



Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC [2023-307](#)

PDF version

References: 2022-272 and 2022-272-1

Ottawa, 5 September 2023

Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement

Summary

In Broadcasting Notice of Consultation 2022-272, the Commission sought comments on an application filed by Quebecor Media Inc., on behalf of TVA Group Inc., to remove the advertising time limit of 12 minutes per clock hour on its discretionary services, as well as on the possibility of removing this limit for other discretionary services. As a result of this proceeding, the Commission, by majority decision, amends the advertising time limit requirement that applies to discretionary services. More specifically, the Commission **removes** immediately the advertising time limit of 12 minutes per clock hour for all discretionary services, but retains the requirement that they must not broadcast any paid advertising material other than paid national advertising, unless otherwise authorized by the Commission. In addition, the Commission **removes** the limit on local advertising of 6 minutes per clock hour that was imposed on third-language discretionary services.

To reflect these determinations, the Commission modified the standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services by means of orders, pursuant to subsection 9.1(1) of the *Broadcasting Act*. For ease of reference, the Commission has reproduced all the standard conditions of service for these types of discretionary services in Appendices 1, 2 and 3 to this regulatory policy, respectively. Specifically, discretionary services that were subject, by condition of service, to Appendix 2 of Broadcasting Regulatory Policy 2016-436 are now subject to the conditions of service set out in Appendix 1 to this regulatory policy. National news discretionary services that were subject, by condition of service, to the appendix to Broadcasting Regulatory Policy 2015-436 are now subject to the conditions of service set out in Appendix 2 to this regulatory policy. Mainstream sports discretionary services that were subject, by condition of service, to Appendix 1 of Broadcasting Regulatory Policy 2009-562-2 or that were authorized, by condition of service, to distribute the maximum 12 minutes of advertising allowed per clock hour over the entire broadcast day (i.e., RDS, TSN and TVA Sports) are now subject to the conditions of service set out in Appendix 3 to this regulatory policy.

Moreover, the Commission **removes** the limit on local advertising of 6 minutes per clock hour that was imposed on discretionary services that broadcast local programming, as long as they continue to solicit local advertising only in markets where they broadcast local programming. To reflect this determination, the Commission invites these licensees to file an application to modify their specific condition of service to reflect the Commission's determinations to remove the 12-minute limit per clock hour and the limit on local advertising of 6 minutes per clock hour. This approach will enable the Commission to ensure that, as a condition of service, they must continue to solicit local advertising only in markets where they broadcast local programming.

In addition, in order to remove the 12-minute limit per clock hour imposed on exempt discretionary services and the limit on local advertising of 6 minutes per clock hour imposed on exempt third-language discretionary services, the Commission modified the condition of exemption relating to the advertising time limit for exempt discretionary services by means of an order, pursuant to subsection 9(4) of the *Broadcasting Act*. Exempt discretionary services that were subject to the conditions of exemption set out in the appendix to Broadcasting Order 2015-88 are now subject to Broadcasting Order 2023-307, set out in Appendix 4 to this regulatory policy.

In addition, the Commission intends to amend the *Broadcasting Distribution Regulations* to refer to these new appendices and the new broadcasting order.

Application

1. Quebecor Media Inc., on behalf of TVA Group Inc. (TVA), filed an application (2020-0372-1) to remove the advertising time limit of 12 minutes per clock hour on its discretionary services.¹ However, TVA stated that it wanted to maintain the requirement that its discretionary services not broadcast any paid advertising material other than paid national advertising.
2. In support of its application, TVA stated that only discretionary services are subject to an advertising time limit² and that this limit unduly favours foreign online platforms, which capture a growing share of advertising revenues. TVA added that removing the limit for its services would help restore healthier competition in the French-language market while injecting advertising revenues back into the Canadian broadcasting ecosystem, which online platforms do not do. TVA also noted that the COVID-19 pandemic had an immediate impact on advertising revenues for its services.
3. According to TVA, there is greater need for regulatory flexibility in the French-language market than in the English-language market. In this regard, TVA noted that the most popular programs in the French-language market are produced locally at higher costs and therefore considers that full use of advertising space would

¹ AddikTV, CASA, Évasion, MOI ET CIE, PRISE2, Yoopa, and Zeste, as well as LCN (national news service) and TVA Sports (general interest sports service).

² Conventional stations have not had a limit since 2009 (see Broadcasting Public Notice [2007-53](#)).

allow it to better support the production of these programs and make them more profitable. TVA stated that in contrast, the most popular content in the English-language market is foreign and less costly, and therefore easier to make profitable. In addition, the applicant noted that according to Commission data,³ the profitability of discretionary and on-demand services increased in the English-language and bilingual markets between 2016 and 2020, while it decreased in the French-language market.

4. Furthermore, TVA added that the situation in the French-language advertising market is all the more alarming because of Bell Media Inc.'s (Bell) growing selling power since acquiring V Interactions Inc.⁴ which now owns conventional television stations and discretionary services in both language markets.
5. If the Commission refuses to remove the advertising time limit on its discretionary services, TVA asked that, as an alternative proposal, the Commission not count the promotion of foreign programs and feature films against the advertising time limit of 12 minutes per clock hour imposed on its discretionary services. TVA stated that revenues from foreign programming are essential in order for broadcasters to be able to continue to invest in Canadian content. According to TVA, this alternative proposal would enable it to optimize, and maximize, the profitability of the 12 minutes of advertising per clock hour, in favour of Canadian content.

