



# Broadcasting Notice of Consultation CRTC 2022-252

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Ottawa, 21 September 2022

*Public record: 1011-NOC2022-0252*

## Notice of hearing

**10 January 2023**  
**Gatineau, Quebec**

**Deadline for submission of interventions/comments/answers: 7 November 2022**

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

The Commission will hold a hearing commencing on **10 January 2023 at 11:00 a.m. at the Commission Headquarters, 1 Promenade du Portage, Gatineau, Quebec**. The Commission intends to consider the following applications, subject to interventions, without the appearance of parties:

### Applicant and locality

1. **Nunavut Independent Television Network**  
Across Canada  
Application 2021-0527-0
2. **Natyf Inc.**  
Province of Quebec  
Application 2021-0215-1

### Introduction

As part of this proceeding, the Commission will be examining two applications, filed by Nunavut Independent Television Network (NITV) and Natyf Inc. (Natyf), to receive mandatory distribution as part of the digital basic service for their respective discretionary services Uvagut TV and Natyf TV. NITV is applying for mandatory distribution of Uvagut TV across Canada, whereas Natyf is requesting mandatory distribution of Natyf TV in the province of Quebec only.

In both cases, the applicants specified that mandatory distribution is vital for the operation of their services, since they are targeting underserved communities.

Currently, NITV and Natyf operate the above-noted discretionary services as exempt discretionary services pursuant to the Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers, set out in the appendix to *Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers*, Broadcasting Order CRTC 2015-88, 12 March 2015 (Broadcasting Order 2015-88).

**Canada**

## What is mandatory distribution on the digital basic service?

When Canadians buy access to television services from a broadcasting distribution undertaking (BDU), there are certain television services that automatically come with the basic service package, such as all local television stations, provincial educational services, community channels and provincial legislature channels, if available.

A few of these services are deemed to contribute in an exceptional manner to the achievement of the objectives of the *Broadcasting Act* (Act) and are mandated by the Commission to be part of every Canadian's basic service package pursuant to paragraph 9(1)(h) of the Act.<sup>1</sup> When requiring the mandatory distribution of these services, the Commission may also set a per subscriber monthly rate that must be paid by the BDU to the programming service to distribute that service.

The distribution of such services as part of the basic service ensures that broadcasters have access to a reasonably reliable revenue stream, thereby enabling them to meet meaningful programming obligations and contribute in an exceptional manner to the achievement of the objectives of the Act (for example, by offering programming that is relevant to underserved communities).

## Criteria for assessing applications for mandatory distribution on the digital basic service

Any applicant submitting an application for mandatory distribution on the digital basic service must demonstrate that its programming service meets the specific criteria set out in *Criteria for assessing applications for mandatory distribution on the digital basic service*, Broadcasting Regulatory Policy CRTC 2010-629, 27 August 2010 (Broadcasting Regulatory Policy 2010-629), which read as follows:

- The applicant must provide evidence demonstrating the exceptional importance of its service to the achievement of the objectives of [the Act].
- The applicant must demonstrate that having mandatory carriage on the digital basic service will enable its service to contribute in meaningful ways to fulfilling the policy objectives of the Act. In particular, the applicant must:
  - a. provide evidence that the programming of its service makes an exceptional contribution to Canadian expression and reflects Canadian attitudes, opinions, ideas, values and artistic creativity. Specifically, the applicant must demonstrate that the contribution it intends to make to Canadian expression

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<sup>1</sup> Pursuant to paragraph 9(1)(h) of the Act, “[...] the Commission may, in furtherance of its objects [...] require any licensee who is authorized to carry on a distribution undertaking to carry, on such terms and conditions as the Commission deems appropriate, programming services specified by the Commission.”

and reflection significantly exceeds that normally made by a Category A service,<sup>2</sup> thus justifying its exceptional status under a 9(1)(h) order.

