



## Broadcasting Notice of Consultation CRTC 2024-137

PDF version

Ottawa, 25 June 2024

*Public record: 1011-NOC2024-0137*

### Call for comments – Development of a regulatory policy for closed captioning provided by online streaming undertakings

#### Summary

When the *Online Streaming Act* came into force, it amended the *Broadcasting Act* to include, as a policy objective, that programs should be accessible without barriers to persons with disabilities. Pursuant to paragraph 3(1)(p.1) of the *Broadcasting Act*, programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including without limitation, closed captioning services to assist persons who are Deaf or hard of hearing.<sup>1</sup>

Closed captioning enables persons who are Deaf or hard of hearing to have full access to audio-visual content by displaying what is being said and providing additional contextual information for the viewer by describing who is speaking, what music is playing, and other audible cues.

Canadians who use closed captioning should have access to the highest possible quality of closed captioning, regardless of whether they are accessing programming online or through traditional television services.

In this public proceeding, the Commission wishes to identify, remove and prevent barriers to access online content for persons who are Deaf or hard of hearing by seeking comments on the establishment of a regulatory policy regarding closed captioning of programs provided by online streaming undertakings operating in Canada. This will help make the broadcasting system more accessible and further the policy objectives of the *Broadcasting Act*. It will also be consistent with the purposes of the *Accessible Canada Act* to make Canada free from barriers for persons with disabilities by 2040.

The Commission notes that it is not considering amendments to the current captioning standards for traditional television platforms as part of this proceeding.

The deadline for the receipt of comments is **19 August 2024**. Only parties who file comments may file a reply to matters raised during the comment phase. The deadline for the filing of replies is **18 September 2024**.

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<sup>1</sup> In the *Broadcasting Act*, these individuals are referred to as persons living with an auditory impairment.

Key information from this notice is available in American Sign Language (ASL) and Langue des signes québécoise (LSQ). The Commission will accept video comments and replies in ASL and LSQ for this proceeding.

## Background

1. On 27 April 2023, the *Online Streaming Act* came into force.<sup>2</sup> This Act includes, among other things, amendments to the *Broadcasting Act* that reinforce the importance of the provision of programs that are accessible without barriers to persons with disabilities. Pursuant to paragraph 3(1)(p.1) of the *Broadcasting Act*, programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including without limitation, closed captioning services available to assist persons who are Deaf or hard of hearing.<sup>3</sup>
2. For persons who are Deaf or hard of hearing, closed captioning is a critical means of making audio-visual television programming accessible, including news, entertainment and sports. The Commission's existing rules for closed captioning of television programming reflect this importance. These same sources of information and entertainment are increasingly available online through a variety of platforms.
3. Closed captioning can also be used by persons who are not Deaf or hard of hearing. For example, it can help people with auditory processing disorders by helping them process what they heard more quickly. It can benefit individuals who are learning English or French to improve comprehension and fluency and may help to improve literacy skills in individuals who are learning to read. It may also be used for convenience, for example in public spaces where the television sound volume has been reduced or turned off.
4. The Commission is of the view that Canadians who use and rely on closed captioning should have broad access to the highest possible quality of closed captioning, regardless of whether they are accessing that content online or through traditional television services. This will help make the broadcasting system more accessible and further the policy objectives of the *Broadcasting Act*. It will also be consistent with the goal of the *Accessible Canada Act* to make Canada free from barriers for persons with disabilities by 2040, as well as with principles of that Act that all persons are to have barrier-free access to full and equal participation in society, that policies must take into account the disabilities of persons, and that persons with disabilities must be involved in the development of those policies.

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<sup>2</sup> *An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts*, SC 2023, c 8.

<sup>3</sup> Closed captioning is the on-screen textual representation of the audio component of an audio-visual program. It displays a text rendition of all significant audio content, including on-screen dialog and non-speech contextual information such as sound effects, what music is playing, the identity of speakers and their manner of speaking.

## **Sustainable and Equitable Broadcasting Regulatory Framework**

5. On 22 November 2023, the Government of Canada published an *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*,<sup>4</sup> a policy direction that guides the Commission in its implementation of the amended *Broadcasting Act*. Among other requirements, it directs the Commission to regulate and supervise the Canadian broadcasting system with a view to supporting the provision of programming that is accessible without barriers to persons with disabilities.