Background

6. In Broadcasting Notice of Consultation 2022-272 (Notice 2022-272), the Commission broadened the issue of removing the advertising time limit to all Canadian discretionary services, since they potentially face the same challenges raised by TVA (e.g., migration of advertising revenues to online platforms). The Commission deemed that this approach would enable it to make an informed decision for all Canadian players from a holistic perspective. As such, in Notice 2022-272, the Commission called for comments on the removal of the advertising time limit for discretionary services, on the impact of the removal on other players in the broadcasting system and on subscribers, and on TVA's alternative proposal.

Regulatory framework

7. Currently, discretionary services, whether licensed⁵ or exempt,⁶ are subject to an advertising time limit of 12 minutes per clock hour.
8. However, national news⁷ and mainstream sports discretionary services⁸ are allowed some flexibility in broadcasting advertisement: they are allowed to spread the

³ Source: Discretionary and On-demand services – Statistical and Financial Summaries.

⁴ In 2020, Bell acquired the television network called V (now Noovo) and the five French-language conventional television stations of V Interactions Inc. (see Broadcasting Decisions 2020-116 and 2020-154).

⁵ See condition of licence 18 of appendix 2 to Broadcasting Regulatory Policy 2016-436.

⁶ See condition of licence 6 of the appendix to Broadcasting Order 2015-88.

maximum 12 minutes of advertising allowed per clock hour over the entire broadcasting day. This flexibility allows the licensees of these services to broadcast live events uninterrupted when appropriate, given the nature of their programming.

9. As a general rule, discretionary services must not broadcast local advertising, with the exception of a few services authorized to do so.

Interventions

10. In response to Notice 2022-272, the Commission received interventions from broadcasters' associations, individual broadcasters, associations representing the production sector, an association representing advertising media agencies, public interest and research groups, and a few individuals. The interventions are detailed in the appropriate sections below.

Is this the appropriate time to consider the issue of the advertising time limit?

11. In Notice 2022-272, the Commission recognized that there was a degree of uncertainty surrounding certain regulatory issues in light of the possible revision of the *Broadcasting Act*.⁹ However, it indicated that, in its view, the issue could be considered at that time, since the advertising time limit only concerns a specific aspect of the existing regulatory framework. Notwithstanding the above, it invited interested parties to consider whether this was the right time to address the issue.

Positions of parties

12. The Public Interest Advocacy Centre (PIAC) and the Independent Broadcasters Group (IBG) considered that the Commission should wait for the modernization of the *Broadcasting Act* before deciding on the removal of the advertising time limit.
13. In its intervention, PIAC stated that it would be premature for the Commission to address this issue in light of ongoing regulatory and legislative reforms (including Bill C-11¹⁰ and the reconsideration of the Canadian Broadcasting Corporation [CBC] renewal decision¹¹). PIAC noted that these reforms will provide general solutions to the problems raised by TVA (increased competition from online platforms capturing a growing share of broadcasting revenues, and regulatory inequity between private broadcasters and the CBC).

⁷ See condition of licence 3 of the appendix to Broadcasting Regulatory Policy 2015-436.

⁸ The conditions of licence for this purpose are set out in the respective broadcasting decisions of each mainstream sports service.

⁹ Bill C-11, the *Online Streaming Act*, received Royal Assent on 27 April 2023, a few months after the public record for this proceeding was closed.

¹⁰ *Ibid.*

¹¹ See the [Order](#) in Council referring to Broadcasting Decision 2022-165, P.C. 2022-0995, 2022.

14. The IBG argued that the issue of the advertising time limit would be more appropriately addressed as part of a broader review of the broadcasting system. According to the IBG, this issue could be addressed in the review of the regulatory framework following the approval of Bill C-11 or during the future review of the regulatory framework for independent services (as announced by the Commission in connection with the Shaw/Rogers transaction¹²).
15. Conversely, many broadcasters¹³ considered that it is the right time to address the issue, given the current economic context and the increased competition from online platforms for viewership, revenues and programming rights.

Commission's analysis

16. Although the Commission recognizes that the new *Broadcasting Act* (Bill C-11, which received Royal Assent on 27 April 2023) will bring significant regulatory reforms to the broadcasting system, it notes that the regulatory changes resulting from the new *Broadcasting Act* will not be made immediately upon its enactment. The changes will be made through a number of public proceedings that, taken together, will take several years to implement.
17. Furthermore, as indicated in Notice 2022-272, the Commission remains of the view that the advertising time limit concerns a specific and targeted aspect of the current regulatory framework, and that it would therefore be appropriate and justifiable to review the current proceeding at this time.
18. Furthermore, the Commission notes that the CBC's advertising practices are not among the aspects of the decision set out in the Governor in Council's Order in Council for reconsideration.¹⁴
19. In fact, the Commission deems that it is more appropriate to consider the issue of the advertising time limit as part of this proceeding, as it allows for a global assessment of the impact of the potential removal of the advertising time limit on all broadcasters (whether independent or not), rather than waiting for a proceeding to be held for independent services only.
20. In light of the above, the Commission considers that the present proceeding is appropriate and timely to review the issue of the advertising time limit.

