



Broadcasting Notice of Consultation CRTC 2011-804

PDF version

Ottawa, 22 December 2011

Call for comments on proposed amendments to the terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers

The Commission calls for comments on proposed amendments to the terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers, set out in Amended exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers – provision of community television channels, Broadcasting Order CRTC 2011-753, 7 December 2011. The proposed amendments would:

- *implement certain determinations reached in Regulatory framework relating to vertical integration, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011;*
- *incorporate into the terms and conditions of the exemption order the definition of “obscene material” set out in section 8(3) of the Broadcasting Distribution Regulations (the Regulations); and*
- *harmonize the wording of paragraph 11 of the terms and conditions of the exemption order with the wording of section 7 of the Regulations as amended by the Commission in Amendments to the Broadcasting Distribution Regulations and other Commission Regulations, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011.*

The deadline for the receipt of comments is 23 January 2012.

Introduction

1. The Commission proposes to amend the terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers (terms and conditions of the exemption order), set out in Broadcasting Order 2011-753, in order to implement certain determinations set out in Broadcasting Regulatory Policy 2011-601.
2. Certain of the proposed amendments would give effect to the following aspects of the regulatory framework relating to vertical integration:
 - the establishment of rates, terms and conditions surrounding the distribution of newly launched programming services absent a commercial agreement, and

the establishment of requirements with respect to the resolution of disputes surrounding the distribution of such services; and

- the distribution of programming services after the expiry of a commercial agreement and pending the conclusion of a new agreement or resolution of the dispute by the Commission, and the establishment of requirements with respect to the resolution of disputes surrounding the distribution of such services.
3. Other proposed amendments would incorporate into the terms and conditions of the exemption order the definition of “obscene material” set out in section 8(3) of the *Broadcasting Distribution Regulations* (the Regulations), and harmonize the wording of paragraph 11 of the terms and conditions of the exemption order with the wording of section 7 of the Regulations as amended by the Commission in Broadcasting Regulatory Policy 2011-455.
 4. The Commission notes that, in Broadcasting Notices of Consultation 2011-805 and 2011-806, issued concurrently with the present notice of consultation, it has called for comments on a number of amendments to its exemption order for new media broadcasting undertakings and to its regulations, in order to give effect to various determinations reached in Broadcasting Regulatory Policy 2011-601.

Call for comments

5. The Commission calls for comments on the proposed amendments to the terms and conditions of the exemption order appended to Broadcasting Order 2011-753, which are set out in bold in the appendix to the present notice (including the addition of subparagraphs 17b), 17c), 17e) and 17f); the addition of paragraph 18 (with subparagraphs) and renumbering of subsequent paragraphs; and amendments to paragraphs 1, 4, 11, 12, 20 and 21).
6. Parties proposing modifications to the wording of or the addition of provisions to the proposed exemption order are requested to provide specific language, as well as their rationale for these proposed changes.

Procedure for filing comments

7. The new *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-277 (the Rules of Procedure), set out, among other things, the rules for content, format, filing and service of interventions. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission’s website under “CRTC Rules of Practice and Procedure.”
8. The Commission will accept interventions that it receives on or before **23 January 2012**.

9. In accordance with the Rules of Procedure, a document must be filed with, not merely sent to, the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will not notify a party whose submission is received after the deadline date. Late submissions will not be considered by the Commission and will not be made part of the public file.
10. The Commission will not formally acknowledge interventions. It will, however, fully consider all interventions, and they will form part of the public record of the proceeding, provided that the procedures for filing set out in the Rules of Procedure and this notice have been followed.
11. Submissions must be filed by sending them to the Secretary General of the Commission by **only one** of the following means:

by using the
[Intervention/comment/answer form]

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

12. Submissions longer than five pages should include a summary.
13. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been altered during electronic transmission.

Important notice

14. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, e-mail or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
15. 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.

16. 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.
17. 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.
18. The Commission encourages parties and interested persons 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.

