



Broadcasting Regulatory Policy CRTC 2017-319 and Broadcasting Order CRTC 2017-320

PDF version

References: 2017-201, 2016-224 and 2015-86

Ottawa, 31 August 2017

Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers

The Commission announces a revised exemption order for terrestrial broadcasting distribution undertakings (BDUs) serving fewer than 20,000 subscribers. The revised exemption order, set out in the appendix to this regulatory policy, takes effect immediately. Through this revised exemption order:

- *future contributions to Canadian programming by BDUs eligible for exemption will be based on the previous year's revenues rather than the current year's revenues; the calculation of monthly contributions will be simplified; and the annual true-up of monthly contributions will be eliminated, while the true-up provision for the months of September through November will be maintained;*
- *all references to "contribution to local expression" are replaced with "contribution to community programming";*
- *exempt undertakings that are related to licensed BDUs will be required to adhere to the Television Service Provider Code and to participate in the Commissioner for Complaints for Telecommunications Services Inc., by 1 September 2017;*
- *the terms "video-on-demand service" and "pay-per-view service" are replaced with the term "on-demand service"; and*
- *the reference to "single point-of-view religious discretionary service" is removed as any relevant obligations on the part of these services are caught by the reference to "limited point-of-view religious discretionary service".*

Background

1. Section 9(4) of the *Broadcasting Act* sets out the following in regard to the exemption of broadcasting undertakings from licensing requirements:

The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that

compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).

2. In Broadcasting Order 2009-544, the Commission exempted from licensing requirements terrestrial broadcasting distribution undertakings (BDUs) that served fewer than 20,000 subscribers but did not compete in a market with a BDU that served 20,000 or more subscribers. That exemption order was amended by various broadcasting orders, most recently by Broadcasting Order 2015-544 (the BDU exemption order), set out in the appendix to Broadcasting Regulatory Policy 2015-543. In this most recent iteration, the BDU exemption order was broadened in order to allow terrestrial BDUs serving fewer than 20,000 subscribers to enter and compete in markets with licensed BDUs without having to obtain a licence.

Call for comments

3. In Broadcasting Notice of Consultation 2017-201 (the Notice), the Commission called for comments on proposed amendments to the BDU exemption order that would reflect the Commission's determinations in recent policy proceedings, including Broadcasting Regulatory Policies 2015-86 and 2016-224. The proposed amendments would:
 - harmonize the wording of the BDU exemption order with changes to the *Broadcasting Distribution Regulations* (the Regulations) relating to the calculation of monthly contributions to Canadian programming, such that future contributions to Canadian programming would be based on the previous year's revenues rather than the current year's revenues. This amendment would simplify the calculation of monthly contributions and eliminate the need for an annual true-up of monthly contributions. However, the true-up provision for the months of September through November would be maintained, given that annual returns for a specific broadcast year are not finalized until 30 November;
 - replace all references to "contribution to local expression" with "contribution to community programming" to ensure consistency with amendments to the Regulations proposed in Broadcasting Notice of Consultation 2017-50 (and made in Broadcasting Regulatory Policy 2017-278);
 - require exempt undertakings that are related to licensed BDUs to adhere to the Television Service Provider Code and to participate in the Commissioner for Complaints for Telecommunications Services Inc., by 1 September 2017;
 - replace the terms "video-on-demand service" and "pay-per-view service" with the term "on-demand service" pursuant to the Commission's decision set out in Broadcasting Regulatory Policy 2015-86 to streamline its licensing system by consolidating all programming services into types based on the way in which they are distributed to Canadians; and

- remove the reference to “single point-of-view religious discretionary service.” This amendment would ensure consistency between the BDU exemption order and the Regulations, but would not remove any obligation on the part of these services given that they are still caught by the reference to “limited point-of-view religious discretionary service.”
4. The Commission received an intervention in support of the proposed amendments from Saskatchewan Telecommunications, as well as interventions from TELUS Communications Company (TELUS) and the Canadian Association of Community Television Users and Stations (CACTUS). The public record for this proceeding can be found on the Commission’s website at www.crtc.gc.ca.
 5. TELUS’s intervention focused specifically on eliminating carve out rules for exemptions from regional licences, whereas CACTUS sought to revisit various determinations set out in Broadcasting Regulatory Policy 2016-224 as well as create new obligations for exempt BDUs that were not related to the amendments proposed in Broadcasting Notice of Consultation 2017-201. Given that the present proceeding sought comments on specific amendments to the BDU exemption order, the Commission finds that issues brought up by TELUS and CACTUS lie outside the scope of this proceeding.