¹² See paragraph 97 of Broadcasting Decision [2022-76](#).

¹³ The Canadian Association of Broadcasters (CAB), Bell, Corus Entertainment Inc. (Corus), TVA, TV5 Québec Canada (TV5), Anthem Sports and Entertainment (Anthem) and Pelmorex Weather Networks (Television) Inc. (Pelmorex)

¹⁴ See the [Order](#) referring to Broadcasting Decision 2022-165, P.C. 2022-0995, 2022.

Advertising time limit

Current environment and competition in terms of audience and advertising revenues

Positions of parties

21. Interveners supporting the removal¹⁵ argued that the limit is archaic in light of the profound transformation of the Canadian broadcasting landscape and the fact that it prolongs a regulatory inequity that penalizes Canadian broadcasters. In their opinion, discretionary services are currently facing the same challenges (uncertainty of the industry's financial outlook and audience fragmentation) that conventional stations faced when the Commission decided to remove the advertising time limit for the latter in Broadcasting Public Notice 2007-53. They noted that at that time, audience fragmentation was occurring in the Canadian broadcasting system (conventional stations were facing increased competition from discretionary services), and online services were in their infancy. They added that all broadcasters are currently facing the challenge of audience fragmentation between traditional services and online platforms.
22. In general, interveners alleged that removing the advertising time limit for discretionary services would enable them to slow the migration of advertising revenues to the Internet,¹⁶ including foreign online services. In this regard, they predicted that competition for advertising revenues will intensify with the arrival of online services that now offer reduced-cost subscription packages including advertising, as well as free ad-supported streaming TV.
23. Moreover, they added that the limit hinders their ability to meet the demands of the growing Canadian advertising market, and that the additional advertising revenues resulting from removing the limit would enable them to maximize the profitability of popular programs (which are often very expensive to produce or acquire).
24. Conversely, PIAC (which opposed removing the limit) stated that according to the ThinkTV report¹⁷ to which the Commission refers to in Notice 2022-272, the vast majority of Internet advertising revenues comes from search, display, and social network advertising (totalling \$9 billion in 2020) and that discretionary services do not compete with this type of advertisement placement. In this regard, PIAC noted that only \$25 million of Internet advertising revenues came from "advanced television" revenues,¹⁸ which may be more comparable to specialty services (which accumulated \$1.017 billion in 2020). Similarly, the Forum for Research and Policy

¹⁵ The CAB, Bell Corus TVA, Pelmorex. and Anthem.

¹⁶ Bell stated that, according to the [ThinkTV](#) report, television's share of advertising revenues has fallen by almost 40% between 2011 and 2020, while the Internet's share has risen by almost 200% over the same period.

¹⁷ Source: Net Advertising Volume, February 2022, [ThinkTV](#).

¹⁸ Television content distributed online.

in Communications (FRPC) considers that it is unclear how online video services derive advertising revenues from discretionary services.

Reply

25. Contrary to PIAC's and the FRPC's allegations, TVA argued that the broadcasters are indeed in direct competition with both the web giants (social media, search engines, etc.), such as Google, Amazon and Facebook, which capture 90% of online advertising revenues and 64% of total advertising revenue in Canada (all media combined),¹⁹ and with foreign online video-on-demand services.

Commission's analysis

Current financial challenges of discretionary services compared to conventional stations before the Commission removed the advertising time limit for these stations

26. The Commission questions whether discretionary services face the same financial challenges that conventional stations faced when the Commission decided to remove the advertising time limit for these stations as of 1 September 2009,²⁰ as claimed by some interveners.²¹
27. In the five years prior to removing the limit for conventional stations (the 2004-2005 to 2008-2009 broadcast years), the total revenues of these stations declined at a compound annual growth rate (CAGR) of -2.1%, while their advertising revenues declined more sharply at a CAGR of -3%.
28. In regard to discretionary services, the Commission notes that over the five broadcast years for which data was available when the public record for this proceeding was still open (the "five broadcast years available"), i.e., 2016-2017 to 2020-2021, their total revenues (all languages combined) decreased at a CAGR of -1.8% and their advertising revenues decreased at a CAGR of -1.5%. This downward trend in revenues from discretionary services can be explained, in part, by the fact that audiences and advertising revenues are migrating to online platforms.
29. As a result, the Commission considers that these downward revenue trends suggest that discretionary services are now in a similar financial position as conventional stations at the time the Commission decided to remove the limit for these stations.

Current challenges for discretionary services (competition for audience and advertising revenues)

30. In recent years, the growing popularity of digital platforms has significantly impacted the viewing habits of Canadians. While television viewing is declining in

¹⁹ Source: [Growth and Upheaval in the Network Media Economy in Canada, 1984-2021](#), 11th edition, Global Media & Internet Concentration Project, p. 28.

²⁰ See Broadcasting Public Notice 2007-53.

