



Broadcasting Information Bulletin CRTC 2017-434

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Clarification of the Commission’s definition of “advertising material” for purposes of Canadian program certification

1. Based on criteria set out in Public Notice 2000-42 and Broadcasting Regulatory Policy 2010-905, the Commission grants Canadian certification to eligible television programs and series made by independent Canadian producers. Once certified, such programs and series may count towards the Commission’s calculation of a broadcaster’s Canadian program exhibition and expenditure requirements. The Commission also recognizes programs certified by the Canadian Audio-Visual Certification Office (CAVCO)¹ as Canadian for the purpose of Canadian program requirements.
2. As stated in Public Notice 2000-42, infomercials and other forms of advertising material are excluded from certification as Canadian programs.² This includes any production that is a form of endorsement, advertisement or solicitation, or that uses addresses, telephone numbers or websites to sell or promote goods or services. It therefore includes “ordering opportunities,” defined in Public Notice 1995-93 as direct solicitations made by an on-screen host or through a voice-over providing information on how to purchase the product or service being advertised.³ These are commonly referred to as “calls to action,” i.e., when an on-screen personality, a voice-over or text on the television screen encourages viewers to purchase goods or services contained in the program by providing contact information, other than the production’s website, to facilitate a sale.
3. The examination of an application for Canadian program certification takes into consideration the balance between information and/or entertainment and selling and/or promoting. If the underlying intention of a production is considered to be selling or promoting, the production is found to be advertising material and is not certified as a Canadian program.
4. For the purpose of the Canadian Film or Video Production Tax Credit (CPTC) and the Film and Video Production Services Tax Credit (PSTC), CAVCO also considers advertising to be an excluded genre. In *Definition of “advertising” for the purpose of the federal film or video production tax credit programs*, CAVCO Public Notice 2017-03, 6 March 2017, CAVCO provided a revised version of its definition of “advertising” that it uses to determine whether an audiovisual production counts as advertising. Although CAVCO has

¹ CAVCO, part of the Department of Canadian Heritage, is responsible for administering the tax credit program for international production, as well as for certifying domestic productions that apply for the Canadian Film or Video Production Tax Credit.

² Advertising material, forms of which may be embedded within a program, is distinguished from commercial messages, which occur during breaks within a program or between programs.

³ The display of either a 1-800 phone number or company name in itself does not constitute an ordering opportunity and is not advertising.

revised its definition, the Commission's definition of "advertising material" has not changed. However, differences between the two definitions may cause confusion. For example, while CAVCO's new definition includes a "maximum admissible time on screen" of advertising material within a program, the Commission's definition does not.

5. This information bulletin aims to prevent such confusion by providing clarity to producers in regard to the Commission's approach to defining "advertising material" as it relates to Canadian program certification. That approach is informed by various Commission documents issued from 1987 to 2017. For ease of reference, the Commission sets out below the various regulations and policy documents that provide information relating to advertising material and Canadian program certification:

- the definitions of "advertising material" and "commercial message" set out in the *Discretionary Services Regulations*;
- the definitions of "advertising material" and "commercial message" set out in the *Television Broadcasting Regulations, 1987*;
- material excluded from certification as a Canadian program, set out in Appendix I to Public Notice 2000-42, and in the appendix to Broadcasting Regulatory Policy 2010-905;
- the definition of "ordering opportunity" set out in Public Notice 1995-93;
- the Commission's conclusions regarding the airing of "infomercials" during the broadcast day set out in Public Notice 1994-139; and
- the definition of "commercial message" set out in Circular No. 350.

Secretary General

Related documents

- *Revision of the definition of a Canadian program to include Canadian programs that have been dubbed in Canada and outside Canada*, Broadcasting Regulatory Policy CRTC 2010-905, 3 December 2010
- *Certification for Canadian Programs – A revised approach*, Public Notice CRTC 2000-42, 17 March 2000
- *Clarification of Certain Matters Relating to the Airing of "Infomercials" During the Broadcast Day*, Public Notice CRTC 1995-93, 13 June 1995
- *Amendment to the Television Broadcasting Regulations, 1987 to permit, by condition of licence, the airing of "infomercials" during the broadcast day*, Public Notice CRTC 1994-139, 7 November 1994
- Circular No. 350, 8 August 1988