### **Call for comments**

6. To identify, remove and prevent barriers to access to online content for persons who are Deaf or hard of hearing, the Commission will develop a regulatory policy regarding closed captioning of programs provided by online streaming undertakings operating in Canada.
7. Accordingly, the Commission is seeking comments on the following issues:
  - availability of closed captioning;
  - quality of closed captioning;
  - reporting and compliance;
  - addressing complaints;
  - consultations with Deaf and hard of hearing communities;
  - online streaming undertakings that should be subject to the new regulatory policy; and
  - implementation.

### **Availability of closed captioning**

8. Currently, licensees of all English- and French-language television services are required to caption 100% of programs over the broadcast day. Television stations and discretionary services are also expected to provide closed captioning for programming aired during the overnight period, where available.
9. On-demand services, such as pay-per-view and video-on-demand services, are required to caption 100% of English- and French-language programming in their inventories.

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<sup>4</sup> *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*, SOR/2023-239, 22 November 2023.

10. Licensees of television stations and discretionary services are also subject to requirements relating to closed captioning of advertising, sponsorship messages, and promotional content, whereas licensees of other types of television services, such as on-demand services, have expectations in this regard.
11. In Broadcasting Regulatory Policy 2015-104, the Commission determined that the online availability of closed captioning should be increased and stated that, at the time of their next licence renewals, broadcasters would be expected to ensure that when programming with closed captioning on traditional platforms is made available on non-linear online platforms, the closed captioning is included.
12. In Broadcasting Regulatory Policy 2016-436, the Commission acknowledged that licensees are not able to control whether third parties adhere to closed captioning requirements. Therefore, it amended the expectation relating to the provision of closed captioning on non-linear online platforms so that it applies only in regard to such platforms operated by the licensee.
13. While closed captioning seems to be widely available on most major online streaming platforms, this is not always the case. For example, availability may differ depending on the language of the content or its country of origin. Live programs may also be less likely to be captioned than pre-recorded programs.
14. In light of the above, the Commission seeks comments on the following:

Q1. What should the Commission consider when deciding which online streaming undertakings should be subject to the regulatory policy on closed captioning? For example, should it be based on subscriber numbers, revenues, or some other criteria to determine applicability?

Q2. Should the Commission require online streaming undertakings to provide closed captioning for 100% of English- and French-language pre-recorded programs in their inventories?

Q3. Is it feasible and appropriate for the Commission to require online streaming undertakings to provide closed captioning for 100% of English- and French-language live programs?

Q4. What factors should the Commission take into consideration that specifically relate to the online broadcasting environment (e.g., are there challenges or obstacles related to technology, resources, acquired content, etc.)?

### **Quality of closed captioning**

15. The availability and quality of closed captioning are equally important for viewers who are Deaf or hard of hearing, since poorly captioned programming can also be inaccessible. Errors in captioning can make the content incomprehensible. These can range from errors that omit details or deviate from the verbatim, to those that lose the main meaning of what is being said, or present nonsense. Moreover, it can be disruptive if there is too much of a lag between what is spoken onscreen and the closed captioning. High quality captions are those that can be accurately compared to the experience of a hearing viewer.

16. Television broadcasters are required to abide by mandatory quality standards when providing closed captioning. These differ depending on the language of the content and whether the content is pre-recorded or live.
17. For pre-recorded programs, traditional broadcasters must reach a captioning accuracy rate of 100% (i.e., verbatim, including spelling).
18. Closed captioning of live English-language programming must reach an accuracy rate of 98 based on the NER point system, which must be assessed by a certified NER evaluator,<sup>5</sup> as set out in Broadcasting Regulatory Policy 2019-308. The NER measures the accuracy of captions by comparing the caption viewer's experience with that of the hearing viewer. The NER model is based on (1) the Number of words, (2) Edition errors, where a difference arises from a choice made by the captioner to paraphrase the verbatim speech, and (3) Recognition errors, where the captioner, or the software used by the captioner, delivers a caption word that is wrong, misspelled, or garbled. NER evaluation begins with the preparation of a verbatim transcript and a caption transcript for ten minutes of live-captioned content in a television program. The NER evaluator then scores captions by comparing the two transcripts and assigning an "error" type – with its score deduction – to any differences.
19. Conversely, as set out in Broadcasting Regulatory Policy 2011-741-1, closed captioning of live French-language programming must reach an accuracy rate of 85% using a specific formula.<sup>6</sup>
20. The accuracy rate and measurement models for English- and French-language live programming were based on proposals by working groups composed of representatives of associations and advocacy groups for people who are Deaf or hard of hearing, closed captioning providers and broadcasters.
21. In addition to the accuracy rates set out above, licensees are required to adhere to other mandatory quality standards in regard to lag time, on-screen positioning, speed, and captioning format.
22. In light of the above, the Commission seeks comments on the following:

Q5. Keeping in mind the nature of pre-recorded content, why would 100% accuracy rate not be appropriate for English- and French-language pre-recorded programs?