²¹ The CAB, Bell, Corus Anthem and Pelmorex.

both language markets, viewing content on online platforms is gradually increasing, accentuating audience fragmentation.

31. Audience fragmentation seems to have repercussions for the Canadian broadcasting system as a whole, such as the overall decline in revenues from discretionary services in the five broadcast years available,²² as noted above. This downward trend affects all discretionary services, regardless of the language market or their type of ownership (i.e., whether they are independent or not).
32. In addition, subscription video-on-demand services are capturing a growing share of total broadcasting revenues (from 4.7% in 2017 to 11.7% in 2021²³), while they currently have no Canadian content requirements. The share of total broadcasting revenues of discretionary services that, in contrast, have Canadian content contribution and exhibition requirements, has decreased over the same period (from 22.1% in 2017 to 19.2% in 2021²⁴). Furthermore, while the share of linear television advertising spending is declining year by year (from 23.4% in 2017 to 17.7% in 2021), the share of digital advertising spending has increased considerably (from 49.6% in 2017 to 71.1% in 2021²⁵).
33. As noted by PIAC, according to the ThinkTV report,²⁶ advertising spending on speciality services in 2020 was considerably higher (\$1.017 billion) than advertising spending on “advanced TV” on the Internet (\$25 million). Notwithstanding the above, it is clear that Canadian advertisers are increasingly using the Internet (regardless of the type of advertising placement, including “video” advertising placements) to more precisely target their campaigns and that the advertising revenues in linear television shows a downward trend. According to the Commission, this decline in revenues could be even more pronounced with the arrival in Canada of services whose revenues are based solely on advertising.
34. In light of the above, the Commission considers that, while discretionary services are still doing well (by remaining profitable overall) at this time, they nonetheless face significant competitive challenges in terms of audience and advertising revenues from online platforms.

Impact of removing the advertising time limit on broadcasters

Positions of parties

35. TVA stated that removing the limit would have no impact on the envelope devoted to advertising purchases on conventional stations, since envelopes are not

²² The Commission notes that overall revenues remain on a downward trend when considering the 2017-2018 to 2021-2022 broadcast years.

²³ Source: [Communications Market Report – Open Data](#).

²⁴ Ibid.

²⁵ Source: Net Advertising Volume, January 2023, [ThinkTV](#).

²⁶ Source: Net Advertising Volume, February 2022, [ThinkTV](#).

interrelated between discretionary services and conventional stations during commercial planning, nor on independent services, since advertiser demand exceeds supply.

36. The CAB argued that removing the limit is unlikely to have a significant impact on broadcasters, since when a program reaches its advertising limit, advertisers rarely turn to another discretionary service—instead they turn to online advertising. In this regard, the CAB argued that removing the limit would allow broadcasters to retain advertising revenues in the Canadian broadcasting system. While it supported removing the limit, Pelmorex Weather Networks Inc. (Pelmorex) considers that the increase in total advertising inventory could reduce advertising rates and lead to a migration of advertising spend to large vertically integrated broadcasters at the expense of some independent broadcasters.
37. While the Association québécoise de la production médiatique (AQPM), the Canadian Media Producers Association (CMPA) and the Alliance des producteurs francophones du Canada (APFC) were not clearly opposed to the removal of the advertising time limit, these associations encouraged the Commission to assess the relevance and impact of potentially removing the advertising time limit on the Canadian broadcasting system.
38. On the other hand, the IBG and Blue Ant Media Inc. (Blue Ant) (who opposed the removal of the advertising time limit) argued that the Commission's reasons for not removing the limit for discretionary services in 2008²⁷ remain valid (potential impact on conventional stations, independent services and advertising rates).
39. More specifically, they argued that this could have an impact on conventional stations, which benefit from a single source of income (advertising revenues) unlike discretionary services, which also benefit from subscription revenues. According to the IBG, removing the limit hurts conventional independent stations, as between the 2018-2019 and 2020-2021 broadcast years,²⁸ advertising revenues for independent stations fell more sharply than those for stations owned by the large groups. Finally, they noted that, as mentioned by the Commission in 2008,²⁹ both small and large over-the-air television broadcasters in Quebec are vulnerable to shifts in advertising budgets.
40. They also considered that removing the limit could have an impact on independent services. They argued that advertisers typically purchase the vast majority of their advertising from the major broadcasters and then turn to the smaller independent services to supplement their advertising offerings. In their view, the increase in advertising inventory would encourage the major broadcasters to enter into larger-scale contracts with advertisers, who would then be able to complete their

²⁷ See Broadcasting Public Notice 2008-100.

²⁸ Excluding the 2019-2020 broadcast year, as the IBG considered it unrepresentative due to the COVID-19 pandemic.

²⁹ See paragraph 284 of Broadcasting Public Notice 2008-100.

advertising offer solely with them, to the detriment of independent services. Moreover, they stated that removing the advertising time limit for discretionary services could lead to lower advertising rates.