Examination of documents

19. A list of all interventions and answers will also be available on the Commission's website. The list is accessible by selecting "View all proceedings open for comment" from the "Public Proceedings" section of the Commission's website and clicking on the "Interventions/Answers" link associated with this notice.
20. The public may examine public interventions and related documents at the following Commission offices during normal business hours.

Location of Commission offices

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

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

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional offices

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia
B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West
Suite 504
Montréal, Quebec
H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East
Suite 624
Toronto, Ontario
M4T 1M2
Tel.: 416-952-9096

360 Main Street
Suite 970
Winnipeg, Manitoba
R3C 3Z3
Tel.: 204-983-6306
Fax: 204-983-6317

2220 – 12th Avenue
Suite 620
Regina, Saskatchewan
S4P 0M8
Tel.: 306-780-3422

100 – 4th Avenue South-West
Suite 403
Calgary, Alberta
T2P 3N2
Tel.: 403-292-6660
Fax: 403-292-6686

858 Beatty Street
Suite 290
Vancouver, British Columbia
V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Call for comments on proposed amendments to the Broadcasting Distribution Regulations and other Commission regulations – provisions relating to vertical integration*, Broadcasting Notice of Consultation CRTC 2011-806, 22 December 2011

- *Call for comments on proposed amendments to the exemption order for new media broadcasting undertakings – provisions relating to vertical integration*, Broadcasting Notice of Consultation CRTC 2011-805, 22 December 2011
- *Amended exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers – provision of community television channels*, Broadcasting Order CRTC 2011-753, 7 December 2011
- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011
- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011

Appendix to Broadcasting Notice of Consultation CRTC 2011-804

Terms and conditions of the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers¹

Description

The purpose of these broadcasting distribution undertakings is to provide programming services to fewer than 20,000 subscribers, using co-axial cable, fibre, digital subscriber line or multi-point distribution system technology.

A. Definition of terms

1. For the purpose of this order, the terms “affiliate,” “anglophone market,” “broadcast year,” “Canadian production fund,” “Canadian programming service,” “community access television,” “community channel,” “comparable,” “contribution to local expression,” “Corporation,” “educational television programming service,” “francophone market,” “independent production fund,” “licensed,” “licensed area,” “local television station,” “pay television service,” “programming service,” “regional television station,” “radiocommunication distribution undertaking,” “relay distribution undertaking,” “specialty service,” “station” and “subscriber” have the same meaning as that set out in the *Broadcasting Distribution Regulations*; “basic service” means the package of programming services provided to all subscribers for a single fee; “gross revenues derived from broadcasting activities” has the same meaning as that set out in *Guidelines respecting financial contributions by the licensees of broadcasting distribution undertakings to the creation and presentation of Canadian programming*, Circular No. 426, 22 December 1997; “local head end” means (a) in respect of an undertaking other than a radiocommunication distribution undertaking, the specific location at which the undertaking receives the majority of the programming services that are transmitted by local television stations or, if there are no such stations, by regional television stations, and that are distributed by the exempt undertaking in the service area, and (b) in respect of a radiocommunication distribution undertaking, the undertaking’s transmitter site; “service area” means the area in which an exempt undertaking carries on a broadcasting distribution undertaking; and an undertaking that “serves more than 2,000 subscribers” means an undertaking whose subscriber base at the time it becomes exempt exceeds 2,000, or an undertaking whose subscriber base at the time it becomes exempt did not exceed

¹ The Commission notes that in *Call for comments on amendments to various regulations, standard conditions of licence and an exemption order to implement measures to control the loudness of commercial messages*, Broadcasting Notice of Consultation CRTC 2011-803, 22 December 2011, it called for comments on additional proposed changes to, among other things, the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers. The changes to the exemption order proposed in that notice will be reconciled with those proposed in the current notice following the close of the comment period for the respective proceedings.

2,000 but has subsequently exceeded 2,200 for at least two consecutive broadcasting years as reported pursuant to paragraph 24, below.