Distribution of OMNI Regional and of OMNI television stations

6. In Broadcasting Decision 2017-152, the Commission approved an application by Rogers Media Inc. (Rogers) to operate a national, multilingual multi-ethnic discretionary service to be known as OMNI Regional for a licence term beginning on 1 September 2017 and ending on 31 August 2020. Pursuant to Broadcasting Order 2017-153, OMNI Regional¹ is to be distributed on the basic service of licensed and exempt BDUs.
7. In markets where an OMNI television station is operating as a local or regional station, Rogers proposed that the distribution order for OMNI Regional provide BDUs with the option to substitute OMNI Regional for the OMNI television station as part of the basic service. In Broadcasting Decision 2017-152, the Commission stated that BDUs were free to request an exception should they wish to be relieved of the obligation to carry OMNI stations as part of the basic service.
8. In Broadcasting Decision 2017-322, also issued today, the Commission has approved an application by Shaw Communications Inc., on behalf of Shaw Cablesystems Limited, Shaw Cablesystems (VCI) Limited and Star Choice Television Network Inc., to be relieved from the requirement set out in sections 16.1 and 17(1) of the Regulations to distribute the signals of the OMNI television stations as part of the basic service of its licensed and exempt terrestrial BDUs in Ontario, Alberta and British Columbia, and on its direct-to-home satellite BDU Shaw Direct for the region

¹ OMNI Regional would include a Quebec feed that would be branded “ICI Québec”, with much of the programming for this feed provided by CFHD-DT Montréal.

of southern Ontario. In this regard, the Commission indicated in Broadcasting Decision 2017-322 that the following condition, which would apply to all exempt BDUs, would be added to the revised BDU exemption order:

As an exception to paragraph 6.a. above, to the extent that the undertaking distributes as part of its basic service CFHD-DT Montréal, CJMT-DT Toronto, CJMT-DT-1 London, CJMT-DT-2 Ottawa, CJCO-DT Calgary, CJEO-DT Edmonton, CHNM-DT Vancouver or CHNM-DT-1 Victoria, and to the extent that the undertaking is required to distribute the programming service of OMNI Regional pursuant to section 9(1)(h) of the *Broadcasting Act*, the undertaking is relieved of the obligation to distribute as part of its basic service those listed stations, as applicable.

9. Accordingly, the Commission has amended the BDU exemption order set out in the appendix to this regulatory policy to also include the above condition.

Conclusion

10. In light of the above, the Commission replaces Broadcasting Order 2015-544 with the revised exemption order for terrestrial BDUs serving fewer than 20,000 subscribers set out in the appendix to this regulatory policy. The new exemption order takes effect immediately.

Secretary General

Related documents

- *Various licensed and exempt broadcasting distribution undertakings – Licence amendments and exemption*, Broadcasting Decision CRTC 2017-322, 31 August 2017
- *Amendments to the Broadcasting Distribution Regulations and the Television Broadcasting Regulations, 1987 regarding local and community television, and financial support, logging requirements and Canadian exhibition requirements for over-the-air television stations*, Broadcasting Regulatory Policy CRTC 2017-278, 4 August 2017
- *Call for comments on proposed amendments to the Broadcasting Distribution Regulations and the Television Broadcasting Regulations, 1987*, Broadcasting Notice of Consultation CRTC 2017-50, 24 February 2017
- *Call for comments on amendments to the exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Notice of Consultation CRTC 2017-201, 16 June 2017
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016

- *Revised exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Regulatory Policy CRTC 2015-543 and Broadcasting Order CRTC 2015-544, 9 December 2015
- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2009-544, 31 August 2009

Appendix to Broadcasting Regulatory Policy CRTC 2017-319

Broadcasting Order CRTC 2017-320

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

Pursuant to section 9(4) of the *Broadcasting Act* (the Act), the Commission, by this order, exempts from the requirements of Part II of the Act and any regulations made thereunder, those persons carrying on broadcasting distribution undertakings of the class defined by the criteria and operating under the terms and conditions outlined below.

