



Broadcasting Notice of Consultation CRTC 2012-705

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Ottawa, 21 December 2012

Call for comments on proposed amendments to the *Broadcasting Distribution Regulations* – Provisions relating to the *Exemption order respecting certain programming undertakings that would otherwise be eligible to be operated as Category B services*

The Commission calls for comments on the wording of amendments to the Broadcasting Distribution Regulations in order to implement certain determinations relating to the Exemption order respecting certain programming undertakings that would otherwise be eligible to be operated as Category B services. The deadline for the receipt of comments is 6 February 2013.

Introduction

1. The Commission proposes to amend the *Broadcasting Distribution Regulations* (the Regulations) in order to implement certain determinations relating to the *Exemption order respecting certain programming undertakings that would otherwise be eligible to be operated as Category B services*. This exemption order is set out in Appendix 1 to *New exemption order respecting certain programming undertakings that would otherwise be eligible to be operated as Category B services, and amendments to the Exemption order respecting certain third-language television undertakings*, Broadcasting Order CRTC 2012-689, 19 December 2012.
2. The proposed amendments serve to ensure that certain provisions governing the distribution of programming services by broadcasting distribution undertakings (BDUs) continue to apply to exempt Category B services. These include the provision that generally requires a BDU to distribute at least three unrelated Category B services for each related Category B service that it distributes, as well as provisions relating to the packaging of adult programming services.

Call for comments

3. 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 **6 February 2013**.

Procedure

4. The *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."

5. 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.
6. 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.
7. 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

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

10. 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.

11. 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.
12. 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.
13. 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.
14. 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

15. 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.
16. 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

Nova Scotia

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

Quebec

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

Ontario

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

Manitoba

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

Saskatchewan

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

Alberta

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

British Columbia

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 2012-705

REGULATIONS AMENDING THE BROADCASTING DISTRIBUTION REGULATIONS

AMENDMENTS

1. Section 1 of the *Broadcasting Distribution Regulations*¹ is amended by adding the following in alphabetical order:

“exempt Category B service” means a programming service that is offered by an exempt programming undertaking under the terms of the order entitled *Exemption order respecting certain programming undertakings that would otherwise be eligible to be operated as Category B services*, made by the Commission under subsection 9(4) of the Act, that is set out in Appendix 1 to Broadcasting Order CRTC 2012-689, dated December 19, 2012. (*service de catégorie B exempté*)

2. Section 5 of the Regulations is replaced by the following:

5. Except as otherwise provided under a condition of its licence or these Regulations, no licensee shall provide a subscriber with any programming services, other than pay-per-view services, video-on-demand services or the programming services — excluding exempt Category B services — of exempt programming undertakings, without also providing the basic service of the licensee.

3. (1) Subsection 19(2) of the Regulations is amended by striking out “and” at the end of paragraph (b), by adding “and” at the end of paragraph (c) and by adding the following after paragraph (c):

(d) an exempt Category B service.

(2) Section 19 of the Regulations is amended by adding the following after subsection (5):

(6) Subsection (5) does not apply in respect of the distribution of an exempt Category B service by a related exempt programming undertaking.

4. Section 25 of the Regulations is replaced by the following:

25. (1) Except as otherwise provided under a condition of its licence, a licensee shall not package any adult programming service that it distributes as a Category B service, exempt Category B service or exempt third-language service in such a way that subscribers are obligated to subscribe to that programming service in order to obtain any other programming service.

(2) A licensee shall fully block the reception of both the audio and video portions of any adult programming service that it distributes as a Category B service, exempt

Category B service or exempt third-language service to subscribers who request that they not receive the service in either unscrambled or scrambled mode.

COMING INTO FORCE

5. These Regulations come into force on the day on which they are registered.

¹ SOR/97-555