



Broadcasting Notice of Consultation CRTC 2012-288

PDF version

Route reference: 2012-154

Ottawa, 14 May 2012

Call for comments on proposed amendments to the *Broadcasting Distribution Regulations* – Provisions relating to local expression

*The Commission calls for comments on amendments to the Broadcasting Distribution Regulations in order to implement certain determinations relating to the mechanism for the funding of local expression by broadcasting distribution undertakings adopted by the Commission in Revised approach regarding contributions by broadcasting distribution undertakings to local expression, Broadcasting Regulatory Policy CRTC 2012-154, 15 March 2012. The deadline for the receipt of comments is **11 June 2012**.*

Introduction

1. The Commission proposes to amend the *Broadcasting Distribution Regulations* (the Regulations) in order to implement certain determinations set out in *Revised approach regarding contributions by broadcasting distribution undertakings to local expression*, Broadcasting Regulatory Policy CRTC 2012-154, 15 March 2012 (Broadcasting Regulatory Policy 2012-154). These determinations relate to the mechanism for the funding of local expression by broadcasting distribution undertakings (BDUs) adopted by the Commission in that regulatory policy. The proposed amendments would give effect to the following aspects of Broadcasting Regulatory Policy 2012-154:

- The maximum dollar contribution to local expression by each licensed terrestrial BDU will be based on the amount contributed by the licensee during the broadcast year ending 31 August 2010. This amount will be adjusted yearly for inflation based on the annual Canadian consumer price index, as reported for the period ending 31 December of the preceding calendar year (the adjusted 2010 contribution).
- Once the adjusted 2010 contribution represents 1.5% of the licensee's gross revenues derived from broadcasting activities, the allowable contribution to local expression will move to a percentage formula of 1.5% of a BDU's gross revenues derived from broadcasting activities.
- If a BDU's revenues remain at or below the 2010 levels, the maximum allowable contribution of the licensee to local expression would represent the lesser of 2% of the licensee's current year's gross revenues derived from broadcasting activities or the adjusted 2010 contribution.

- The allowable contribution to local expression for BDUs licensed to serve a licensed area in or after 2010 (i.e., new entrants), will be 1.5% of gross annual revenues from broadcasting activities.
 - During the licence term in effect on the date these regulations come into force, BDUs may direct the difference between the adjusted 2010 contribution and 1.5% of the licensee's gross revenues derived from broadcasting activities, to a maximum of 0.5% of the licensee's gross revenues derived from broadcasting activities, to the following initiatives:
 - certified independent production funds of their choice and/or the Canada Media Fund, as currently provided for under section 34 of the Regulations;
 - and,
 - the closed captioning of local expression.
2. In the case of BDUs that have undergone changes in structure and size, the Commission will consider factors such as the current allowable contribution levels and subscriber levels of the undertaking involved in determining the allowable contribution level.
 3. BDUs would continue to be required to make their contributions under the proposed amendments in accordance with sections 36 and 37 of the Regulations.

Call for comments

4. The proposed *Regulations Amending the Broadcasting Distribution Regulations* are appended to this notice. The Commission invites comments on the wording of the proposed amendments. The Commission will accept interventions that it receives on or before **11 June 2012**.

Procedure

5. 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."
6. 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.

7. 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.
8. 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

9. Submissions longer than five pages should include a summary.
10. 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

11. 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.
12. 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.
13. 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.
14. 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.

15. 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

16. 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.

17. 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

Appendix to Broadcasting Notice of Consultation CRTC 2012-288

REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

AMENDMENT

1. Subsection 34(4) of the *Broadcasting Distribution Regulations*¹ is replaced by the following:

(4) The following definitions apply in this subsection and in subsections (5) to (7).

“adjusted 2010 contribution” means the lesser of the following amounts adjusted yearly for inflation based on the Consumer Price Index, as reported for the period ending December 31 of the previous calendar year:

(a) 2% of the licensee’s gross revenues derived from broadcasting activities in the 2010 broadcast year, and

(b) the licensee’s actual contribution to local expression in the 2010 broadcast year. (*contribution 2010 rajustée*)

“Consumer Price Index” means the annual average all-items Consumer Price Index for Canada (not seasonally adjusted) that is published by Statistics Canada. (*indice des prix à la consommation*)

“threshold year” means the first broadcast year after August 31, 2012, in which 1.5% of a licensee’s gross revenues derived from broadcasting activities is equal to or greater than the licensee’s adjusted 2010 contribution. (*année de seuil*)

“2010 broadcast year” means the broadcast year ending August 31, 2010. (*année de radiodiffusion 2010*)

“2010 licensee” means a licensee that held a licence in respect of a licensed area for the entire 2010 broadcast year. (*titulaire de 2010*)

(5) Except as otherwise provided under a condition of its licence, if a licensee distributes its own community programming on the community channel in the licensed area, the licensee shall make, for each broadcast year, a contribution to Canadian programming that is equal to 5% of its gross revenues derived from broadcasting activities in the broadcast year less any allowable contribution to local expression made by the licensee in that broadcast year.

(6) In subsection (5), “allowable contribution to local expression” means

(a) in respect of a 2010 licensee,

(i) for each broadcast year before the threshold year, a maximum contribution to local expression that is equal to the lesser of

(A) 2% of the licensee's gross revenues derived from broadcasting activities in the broadcast year, and

(B) the licensee's adjusted 2010 contribution, and

(ii) for the threshold year and for each subsequent broadcast year, a maximum contribution to local expression that is equal to 1.5% of the licensee's gross revenues derived from broadcasting activities in the broadcast year; and

(b) in respect of a licensee other than a 2010 licensee, for each broadcast year, a maximum contribution to local expression that is equal to 1.5% of the licensee's gross revenues derived from broadcasting activities in the broadcast year.

(7) For each broadcast year in the remainder of the term of any licence that is in effect on September 1, 2012, the allowable contribution to local expression referred to in subsection (5) may include an additional contribution if it is directed to closed captioning for local expression and

(a) in the case of a 2010 licensee, that additional contribution does not exceed the lesser of

(i) 2% of the licensee's gross revenues derived from broadcasting activities in the broadcast year less the licensee's adjusted 2010 contribution, and

(ii) 0.5% of the licensee's gross revenues derived from broadcasting activities in the broadcast year; and

(b) in the case of a licensee other than a 2010 licensee, that additional contribution does not exceed 0.5% of the licensee's gross revenues derived from broadcasting activities in the broadcast year.

COMING INTO FORCE

2. These Regulations come into force on September 1, 2012.

¹ SOR/97-555