Description

The purpose of these broadcasting distribution undertakings is to provide programming services to fewer than 20,000 subscribers, using co-axial cable, fibre or digital subscriber line 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 community programming,” “Corporation,” “discretionary service,” “educational television programming service,” “English major ownership group,” “exempt discretionary service,” “francophone market,” “independent production fund,” “issuing authority,” “licensed,” “licensed area,” “local television station,” “on-demand service,” “National Alert Aggregation and Dissemination System,” “new programming service,” “pay television service,” “programming service,” “regional television station,” “radiocommunication distribution undertaking,” “relay distribution undertaking,” “station” and “subscriber” have the same meanings as set out in the *Broadcasting Distribution Regulations*;

“basic service” means the package of programming services at paragraph 6 that is distributed by an undertaking 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 2,000 but has subsequently exceeded 2,200 for at least two consecutive broadcast years as reported pursuant to paragraph 24 below.

B. Conditions applicable to exempt distribution undertakings

General conditions

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. 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 on-demand services or the programming services of exempt programming undertakings, other than exempt discretionary services, 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 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.
- f. As an exception to paragraph 6.a. above, to the extent that the undertaking distributes as part of its basic service CFHD-DT Montréal, CJMT-DT Toronto, CJMT-DT-1 London, CJMT-DT-2 Ottawa, CJCO-DT Calgary, CJEO-DT Edmonton, CHNM-DT Vancouver or CHNM-DT-1 Victoria, and to the extent that the undertaking is required to distribute the programming service of OMNI Regional pursuant to section 9(1)(h) of the *Broadcasting Act*, the undertaking is relieved of the obligation to distribute as part of its basic service those listed stations, as applicable.

Majority of Canadian programming services

- 7. A majority of each of the programming services 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 until 29 February 2016. As of 1 March 2016, a majority of each of the programming services and audio channels offered to 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 and on-demand service is counted as a single service.

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 discretionary service, excluding the services that the undertaking may be required to distribute under paragraph 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 discretionary service, excluding the services that the undertaking may be required to distribute under paragraph 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 limited point-of-view religious services

10. The undertaking distributes a limited point-of-view religious discretionary service only on a “stand-alone basis” or in a package with other 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. Subject to 12.1 and 12.2, 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 an 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.

12.1 An undertaking

- a. that serves more than 2,000 subscribers and that alters the audio content or audio format of a programming service under paragraph 11.g. shall ensure that every commercial message complies with the technical requirements set out in *ATSC Recommended Practice A/85: Techniques for Establishing and Maintaining Audio Loudness for Digital Television*, published by the Advanced Television Systems Committee Inc., as amended from time to time.
- b. that serves more than 2,000 subscribers and that distributes an authorized non-Canadian programming service shall ensure that every commercial message complies with the technical requirements set out in *ATSC Recommended Practice A/85: Techniques for Establishing and Maintaining Audio Loudness for Digital Television*, published by the Advanced Television Systems Committee Inc., as amended from time to time.

12.2 An undertaking that serves more than 2,000 subscribers and that delivers any programming service on a digital basis shall

- a. implement a public alerting system that alters without delay a programming service being distributed by the undertaking in its service area to insert any alert that it receives – in a form including both text and audio content – from the National Alert Aggregation and Dissemination System, that
 - i. announces an imminent or unfolding danger to life; and
 - ii. is designated by the applicable issuing authority for immediate broadcast or distribution in the undertaking's service area.
- b. insert the alert in all programming services that it is distributing to subscribers whose residence or other premises are located in an area that is targeted by the alert.
- c. take all reasonable measures to ensure that the alerts are in conformity with the specifications and recommended practices set out in the document entitled *National Public Alerting System: Common Look and Feel Guidance*, produced at the request of the Federal/Provincial/Territorial Public Alerting Working Group of Senior Officials Responsible for Emergency Management with the support of Defence Research and Development Canada, Centre for Security Science, Canadian Safety and Security Program, and in consultation with the public-private Common Look and Feel Working Group, as that document is amended from time to time.