- b. provide evidence as to how the programming of its service contributes, in an exceptional manner, to the overall objectives for the digital basic service<sup>3</sup> [...] and how it specifically contributes to one or more objectives of the Act, such as Canadian identity and cultural sovereignty; ethno-cultural diversity, including the special place of [Indigenous] peoples in Canadian society; service to and the reflection and portrayal of persons with disabilities; or linguistic duality, including improved service to official language minority communities.<sup>4</sup>
- c. provide evidence that the service is making exceptional commitments to original, first-run Canadian programming in terms of exhibition and expenditures. Specifically, the applicant must demonstrate that the commitments it intends to make to original, first-run Canadian programming through exhibition and expenditures justify its exceptional status under a 9(1)(h) order. An “original, first-run program” is defined as the “original exhibition of a program that has not been distributed by another broadcasting undertaking licensed by the Commission.”
- d. provide evidence, such as surveys of the prospective audience, demonstrating that there is extraordinary need among the intended audience for the proposed service.
- e. provide evidence that its business plan and implementation of its specific commitments are dependent on receipt of broad national distribution on the digital basic service, given the availability of other technological means for distributing content, and that the service would not be able to fulfill its programming commitments without mandatory distribution on the basic service.

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<sup>2</sup> Category A services are defined in *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008. However, as specified in *Let’s Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015, services formerly referred to as pay and specialty services, including Category A services, are now referred to as discretionary services.

<sup>3</sup> These general objectives are set out in paragraph 10 to Broadcasting Regulatory Policy 2010-629.

<sup>4</sup> Subparagraph 3(1)(d)(iii) of the 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. In previous decisions, the Commission has given consideration to the interests of equity seeking groups who are not specifically named in the Act, including LGBTQ2 communities and groups seeking gender equity.

- f. provide evidence of the likely impact of the proposed wholesale rate on the price of the basic package to consumers and of its widespread acceptability to Canadians.
- g. provide evidence to support the proposed timeframe during which its service should have exceptional status under an order pursuant to [paragraph] 9(1)(h) of the Act.

As part of their applications, NITV and Natyf each provided a supplementary brief outlining how their proposed services would meet the above-noted criteria for mandatory distribution on the digital basic service. The applicants also provided other evidence and arguments to support the issuance of an order for mandatory distribution of the proposed services on the digital basic service.

## **Applications received**

### **1. Nunavut Independent Television Network**

Across Canada

Application 2021-0527-0

Application by Nunavut Independent Television Network (NITV) for the exempt national, Indigenous-language discretionary service Uvagut TV to be granted mandatory distribution as part of the digital basic service of BDUs across Canada, pursuant to paragraph 9(1)(h) of the Act.

NITV is a not-for-profit organization whose board of directors consists of Inuit media professionals.

In its application, NITV indicated that Uvagut TV, which launched on 18 January 2021, is the first and only national television service<sup>5</sup> that is devoted to Inuit communities and that broadcasts primarily in Inuktitut. NITV stated that Uvagut TV, as a small independent service created by and for the Inuit, fills an important void by offering not only programming for Inuit, but also by reinforcing ties and fostering an understanding between Inuit and all Canadians.

The applicant indicated that Uvagut TV broadcasts Inuit-made children's shows, movies, documentaries, and informational, cultural, public access and current affairs programming.

The applicant indicated that Uvagut TV is similar to a public television service that brings significant advantages to an underserved segment of the Canadian population that would probably not have access to such a service without a mandatory distribution order. It considered that granting the service mandatory distribution pursuant to

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<sup>5</sup> Since NITV filed its application, Inuit TV, another discretionary service targeting Inuit communities, began operations (with a launch date of 2 May 2022). Inuit TV operates as an exempt service pursuant to Broadcasting Order 2015-88, and has been recognized as a regional educational service by the Government of Nunavut.

paragraph 9(1)(h) of the Act would provide it with the necessary financing to allow it to increase Uvagut TV's personnel and operations, and to respect its commitments relating to original Canadian productions, expenditures on Canadian programs, regional representation and the creation of jobs.

The applicant noted that the service is currently available in basic packages through Shaw Communications Inc.'s direct-to-home satellite BDU throughout Canada and through several smaller exempt terrestrial BDUs.

The applicant proposed a monthly per subscriber wholesale rate of \$0.09, for a period of five years.

As noted above, the applicant currently operates Uvagut TV as an exempt discretionary service pursuant to Broadcasting Order 2015-88. NITV indicated that Uvagut TV has passed the maximum subscriber threshold and can therefore no longer operate as an exempt service under Broadcasting Order 2015-88. Accordingly, and independent of its request for mandatory distribution of the service, NITV requested a broadcasting licence to operate the currently exempt service Uvagut TV as a licensed national, Indigenous-language discretionary service.