B. Provisions applicable to exempt distribution undertakings

General provisions

2. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
3. The undertaking meets all the technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by the Department.
4. In total, the number of subscribers served by the individual undertaking is fewer than 20,000, and the undertaking either (a) does not serve all or part of the licensed area of a licensed terrestrial broadcasting distribution undertaking (BDU) that serves 20,000 or more subscribers within that licensed area, or (b) serves all or part of the licensed area of a licensed terrestrial BDU that serves 20,000 or more subscribers only by virtue of the fact that the licensed BDU expanded to operate within the service area of the undertaking at some time following the time at which the undertaking came into being. Once exempt, the undertaking does not have more than 21,000 subscribers in any two consecutive broadcasting years as reported pursuant to paragraph 24, below.

Distribution of the basic service

5. The undertaking does not provide a subscriber with any programming services, other than licensed pay-per-view services, licensed video-on-demand services or the programming services of exempt programming undertakings, without also providing the basic service.

Distribution of conventional television stations

6. In regard to the provision of a basic service:
 - a) The undertaking distributes as part of its basic service all services of local television stations, with no degradation of the signal received.
 - b) If the undertaking serves more than 2,000 subscribers, it distributes as part of its basic service all services of regional television stations, other than affiliates or members of the same network of which a local television station distributed pursuant to paragraph 6(a), above, is also an affiliate or member. These stations are distributed with no degradation of the signal received. If the programming services of the two or more regional television stations that are affiliates or members of the same network are received at the local

head end or equivalent, the undertaking is required to distribute only one of them.

- c) If not otherwise distributed as a local or regional television station, the undertaking distributes at least one television station owned and operated by the Corporation, in each of the official languages, where the Corporation makes its signals available and pays the costs associated with the transport and reception of its signals to the undertaking's local head end or equivalent.
- d) If the undertaking receives television stations that are identical, the undertaking is required to distribute only one of them under this section.
- e) If the undertaking serves more than 2,000 subscribers, it distributes as part of its basic service, and with no degradation of the signal received, educational television programming services the operation of which is the responsibility of an educational authority designated by the province in which the service area of the undertaking is located.

Majority of Canadian programming services

- 7. A majority of each of the video and audio channels received by each subscriber, other than the programming distributed on program repeat channels, are devoted to the distribution of Canadian programming services. For the purposes of this paragraph, each pay television service, television pay-per-view service, and video-on-demand service is counted as a single video channel.

Programming services in the language of the minority

- 8. If the undertaking delivers any programming service on a digital basis, it distributes:
 - a) at least one French-language Canadian pay or specialty service, excluding the services that the undertaking may be required to distribute under paragraphs 14 and 15, below, for every ten English-language programming services distributed by the undertaking, if the undertaking is operating in an anglophone market; and
 - b) at least one English-language Canadian pay or specialty service, excluding the services that the undertaking may be required to distribute under paragraphs 14 and 15, below, for every ten French-language programming services distributed by the undertaking, if the undertaking is operating in a francophone market.

Distribution of adult programming services

- 9. The undertaking does not package an adult programming service in such a way that subscribers are obliged to purchase the service in order to purchase any other

programming service. The undertaking takes measures to fully block the reception of both the audio and video portions of any adult programming service to subscribers who request that it not be receivable in their home (in either unscrambled or scrambled mode).

Distribution of single point-of-view religious services

10. The undertaking distributes a single or limited point-of-view religious pay or specialty service only on a “stand-alone basis” or in a package with other single or limited point-of-view religious services, and all such services are distributed only on a discretionary basis.

Alteration or deletion of a programming service

11. The undertaking does not alter **the content or format of a programming service** or delete a programming service in the course of its distribution except:
- a) for the purpose of complying with section 328(1) of the *Canada Elections Act*;
 - b) for the purpose of deleting a programming service to comply with an order of a court prohibiting the distribution of the service to any part of the service area;
 - c) for the purpose of altering a programming service to insert a warning to the public announcing:
 - i. any danger to life or property if the insertion is provided for in an agreement entered into by the undertaking with the operator of the service or the network responsible for the service; or
 - ii. an imminent or unfolding danger to life if there is no agreement with the operator of the service or the network responsible for the service;
 - d) for the purpose of preventing the breach of programming or underlying rights of a third party, in accordance with an agreement entered into with the operator of the service or the network responsible for the service;
 - e) for the purpose of deleting a subsidiary signal, unless the signal is, itself, a programming service or is related to the service being distributed;
 - f) for the purpose of deleting the described video programming of a service distributed on an analog basis; or
 - g) for the purpose of inserting a commercial message in a Canadian programming service, excluding a video-on-demand service, if the insertion is in accordance with an agreement between the undertaking and the operator of