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<sup>5</sup> The Canadian Broadcast Standards Council oversees the certification process for NER evaluators in Canada. Canada is the only country that currently uses the NER model in its regulation of closed captioning.

<sup>6</sup> The formula is as follows: % of accuracy = [number of words in the audio – number of suppressed words (words present in the audio but absent from the captions) – number of substituted words (words in the audio replaced with other words in the captions) – number of inserted words (words present in the captions but absent from the audio) x 100] ÷ number of words in the audio.

Q6. How should captioning accuracy be measured for live programs?

(a) What should be the captioning accuracy rate for live programs?

(b) Does there need to be a different captioning accuracy rate for English- and French-language live programs?

Q7. Should there be standards related to quality measures other than accuracy, such as lag time, on-screen positioning, speed and captioning format for pre-recorded and live programs?

### **Reporting and compliance**

23. A reporting framework for closed captioning provides transparency and allows the Commission to monitor compliance.

24. Traditional broadcasters must calculate the accuracy rate for two programs containing live content each month. As set out in Broadcasting Regulatory Policy 2019-308, if the English-language broadcaster airs news programming, at least one of the programs must be in the “news” category, whereas the second program must be one from a genre that fairly represents the live program mix of the broadcaster. In cases where a broadcaster does not air news programming, that broadcaster must monitor a second live program from a genre of its choosing that fairly represents the live program mix of that broadcaster.

25. If the Commission becomes aware of compliance issues, it can request that broadcasters submit additional monthly accuracy rate calculations. In cases of repeated non-compliance, the Commission may explore imposing additional regulatory requirements, related to monitoring or otherwise.

26. Furthermore, traditional broadcasters must file reports with the Commission describing efforts to improve live closed captioning accuracy rates. These reports are publicly available on the Commission’s website. French-language broadcasters must submit these reports every two years and English-language broadcasters must submit these reports by 30 November of each year, including data from each program monitored and the corresponding digital video files.

27. In light of the above, the Commission seeks comments on the following:

Q8. Should online streaming undertakings be required to calculate or assess the accuracy of their closed captioning on a regular basis?

(a) Should these assessments only be conducted for live programs, or for pre-recorded programs as well?

(b) Should these assessments be for certain types of programs (e.g., for live news programming)?

(c) How often should these assessments be completed?

Q9. Should online streaming undertakings be required to submit regular reports to the Commission describing their efforts to improve their closed captioning accuracy rates? If so, how often should these reports be submitted (e.g., on an annual or biennial basis)?

Q10. What other approaches to monitoring and verifying compliance should be considered by the Commission?

Q11. How should cases of non-compliance generally be addressed by the Commission? For example, should additional requirements be imposed as conditions of service following a public proceeding?

### **Addressing complaints**

28. Addressing and responding to complaints from viewers about closed captioning is critical to ensuring quality and reliability for those who need it.

29. The Commission currently accepts complaints on closed captioning and it takes action based on those complaints. In general, when the Commission receives a complaint from a viewer, it requests a response from the broadcaster and shares that response with the complainant. It can also request that a broadcaster submit its monthly accuracy rate calculations, that it calculate the accuracy rate of a specific program that is the subject of the complaint, or ask for a copy of the program in question.

30. In light of the above, the Commission seeks comments on the following:

Q12. How should complaints about closed captioning of programs provided by online streaming undertakings be addressed?

(a) Do online streaming undertakings have a method for viewers to file a complaint about closed captioning?

(b) Should there be standards with respect to addressing these types of complaints?

(c) How can complaints processes be made as transparent as possible?

(d) When should the Commission intervene, if at all?

Q13. Should online streaming undertakings be required to retain copies of captioned programs for the purposes of addressing complaints, particularly after the content has been removed from their platforms? If so, for how long?

### **Consultations with Deaf and hard of hearing communities**

31. The perspectives and views of individuals and groups in Deaf and hard of hearing communities are crucial to this proceeding.

32. Traditional broadcasters participate in working groups composed of representatives of associations and advocacy groups for people who are Deaf or hard of hearing and closed captioning providers to develop proposals for closed captioning quality standards.

33. The Commission considers that it could also be important to ensure that online streaming undertakings consult directly with individuals and groups in Deaf and hard of hearing communities on an ongoing basis. This could help to support the meaningful implementation of any regulatory policy and to ensure that captioning technology continues to benefit persons with disabilities as technology continues to evolve.