Replies

41. With respect to the argument that only major broadcasters could significantly benefit from the removal of the limit, the CAB, Bell, Corus Entertainment Inc. (Corus) and TVA stated that all broadcasters (whether independent or not) could benefit from it as they are all facing the loss of advertising revenues to the Internet. In their view, the removal would allow all broadcasters to use advertising minutes more efficiently and make their popular programs more profitable. TVA noted that the only major beneficiaries of the advertising time limit are the Web giants and foreign online video-on-demand services.
42. For its part, the IBG argued that if the limit is removed, the likelihood of advertising revenues migrating from independent services to discretionary services owned by vertically integrated entities is greater than that of advertising revenues migrating from online platforms to conventional broadcasters.
43. In regard to the argument that removing the limit would have a negative impact on advertising rates, TVA argued that the increase in advertising inventory would not lead to a discount war on advertising rates between services. Rather, TVA stated that removing the limit would finally enable discretionary services to meet demand from advertisers wishing to broadcast advertising on these services.

Commission's analysis

44. The Commission recognizes that, in the past, it has refused to remove the advertising time limit for discretionary services because of the impact this could have on conventional stations, independent discretionary services and advertising rates.
45. However, the Commission notes that the broadcasting environment has changed considerably since it first decided on whether the limit for discretionary services should be removed in 2008,³⁰ and even since it last decided on the subject in 2017,³¹ as detailed above.

Impact of removing the advertising time limit on conventional stations

46. It would appear that the downward trend in advertising revenues for conventional stations has continued in the years following the removal of the advertising time limit in 2009. Nevertheless, the Commission cannot conclude, as did the IBG, that removing the limit has harmed them. In the Commission's view, removing the advertising limit may, for example, have helped mitigate the decline in revenues

³⁰ See Broadcasting Public Notice 2008-100.

³¹ See Broadcasting Decision 2017-150.

they were facing as a result of audience fragmentation. The Commission notes that if it looks at the trend over a five-year period and not just over two years, as did the IBG, advertising revenues for conventional independent stations increased between the 2016-2017 and 2020-2021 broadcast years, while those for stations owned by large groups decreased.

47. Should the Commission remove the limit for discretionary services but retain the requirement to not broadcast local advertising, a large portion of independent television stations' advertising revenues would remain unchanged, since most of their income derives from local advertising.
48. Further, the Commission notes that no licensee has intervened individually in this process to oppose the removal of the advertising time limit and that these stations benefit from annual financial contributions from the Independent Local News Fund (ILNF), which enable them to finance the production of news and information reflecting their local reality.
49. Moreover, as the Commission has recognized in the past,³² privileges granted to conventional television stations (such as distribution on the basic service, the right to broadcast local advertising and simultaneous substitution) might mitigate some of the risks associated with the potential loss of advertising revenues that could result from such a removal for discretionary services.
50. In light of the above, the Commission considers that removing the limit on discretionary services would have a limited impact on conventional stations, whether they are independent or owned by the large groups.

Impact of removing the advertising time limit on independent services

51. The Commission notes that some independent services³³ considered that the removal would have an undue impact on them due to the possible migration of advertising revenues to the large broadcasters, while other independent services were in support of the removal³⁴ as it would maximize their advertising revenues.
52. While removing the limit would allow discretionary services overall to maximize their advertising revenues, the Commission recognizes that large groups may benefit more from removing the limit, as they can enter into large-scale advertising agreements with advertisers and take advantage of existing group synergies between the discretionary services and the conventional stations they own.
53. However, the Commission considers it unlikely that all Canadian advertisers will completely abandon independent services in favour of services owned by the large groups. Independent services generally offer niche programming aimed at a specific segment of the population, which is undoubtedly attractive to advertisers wishing to

³² See paragraph 39 of Broadcast Decision 2017-150.

³³ The IBG, Blue Ant and TV5.

³⁴ Pelmorex and Anthem..

reach specific target audiences on television. In addition, advertisers already have commercial relationships with independent services and may even increase their advertisement purchase from these services if they increase their advertising inventory.

54. Further, the Commission agrees that removing the advertising time limit could allow all discretionary services to benefit from the growth of the Canadian advertising market (revenues increased from \$13.6 billion in 2017 to \$17.3 billion in 2021³⁵) and help them cope with the migration of advertising revenues to the Internet. Accordingly, the Commission considers that discretionary services, whether owned by large groups or not, could benefit from an increased advertising inventory.
55. The Commission also notes that independent services are currently doing well. They were profitable overall during the five broadcast years available, including the pandemic year (2019-2020). However, the Commission recognizes that independent services are facing significant challenges regarding their distribution, as demonstrated by the decline in their subscription revenues (CAGR of -13.5% for the same period). Nevertheless, it is possible that removing the limit will prove beneficial to some of these services, enabling them to maximize their advertising revenues.
56. In light of the above, the Commission considers that, while it's possible that not all discretionary services would benefit equally from removing the limit (as noted by Pelmorex), it would be advantageous for independent services, as they could also benefit from an increased advertising inventory to cope with the migration of advertising revenues to the Internet.

Impact on broadcasters' advertising rates

57. The Commission notes that it expressed concerns about a possible decline in advertising rates when it considered the removal of the limit for discretionary services in 2008,³⁶ only months after it decided to remove the limit for conventional stations in 2007.³⁷ The Commission considers that the concern was valid at the time, since if the Commission had decided to remove the limit for discretionary services shortly after removing it for conventional stations, it could have resulted in an overall increase in advertising inventory for all broadcasters at the same time, which could have caused a discount war on advertising rates to the detriment of conventional stations that were already facing significant challenges.