the service or the network responsible for the service and that pertains to commercial messages that are directed to a target market of consumers.

Prohibited programming content

12. The undertaking does not distribute a programming service that the undertaking originates and that contains:
- a) anything that contravenes any law;
 - b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;
 - c) any obscene or profane language or pictorial representation; or
 - d) any false or misleading news.

For the purpose of (b), sexual orientation does not include the orientation towards a sexual act or activity that would constitute an offence under the *Criminal Code*.

For the purpose of (c), material is obscene if it has as a dominant characteristic the undue exploitation of sex or the combination of sexual content with one or more of the following subjects, namely, crime, horror, cruelty and violence.

Other services distributed

13. a) No service received over-the-air or by any other means is distributed over the undertaking, other than a service that the Commission, by regulation or otherwise, has authorized. If the Commission has authorized a service for distribution subject to terms and conditions intended to address the concerns addressed in paragraph 12, above, the undertaking distributes the service subject to those terms and conditions.
- b) The undertaking distributes no more than two sets of U.S. 4+1 signals, with the exception of signals receivable by the undertaking over the air, to its subscribers.
- c) The undertaking is authorized to undertake any activity authorized in the regulatory policy entitled *General authorizations for broadcasting distribution undertakings*, as amended from time to time, under the terms and conditions set out in that regulatory policy.

Distribution of services subject to orders under section 9(1)(h) of the *Broadcasting Act*

14. If the undertaking serves more than 2,000 subscribers, it distributes, as part of the basic service,
- a) the Aboriginal Peoples Television Network programming service;
 - b) the programming service of TVA Group Inc. (CFTM-TV Montréal or the programming service of one of its affiliates);
 - c) if the undertaking is operating in a francophone market, the licensed public affairs programming service of the Cable Public Affairs Channel Inc. (CPAC) and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language and an auxiliary audio channel of those services in the English language;
 - d) if the undertaking is operating in an anglophone market, the licensed public affairs programming service of CPAC and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language and an auxiliary audio channel of those services in the French language;
 - e) if the undertaking is operating in a francophone market, a second version of the licensed public affairs programming service of CPAC and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the English language, which may be distributed as part of the basic service or on a discretionary basis;
 - f) if the undertaking is operating in an anglophone market, a second version of the licensed public affairs programming service of CPAC and the federal parliamentary service exempted pursuant to the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order*, as may be amended from time to time, including the main audio channel of those services in the French language and an auxiliary audio channel of those services in the French language, which may be distributed as part of the basic service or on a discretionary basis;
 - g) where the undertaking elects to distribute, as part of its basic service, both an English-language and a French-language version of the licensed public affairs programming service of CPAC and the service exempted pursuant to the

Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order, as may be amended from time to time, it is relieved of the requirement to distribute an auxiliary audio channel for any of these services;

- h) if the undertaking is operating in an anglophone market and distributes the Corporation's CBC News Network programming service on an analog basis, the programming service of the National Broadcast Reading Service (VoicePrint) as the secondary audio program of the former service; and
 - i) the undertaking does not distribute the Corporation's CBC News Network programming service on an analog basis, the programming service of the National Broadcast Reading Service (VoicePrint) on an audio channel.
15. If the undertaking serves more than 2,000 subscribers and delivers any programming service on a digital basis, it distributes to all digital subscribers:
- a) The Accessible Channel;
 - b) if it operates in a francophone market, CBC News Network, La Magnétothèque and, until 31 August 2015, Météomedia;
 - c) if it operates in an anglophone market, le Réseau de l'information and, until 31 August 2015, The Weather Network; and
 - d) if it operates in the province of Quebec, Avis de Recherche.
16. An exempt undertaking is not required to distribute any of the programming services noted in paragraphs 14 and 15, above, with the exception of VoicePrint and La Magnétothèque, unless the licensee or operator of the programming service or a third party pays for the satellite uplink and transponder costs associated with the delivery of its programming service to the exempt undertaking.