34. In light of the above, the Commission seeks comments on the following:

Q14. Should online streaming undertakings be required to consult individuals and groups in Deaf and hard of hearing communities about closed captioning policies and practices on a regular basis? If so, how, and how often should these consultations occur?

### **Implementation**

35. Online streaming undertakings that will be subject to the new regulatory policy on closed captioning may need time to implement any new requirements.

36. In light of the above, the Commission seeks comments on the following:

Q15. What approach should the Commission take to implement the new regulatory policy?

(a) Should the Commission take a phased approach that grants online streaming undertakings time to build towards or ramp up to any new conditions of service? If so, please comment on how such a ramp-up would work.

Q16. If they are made subject to closed captioning requirements, should smaller online streaming undertakings be given more time for implementation than larger platforms?

### **Additional information added to the record of this proceeding**

37. On 18 December 2023, Commission staff sent requests for information to certain Canadian and foreign online streaming undertakings to gather information about their current closed captioning practices. The questions related to the following topics:

- the proportion of English- and French-language audio-visual content that is currently captioned;
- the monitoring and assessment of the quality of captions;
- any obstacles or barriers online streaming undertakings have experienced in providing captions;
- the information available to viewers about closed captioning on their services;
- the internal process for handling complaints related to captions;



- data on captioning complaints received in the past three years and a high-level breakdown as to the subject of those complaints; and
  - consultations with Deaf or hard of hearing individuals or groups regarding the provision of closed captioning.
38. Canadian traditional television programming undertakings (e.g., Bell Media Inc., Canadian Broadcasting Corporation/Société Radio-Canada, Quebecor Media Inc., etc.) were also sent a smaller set of questions, focusing primarily on complaints received relating to captions.
39. The responses to these requests for information are being added to the public record of this proceeding. Where respondents designated portions of their response as confidential, the abridged version of their responses are being added. The Commission also invites parties to comment on these responses in their interventions.

## Procedure

40. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
41. The Commission invites comments that address the issues and questions set out above. The Commission will accept comments that it receives on or before **19 August 2024**. Only parties who file comments may file a reply to matters raised during the comment period. The deadline for the filing of replies is **18 September 2024**. All parties may file a reply to interventions filed in sign language within **10 days** of the date the Commission posts the transcripts of video interventions on its website. The Commission will advise all interveners when it has posted the transcripts on its website.
42. The Commission invites Canadians who are Deaf or hard of hearing and their representatives to present their comments on the issues under consideration in American Sign Language (ASL) and Langue des signes québécoise (LSQ) in video format if they so choose. Parties filing video comments must provide a working link to their video in the Intervention form. Because these videos will inform the Commission's decision-making, they must be publicly accessible. For instance, a link that requires another party to request access to the video would not meet this standard.

43. The Commission will transcribe the ASL and LSQ interventions filed for this proceeding and the transcripts will be posted on the Commission's website to facilitate the reply comments process for all interveners.
44. For videos longer than 15 minutes, a brief summary should be provided at the beginning of the video.
45. Interested persons who wish to request accommodations to facilitate their participation or who require assistance submitting comments can contact the Commission's Public Hearings group at [hearing@crtc.gc.ca](mailto:hearing@crtc.gc.ca) for individualized assistance.
46. Interested persons 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 Broadcasting Information Bulletin 2010-28-1.
47. 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.
48. 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.
49. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
50. 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

or

**by ASL or LSQ video using the**

[\[Intervention form\]](#)

51. 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.
52. 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.
53. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

### **Important notice**

54. 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.
55. 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.
56. 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. Links to ASL or LSQ video submissions and the transcripts of these videos will also be put on the Commission's website.

57. 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. In the case of information submitted via ASL or LSQ videos, the transcripts of these videos will also be entered into the unsearchable database. 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. However, because individuals who submit an ASL or LSQ video comment or reply must submit a working link to a publicly viewable version of their video to the Commission, depending on where the video was uploaded, any intervention or reply submitted via ASL or LSQ video may be searchable by a third-party search engine.

### **Availability of documents**

58. Links to interventions, replies and final replies 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. The Rules of Procedure also provide a mechanism for parties to request alternative formats of documents from other parties.<sup>7</sup>

59. 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

### **Related documents**

- *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, modified by Broadcasting Regulatory Policy CRTC 2019-308-1, 20 September 2019
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016

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<sup>7</sup> Additional information on this mechanism can be accessed at paragraph 118 of the [Rules of Procedure](#).

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