Applicant's address:

P.O. Box 246

Main Street

Igloolik, Nunavut

X0A 0L0

Fax: 514-486-9851

E-mail: [info@uvagut.tv](mailto:info@uvagut.tv)

E-mail to request electronic version of application: [info@uvagut.tv](mailto:info@uvagut.tv)

## **2. Natyf Inc.**

Province of Quebec

Application 2021-0215-1

Application by Natyf Inc. (Natyf) for the exempt French-language discretionary service Natyf TV to be granted mandatory distribution as part of the digital basic service of BDUs across the Province of Quebec, pursuant to paragraph 9(1)(h) of the Act.

On air since 2018, Natyf TV serves a multicultural Francophone public, offering programming on the themes of culture, fashion, well-being and the arts. Natyf indicated that more than a million people across Quebec from cultural communities can see themselves reflected across its service with content created by and for them. It added that one of its most important mandates is the broadcast of content from local producers from cultural communities to allow for a new generation of script writers, directors, actors and producers from these communities to launch their careers in the French-language market. The applicant noted that Natyf TV is presently offered by Bell Canada, through its terrestrial BDUs and its direct-to-home satellite BDU.

Natyf indicated that it will not be able to meet its objectives, such as bringing about the emergence of a new generation of Francophone creators from racialized communities, if it does not receive wider distribution allowing it to connect with its target public and if it does not benefit from greater financial support.

The applicant proposed a monthly per subscriber wholesale rate of \$0.12, for a period of five years.

As noted above, the applicant currently operates Natyf TV as an exempt discretionary service pursuant to Broadcasting Order 2015-88. If Natyf's request for mandatory distribution on the digital basic service is granted, Natyf TV would no longer be eligible to operate under the exemption order as the total number of subscribers served by the service would exceed 200,000. Therefore, a broadcasting licence for a discretionary service would need to be issued.

Applicant's address:

4824 de la Côte-des-Neiges Road  
Suite 203

Montréal, Quebec

H3V 1G4

Fax: 514-564-4374

E-mail: [info@natyf.com](mailto:info@natyf.com)

Website to view application: [www.natyf.com](http://www.natyf.com)

E-mail to request electronic version of application: [info@natyf.com](mailto:info@natyf.com)

## **Procedure**

### **Deadline for interventions, comments or answers**

**7 November 2022**

The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations.](#)" *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010, provides information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

The Commission invites interventions in regard to the applications set out in this notice of consultation. Although the Commission welcomes interventions from Canadians across Canada, it is particularly interested in receiving interventions from members of the various communities targeted by the applications.

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

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

or

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

or

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

The Commission encourages interested persons who wish to intervene in this proceeding but who do not have access to the Internet to file their interventions by either postal mail or fax.

The Commission will accept interventions that it receives on or before **7 November 2022**. Given that interveners from certain communities that do not have adequate Internet services, such as communities in Canada's North, may wish to file their interventions by postal mail, the Commission has provided more time for the submission of interventions than it normally does for its public proceedings.

An intervention as well as an answer from a respondent (that is, a person that is adverse in interest to the applicant) must be received by the Commission on or before the above-mentioned date. Further, a copy of each intervention or answer from a respondent must be sent to the applicant and, in the case of a respondent to an application, to any other respondent, by the same date.

In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.

Interventions and answers must clearly identify the application referred to and indicate whether parties support or oppose the application, or, if they propose changes to it, include the facts and grounds for their proposal.

Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the covering letter to be filed by the parties, can be found in *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for broadcasting policy proceedings*, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010.

The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

Pursuant to *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.

Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Although the public hearing will be held in **Gatineau, Quebec**, the Commission will consider providing videoconference links to enable remote participation (audio or video), should it receive requests to do so.

Persons requiring communications support such as assistance listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the public hearing so that the necessary arrangements can be made.

## Important notice

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

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

## Availability of documents

Electronic versions of the applications are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by selecting the application number within this notice. They are also available from the applicants, either on their websites or upon request by contacting the applicants at their email addresses, provided above.

Links to interventions, replies and answers filed for this proceeding, as well as other documents referred to in this notice, are available on the Commission's "[Consultations and hearings: have your say](#)" page.

Documents are available upon request during normal business hours by contacting:

Documentation Centre  
[Examinationroom@crtc.gc.ca](mailto:Examinationroom@crtc.gc.ca)  
Tel.: 819-997-4389  
Fax: 819-994-0218

Client Services  
Toll-free telephone: 1-877-249-2782  
Toll-free TTY: 1-877-909-2782

Secretary General