Prohibited programming content

13. 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 13.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 13.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

14. In regard to other services distributed:

- 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 13 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

15. If the undertaking serves more than 2,000 subscribers, it distributes all programming services that must be distributed pursuant to mandatory distribution orders under section 9(1)(h) of the *Broadcasting Act*, under the terms and conditions of each mandatory distribution order.

Dispute resolution

16. 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 16.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 as provided for in *Practices and procedures for staff-assisted mediation, final offer arbitration and expedited hearings*, Broadcasting and Telecom Information Bulletin CRTC 2013-637, 28 November 2013, 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 a commercial agreement.
- c. If a dispute, within the meaning of paragraph 16.a., arises with respect to a programming undertaking's new programming service that is 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 16.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

17. In regard to obligation during dispute:

- 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 services or concerning any right or obligation under the Act, the undertaking shall continue to distribute those 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 17.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 new 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

18. 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.
19. 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. 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 previous broadcast year, less any contribution to community programming made by the undertaking in the current broadcast 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.

20.1 If an undertaking is required to make a contribution to Canadian programming in a broadcast year under paragraph 20, each contribution shall be made separately by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month.

20.2 The undertaking may estimate the required monthly contribution for September, October and November.

20.3 If a monthly contribution for September, October or November of a broadcast year is based on an estimate that is greater than the amount required, the undertaking may deduct the excess from the amount of the contribution that is required for December of that broadcast year; however, if the contribution made by the undertaking is less than the amount required, the undertaking shall contribute the balance by 31 December of that broadcast year.

21. The undertaking is authorized to offer a zone-based community channel (where two or more exempt broadcasting distribution undertaking 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.

22. 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 terrestrial broadcasting distribution 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 terrestrial broadcasting distribution 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;
- 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' *CAB Violence Code*, as amended from time to time and approved by the Commission; and
- f. commercial messages or promotional messages on the community channel comply with the technical requirements set out in *ATSC Recommended Practice A/85: Techniques for Establishing and Maintaining Audio Loudness for Digital Television*, published by the Advanced Television Systems Committee Inc., as amended from time to time.

Information requirements

23. 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 an 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.

24. If the 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.
25. For an undertaking operating in a market with one or more licensed broadcasting distribution undertakings, that undertaking or its representative submits the following information to the Commission by completing the [registration form](#), no later than three months prior to commencing operations in a new service area:
- a. contact information;
 - b. type of undertaking;
 - c. main undertaking location and secondary locations;
 - d. basic technical information to ascertain how the service is delivered;
 - e. the geographical coordinates of the head end;
 - f. whether a community channel will be offered;
 - g. a website address where the distribution grid (i.e., channel lineup) for the service area is listed;
 - h. a launch date; and
 - i. confirmation that the undertaking will operate under the terms and conditions of this order.
26. The undertaking submits any information requested by the Commission in order to ascertain the undertaking's compliance with the terms of this order.

Adherence to the Television Service Provider Code and participation in the Commissioner for Complaints for Telecommunications Services Inc.

27. As of 1 September 2017, where an undertaking is an affiliate of a licensed broadcasting distribution undertaking, it shall adhere to the Television Service Provider Code (TVSP Code) set out in the appendix to *The Television Service Provider Code*, Broadcasting Regulatory Policy CRTC 2016-1, 7 January 2016.
28. As of 1 September 2017, where an undertaking is an affiliate of a licensed broadcasting distribution undertaking, it shall be a participant in the Commissioner for Complaints for Telecommunications Services Inc. (CCTS).