³⁵ Source: Net Advertising Volume, January 2023, [ThinkTV](#).

³⁶ See paragraph 283 of Broadcasting Public Notice 2008-100.

³⁷ See Broadcasting Public Notice 2007-53.

58. Although only broadcasters and advertisers have information on advertising rates,³⁸ the parties did not file any evidence nor any hard data on the public record to demonstrate the negative impact of removing the limit on advertising rates. It should also be noted that no party has intervened to demonstrate that the increase in advertising inventory of conventional stations (which have not had an advertising time limit for nearly 15 years) has had a negative impact on advertising rates.
59. In light of the above, the Commission considers that, in the absence of concrete data or evidence, there is no evidence that removing the limit would have a significant negative impact on broadcasters' advertising rates.

Impact of removing the advertising time limit on subscribers and the public interest

Positions of parties

60. In general, interveners that supported removing the limit³⁹ considered that it would have minimal impact on viewers. In this regard, they noted that removing the limit for conventional stations has not resulted in advertisement saturation, nor should discretionary services subscribers see an overall increase in advertising throughout the day. The CAB added that removing the limit would not shorten the average length of programs and that the only potential change for viewers would be to see less filler programming during breaks, especially during the broadcast of certain popular programs.
61. These interveners recognized that it would not be in broadcasters' best interest to broadcast too many advertisements as it would negatively influence the viewer experience and accelerate cord-cutting and cord-shaving trends.
62. Moreover, they argued that removing the limit would allow broadcasters to reinvest the additional advertising revenues in Canadian programming for the benefit of the public interest. In this regard, the AQPM noted that the decline in subscription and advertising revenues from discretionary and on-demand services in both language markets has a negative impact on Canadian programming expenditures (CPE), since the requirements for these expenditures are based on these revenues.
63. Conversely, the IBG, Blue Ant and PIAC alleged that removing the limit on discretionary services would negatively impact the viewer experience while accelerating the cord-cutting trend. PIAC argued that consumers do not want to see more advertising, especially for services for which they pay.

³⁸ Advertising rates are negotiated between broadcasters and advertisers. The Commission does not interfere with these agreements since they are private and therefore, it does not hold any information about these agreements.

³⁹ The CAB, Bell, TVA, Corus, Pelmorex and Anthem.

Replies

64. Corus considered that there is no evidence of a causal link between the number of advertisements broadcast and cord cutting.
65. According to PIAC, in order for discretionary services to generate enough additional advertising revenues to both increase profitability and make a meaningful contribution to the creation of quality Canadian content, they would have to significantly increase the number of advertisements per hour, which contradicts arguments that viewers would not be affected.

Commission's analysis

Impact of removing the advertising time limit on subscribers

66. As the CAB stated, removing the limit would not likely have an impact on program length, since programs acquired or produced generally follow a specific format (e.g., 44 minutes for a one-hour block of programming). However, the Commission recognizes that viewers could see more commercials during breaks in certain programs, as is currently the case with conventional stations.
67. The Commission notes that all interveners, whether they support or oppose removing the limit, recognized that there is a real risk of overwhelming viewers with advertisements and that this could have negative consequences for discretionary services, if not for the system as a whole (cord cutting and cord shaving).
68. In light of the cord-cutting and cord-shaving trends, the Commission considers that it is not in broadcasters' best interest to significantly increase the number of advertisements shown throughout the day, and thereby detract from subscribers' television experience. The Commission considers that removing the limit would give broadcasters greater flexibility in allocating advertising minutes. However, the Commission considers that it will be in broadcasters' best interest to use this flexibility cautiously, seeking to strike a balance between maximizing advertising revenues and the interests of subscribers, in order to ensure subscriber retention against competition from online platforms.
69. In light of the above, the Commission considers that removing the advertising time limit would have a limited impact on subscribers.

Public interest

70. As indicated by the AQPM, the decline in total revenues from discretionary services has a negative impact on CPE (since they are based on revenues). Specifically, total revenues from discretionary services have been declining for the five broadcast years available (CAGR of -1.7%), as have CPE revenues (CAGR of -2.9%).

71. In the Commission's view, allowing discretionary services to maximize their advertising revenues could slow the downward trend in CPE, at least in the short term, which would ultimately meet the policy objectives of the *Broadcasting Act* regarding the development of Canadian expression in the Canadian broadcasting system for the benefit of the public interest.
72. The Commission considers that removing the limit would serve the public interest as the additional advertising revenues would allow broadcasters to:
- contribute to the creation and presentation of Canadian programming, in accordance with paragraph 3(1)(e) of the *Broadcasting Act*; and
 - provide Canadians with high standard Canadian programming that meets their needs and interests and reflects Canadian attitudes, opinions, ideas, values and artistic creativity, in accordance with subparagraphs 3(1)(d)(ii) and (iii) and paragraph 3(1)(g) of the *Broadcasting Act*.
73. In light of the above, the Commission considers that it would be in the public interest to allow broadcasters to maximize their advertising revenues, as this would ultimately benefit Canadian programming.