Dispute resolution

17. In regard to the resolution of disputes:
- a) If a dispute concerning the terms and conditions under which programming services are distributed arises between the exempt undertaking and a programming undertaking, whether operating by licence or by exemption order, the undertaking submits to such mediation and/or dispute resolution process or processes as may be required by the Commission and to any decision that may ultimately result therefrom.
 - b) If a dispute, within the meaning of paragraph 17(a), arises with respect to a programming undertaking's programming services being distributed in the absence of a commercial agreement and the matter proceeds before the Commission for dispute resolution, the undertaking submits to having the dispute resolved by means of final offer arbitration, as provided for in**

Broadcasting and Telecom Information Bulletin CRTC 2009-38, dated 29 January 2009, as amended from time to time, and further submits to the rates, terms and conditions established by the Commission as of the date on which the programming was first made available to the relevant undertaking in the absence of an agreement.

c) If a dispute, within the meaning of paragraph 17(a), arises with respect to a programming undertaking's newly launched programming services that are being distributed in the absence of a commercial agreement and the matter proceeds before the Commission for dispute resolution, the undertaking further submits to the rates, terms and conditions established by the Commission for the duration of the contractual term established by the Commission.

d) If a dispute concerning the terms and conditions under which programming services are provided to the undertaking arises between the undertaking and a relay distribution undertaking, whether operating by licence or by exemption order, the undertaking submits to such mediation and/or dispute resolution process or processes as may be required by the Commission and to any decision that may ultimately result therefrom.

e) For greater certainty, nothing in paragraphs 17(a) through (d) prevents parties from reaching an agreement with respect to rates, terms or conditions that differ from those established by the Commission.

f) If the Commission accepts a referral of a matter for dispute resolution, the undertaking submits to produce and file such additional information as may be requested by the Commission or any individual named by the Commission to act as mediator in a given dispute.

Obligation during dispute

18. a) During any dispute between the undertaking and a person licensed to carry on a programming undertaking or the operator of an exempt programming undertaking concerning the carriage or terms of carriage of programming or concerning any right or obligation under the Act, the undertaking shall continue to provide its programming services subject to the dispute, at the same rates and on the same terms and conditions as it did before the dispute.

b) For the purposes of paragraph 18(a), a dispute exists from the moment that written notice of the dispute is provided to the Commission and served on the other undertaking that is party to the dispute and ends when an agreement settling the dispute is reached by the concerned undertakings or when the Commission renders a decision concerning any unresolved matter, whichever is first.

c) An undertaking that distributes a newly launched programming service with respect to which it has no commercial agreement shall abide by the rates, terms and conditions established by the operator of the concerned programming undertaking until such time as a commercial agreement is reached between the parties or the Commission renders a decision concerning any unresolved matter.

Programming service substitution

- 19.** If the undertaking serves more than 2,000 subscribers, the undertaking deletes the programming service of a television station and substitutes the programming service of a local television station or, with the agreement of the broadcaster operating the local television station, has that broadcaster carry out the deletion and substitution, if
- a) the main studio of the local television station (i) is located within the service area of the undertaking, and (ii) is used to produce locally originated programming;
 - b) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast;
 - c) in a case where the broadcaster operating the local television station is not to carry out the deletion and substitution under an agreement with the undertaking, the undertaking has, at least four days before the date on which the programming service is broadcast, received from the broadcaster operating the local television station a written request for the deletion and substitution; and
 - d) if a substitution is requested by more than one broadcaster, the undertaking gives priority, in the following order, to (i) if the studios of the stations are located in the same province as the service area of the undertaking or in the National Capital Region, as described in the schedule to the *National Capital Act*, the programming service of the station whose main studio is closest to the local head end, or equivalent, of the service area; (ii) in any other case, the programming service of the station that has a studio located in the same province as the service area.

