce reports showing the staff members who have an impact on programming decision-making. The majority has also required CBC/Radio-Canada to file reports on parameters of self-identification and best practices surrounding privacy issues.
- 5) ***Management Response to Ombudsman Report:*** The majority decision requires the Corporation to apprise the Commission of CBC/Radio-Canada’s management response to the Ombudsman Annual Report. Preparing such a report should not be burdensome as it involves relaying information about a response to a completed report.
- 6) ***Online Described Video Reporting:*** The Corporation proposed to file annual reports regarding the closed captioning of programming broadcast on non-linear platforms in accordance with Broadcasting Regulatory Policies 2016-436 and 2015-104. To this report, the majority decision has rightly added a reporting obligation regarding video description of the Corporation’s online programming.

The CBC submitted in this proceeding that any reporting requirements in addition to both the imposition of Canadian programming expenditure and exhibition requirements would present excessive regulatory and administrative burdens.⁸³ The majority decision also discusses

⁸² See for instance the CBC/Radio-Canada application, page 166.

⁸³ See paragraph 601 of the majority decision.

administrative and regulatory burden in a number of instances. The outline above regarding CBC/Radio-Canada reporting obligations, however, shows that while there will be an increase in the Corporation's reporting requirements, this should not be overly burdensome for Canada's public broadcaster. It should also be noted that in its original application, the Corporation was comfortable with both extensive reporting obligations and licensing obligations for its linear television services.

While I support increased reporting from the Corporation, the above-mentioned reports should work concurrently with, and not as replacements for, objective, predictable, transparent and measurable legal obligations set out in CBC/Radio-Canada's linear television licences. Without the clear and measurable outcomes as a result of the determinations in the majority decision not to impose comprehensive Canadian programming exhibition obligations, it will be very difficult to determine at the Corporation's next licence renewal hearing, despite the additional reporting measures, whether the Corporation has met its licensing obligations, its mandate and the public policy objectives of the *Broadcasting Act* regarding the broadcast of Canadian programming.

9. A Way Forward

The better approach would have been for the Commission to approve a licensing framework for CBC/Radio-Canada that provided a more measured bridge to the digital future, that is more reflective of the public record and that better balances the interests of all Canadians, creators and industry participants. The Commission could have done this in addition to adopting the important new programming measures for the equity-seeking communities, community/producer consultations and some additional reporting.

The Commission could then conduct a review of its Digital Media Exemption Order and its *Let's Talk TV* policy framework to create a contemporary and future-facing policy framework for Canadian television and audiovisual content. It could consider within those proceedings whether it is appropriate, and the extent to which any regulatory measures are required for online platforms. Broadcasters, digital experts, online platforms, content creators, citizens, representatives of equity-seeking communities, consumer interest groups and others could provide invaluable evidence and insights in those proceedings.

Once in place, the Commission could then apply the new policy frameworks equitably and as appropriate to all players in the broadcasting system in order to create a vibrant, modern and competitive broadcasting system for Canada. At that point, the roll out of high speed broadband Internet services should have progressed further in many regions of the country, including the North. In this regard there are many private, public and community initiatives, including the Commission's own broadband fund,⁸⁴ supporting the expansion of broadband infrastructure in rural, remote and underserved regions across Canada.

When applying the new digital policy frameworks, it will likely be time for the Corporation's next licence renewal proceeding. At that point, the Commission could further review and update the Corporation's licences to ensure that they continue to meet the needs and reflect the interests

⁸⁴ The Commission has established a \$750 million broadband fund to help provide all Canadians with access to broadband Internet and mobile wireless services. See Telecom Regulatory Policy 2016-406 and Telecom Regulatory Policy 2018-377, and Telecom Notice of Consultation 2019-372.

of all Canadians, across all of its platforms, wherever Canadians are seeking to access, consume and engage with a plethora of engaging and innovative content.

10. Conclusion

In light of the above, I disagree with the licensing framework set out in the majority decision. In my view, it is not supported by the public record or required by the Corporation at this time to continue to properly serve Canadians and continue to innovate, create and evolve in the fast changing digital media environment. The lack of minimum requirements for the Corporation's licensed television services also raises access to programming concerns for many individuals in all corners of the country.

The majority decision does not sufficiently meet, and in many instances is inconsistent with, the public policy objectives of the *Broadcasting Act*. It creates serious monitoring and compliance issues. It also creates a significant regulatory asymmetry within the Canadian broadcasting system between CBC/Radio-Canada and all other Canadian linear television broadcasters.

Given the important role that CBC/Radio-Canada plays within the Canadian broadcasting system, and the legislative and policy frameworks governing this public proceeding, the Commission could have done far more for the Corporation, Canadian citizens, equity-seeking communities, the creative sector, and the Canadian broadcasting system as a whole in this licence renewal decision.