Application of the removal of the advertising time limit (services covered and implementation)

Interventions

74. Broadcasters in support of the removal of the limit,⁴⁰ as well as the CMPA, noted that both language markets face the same competitive challenges as those raised by TVA and that it would therefore be unjustified to adopt different regulatory policies for different language markets. In addition, they argued that if the Commission removes the limit, it should do so immediately (and not in an incremental fashion, as the Commission has done for conventional stations⁴¹). In this regard, TVA added that a gradual lifting of the advertising time limit would only prolong the inequity between conventional broadcasters and online platforms.
75. On the other hand, the IBG and the FRPC stated that should the Commission remove the limit for all discretionary services, a gradual approach would be required to monitor the impact on the broadcasting system. The IBG noted that the Commission could consider removing the limit for independent discretionary services because of the limited impact this could have on the advertising market. The FRPC stated that the Commission could consider removing the limit only for independent services, for five years, since these services devote on average a

⁴⁰ The CAB, Bell, TVA, Corus, Pelmorex and Anthem.

⁴¹ As set out in Broadcasting Public Notice 2007-53, the limit was set at 14 minutes during prime time (7:00 p.m. to 11:00 p.m.) during the 2007-2008 broadcast year and then increased to 15 minutes per hour for all broadcasting hours during the 2008-2009 broadcast year. The limit was then completely removed on 1 September 2009.

greater proportion of their revenues to CPE in comparison to large groups. Therefore, according to the FRPC, giving independent services the opportunity to generate more advertising revenue is more likely to lead to an increase in CPE.

Services targeted by the removal of the advertising time limit

76. All parties agreed that there should be no distinction between language markets if the Commission decides to remove the limit. The Commission agrees that since all discretionary services (regardless of the language market) face the same challenges (migration of advertising revenues and audience fragmentation), which negatively impact their advertising revenues, they could all benefit from the removal of the limit.
77. However, some interveners (the IBG and the FRPC) would like to see the limit removed only for independent services. In this regard, the Commission agrees with the FRPC that the actual percentage of CPE paid by large groups is lower in relation to their revenues than that of independent services. Nevertheless, it is important to note that the sums (in absolute dollars) spent are twice as high among large vertically integrated groups compared to independent services due to the significant revenues they generate. Consequently, the Commission considers that removing the advertising time limit could yield more positive impacts, in absolute dollars, with respect to CPE if removing the measure applied equally to independents and large groups.
78. Moreover, the Commission considers that any additional advertising revenues resulting from removing the limit could potentially lead to increased CPE for all discretionary services (whether owned by large groups or not), which could ultimately have a positive impact on Canadian programming.
79. When the Commission removed the advertising time limit for conventional stations, it indicated that many small market independent stations opposed the elimination of the limit because it would benefit the larger vertically integrated players (at the expense of independent stations).⁴² However, the Commission decided nonetheless to remove the limit for all conventional stations (whether operated by small or large players) at the same time in order to allow all stations to maximize their advertising revenues and to respond to the negative impact of audience fragmentation. Consequently, the Commission considers that if it decides to remove the limit for discretionary services, it should extend this regulatory flexibility to all such services, whether independent or not.
80. In light of the above and given that the decline in advertising revenues affects all discretionary services, the Commission considers that should it decide to remove the advertising time limit, it should apply to all discretionary services.

⁴² See paragraph 40 of Broadcasting Public Notice 2007-53.

Implementing the removal of the advertising time limit (immediate or progressive)

81. Given that discretionary services have been experiencing a decline in their advertising revenues for several years and that the broadcasting environment is constantly evolving, the Commission considers that there would be no advantage in phasing out the limit. In its view, it would be more appropriate to immediately allow discretionary services to maximize their advertising revenues, as to rebalance the requirements between traditional players and online platforms and enable them to be more competitive while awaiting the regulatory reforms stemming from the new *Broadcasting Act*.
82. Consequently, the Commission considers that should it remove the advertising time limit, it should apply immediately.

Local advertising

Positions of parties

83. Bell, Anthem Sports & Entertainment Corp. (Anthem) and Pelmorex stated that they would like to see discretionary services allowed to broadcast local advertising (similar to conventional stations). In this regard, Bell stated that the ban on local advertising, which was imposed on discretionary services to protect conventional stations, is not effective as advertising revenues from linear television (both conventional stations and discretionary services) are migrating to the Internet. In addition, Pelmorex alleged that offering local advertising would personalize the service offered to viewers of its Météomédia/The Weather Network discretionary service.
84. Conversely, the IBG and TV5 Québec Canada (TV5) argued that it would not be appropriate to allow discretionary services to broadcast local advertising since they do not broadcast local programming. The FRPC considered that allowing all services to generate local, regional and national advertising revenues would create important changes in the private and public aspects of the broadcasting system with no clear benefit.
85. While the IBG opposed removing the advertising time limit on discretionary services, it argued that discretionary services that are allowed to broadcast local advertising (particularly third-language services) should no longer be restricted since their impact on the local advertising market is limited. Furthermore, the FRPC stated that the time limit for local advertising should be maintained if conventional stations provide evidence that its removal would have a significant impact on them.