An undertaking may discontinue a deletion and substitution if the programming services in respect of which the deletion and substitution are made are not, or are no longer, comparable and broadcast simultaneously.

Community channel

- 20.** Subject to paragraph **21**, if the undertaking serves more than 2,000 subscribers, it shall make a contribution to Canadian programming in each broadcast year of an amount not less than 5% of that undertaking's gross revenues derived from broadcasting activities in the year, less any contribution to local expression made by

the undertaking in that year. Contributions to Canadian programming shall consist of:

- a) a contribution to the Canadian production fund of at least 80% of the undertaking's total required contribution; and
 - b) to one or more independent production funds, the remainder of its total required contribution.
- 21.** For the 2011-2012 broadcast year, the contribution to Canadian programming referred to in paragraph **20** above shall amount to not less than 5% of that undertaking's gross revenues derived from broadcasting during the period between 1 April 2012 and 31 August 2012, less any contribution to local expression made by the undertaking during that same period.

- 22.** The undertaking is authorized to offer a zone-based community channel (where two or more exempt BDU service areas are combined to share local and community access television programming) under the following condition:

Exempt systems that make up a zone must be part of a community of interest. A community of interest would be determined by the following criteria:

A community of interest is one where its members share one or more of the following attributes:

- common social and economic interests;
- common heritage, culture or history;
- the same geographic or politically recognized boundary;
- access to the same local/regional media.

- 23.** If the undertaking serves more than 2,000 subscribers and elects to offer a community channel or a zone-based community channel, the community channel offers programming that meets the following requirements:

- a) the programming offered consists of at least:
 - i. 60% local community television programs that are reflective of the community and produced in the undertaking's service area by the undertaking or by other members of the community served by the undertaking;
 - ii. 30% access programming consisting of programs produced by members of the community served by the undertaking;
- b) alternatively,

- i. where an undertaking is an affiliate of a licensed cable undertaking, and the Commission has prescribed specific conditions of licence governing the offering of a community channel by that licensed undertaking, the undertaking may offer its community channel on the same basis as that approved for the licensed undertaking;
 - ii. where an undertaking is not an affiliate of a licensed cable undertaking, it may offer a community channel on the same basis as approved by condition of licence for any licensed undertaking that has a licensed area that includes any part of the same province or territory in which the undertaking operates;
- c) the programming includes no more than two minutes per hour of promotional messages and at least 75% of this promotional time is made available for the promotion of the community channel, non-related Canadian programming undertakings and for unpaid Canadian public service announcements;
 - d) reasonable efforts are made to ensure that all the communities included within a zone-based community channel are proportionately represented; and
 - e) the programming offered adheres to:
 - i. the *Cable television community channel standards*, as amended from time to time; and
 - ii. the Canadian Association of Broadcasters' *Violence Code*, as amended from time to time and approved by the Commission.

Information requirements

- 24.** The undertaking or its representative submits the following information to the Commission by 30 November of each year:
- a) the name and contact information of the operator of the undertaking;
 - b) the location of the undertaking and the communities served by the undertaking;
 - c) the total number of basic subscribers served by the undertaking as of 31 August of that year;
 - d) if the undertaking offers community programming exclusively through a video-on-demand service or provides community programming under a “zone based” approach, and does not operate separate head-end facilities or distribute a distinct local or regional television station, a statement as to its gross revenues derived from broadcasting activities in the past broadcast

year and the amount and percentage of those revenues that have been contributed to community programming as described in paragraph **20(a)**; and

- e) whether any programming services are provided on a digital basis.
- 25.** If the exempt undertaking serves more than 2,000 subscribers, the undertaking submits the simplified annual return for exempt broadcasting distribution undertakings by 30 November of each year.
- 26.** The undertaking submits any information requested by the Commission in order to ascertain the undertaking's compliance with the terms of this order.