Commission's analysis

86. While the Commission recognizes Bell's argument that competition from online services has an impact on all traditional players, it considers that allowing all discretionary services that do not broadcast local programming to solicit local

advertising would run counter to the spirit of the Commission's long-standing policy of allowing local advertising in exchange for broadcasting local programming. The Commission is of the view that it would have a negative impact on conventional stations (advertising revenues being their only source of revenues, unlike discretionary services, which also benefit from subscription revenues).

87. Accordingly, the Commission considers that it would be inappropriate to allow all discretionary services to broadcast local advertising given the important link between local advertising and local programming.

Discretionary services authorized to broadcast local advertising

88. In the past, the Commission has generally authorized certain discretionary services broadcasting local programming and third-language discretionary services (whether licensed or exempt) to broadcast up to 6 minutes of local advertising per clock hour.
89. The Commission notes that no licensee has intervened in this proceeding to indicate that removing the local advertising limit for third-language services and services broadcasting local programming could have an impact on its operations.
90. Furthermore, the Commission notes that very few discretionary services are authorized to broadcast local advertising since they broadcast local programming, and that those that are authorized to do so can only, as a condition of service, solicit local advertising in the local markets they serve. As such, the Commission is of the view that removing the limit on local advertising for these services would have only a limited impact which would be confined to certain local markets.
91. In regard to third-language discretionary services, the Commission considers that removing the limit of 6 minutes per clock hour for these services would have a limited impact because of the small size of third-language markets, as noted by the IBG.
92. In light of the above, the Commission considers that if the advertising time limit is removed, the few discretionary services permitted to broadcast local advertising should no longer be limited in the amount of local advertising they can broadcast. However, the Commission considers it appropriate, should the limit be removed, to continue to require discretionary services authorized to broadcast local advertising, as they broadcast local programming, to continue to solicit local advertising only in markets where they broadcast local programming. As such, authorization to broadcast local advertising will be conditional on the broadcast of local or third-language programming (services are subject to requirements to this effect), so that authorized services will not be able to change the nature of their service while retaining this authorization.

Alternative proposals

Positions of parties

93. While the IBG, TV5 and Anthem opposed removing the limit, they were in support of TVA's alternative proposal (i.e., not to count the promotion of foreign programs and feature films against the advertising time limit of 12 minutes per clock hour), subject to certain conditions. Specifically, the IBG and TV5 were in support of TVA's alternative proposal, provided that the foreign program or feature film is broadcast on the service that promotes it. In addition, TV5 proposed that a maximum of two minutes per clock hour of promotion of foreign programs or feature films not be counted against the advertising time limit.
94. They generally considered that TVA's alternative proposal could ensure greater promotion of popular programs (often American), resulting in higher ratings for these programs and, consequently, higher advertising revenues. They added that this would not lead to an increase in advertising inventory dedicated to paid national advertising (unlike removing the limit) and therefore would not have an undue impact on independent services.
95. For their part, the AQPM (supported by the APFC), the CMPA and the FRPC were in opposition of TVA's alternative proposal as they expressed concerns that it would reduce the amount of time devoted to promoting Canadian programs, which would be contrary to the policy objectives of the *Broadcasting Act*.

Reply

96. TVA noted that foreign programming, which is very popular and attracts a large audience, contributes to subscriber loyalty in the Canadian broadcasting system and is therefore important in dealing with cord-cutting and cord-shaving trends. TVA added that revenues generated by foreign programs are essential for broadcasters to continue investing in Canadian content.

Commission's analysis

97. Should the Commission exclude foreign promotions from the advertising time limit, broadcasters could continue to broadcast up to 12 minutes of paid national advertising and would have the choice of broadcasting Canadian or foreign promotions to fill the remaining minutes. In such a scenario, and given that foreign programs are often the most popular in Canada⁴³ (and also the most expensive) overall, the Commission is concerned, as are some interveners, that broadcasters will broadcast more foreign promotions to the detriment of Canadian ones in order to maximize their advertising revenues. In the Commission's view, this risk is lower if the advertising time limit is removed, since, unlike the alternative proposals, discretionary services would have the flexibility to allocate their

⁴³ In 2021-2022, foreign programs accounted for five of the ten most popular programs in Canada. Source: *Profile 2022 – Economic Report on the screen-based media production industry in Canada*, CMPA.

advertising space in the way that best suits their programming schedule and business strategy.

98. Furthermore, the alternative proposals would be contrary to the policy objectives set out in subsection 3(1) of the *Broadcasting Act*, which include supporting Canadian programming as a whole. In the Commission's view, granting an exception for foreign programming would not be consistent with the overall spirit of the Commission's policies, which favour Canadian content above all else.
99. In light of the above, the Commission considers that the alternative proposals to exclude, in whole or in part, foreign promotions from the advertising time limit are not appropriate.

Conclusion

100. Given the challenges facing discretionary services and in order to provide them with the regulatory flexibility to be more competitive while awaiting the regulatory reforms stemming from the new *Broadcasting Act*, the Commission considers that the advertising time limit for discretionary services should be removed immediately. Consequently, the Commission, by majority decision, amends the advertising time limit requirement that applies to discretionary services.
101. More specifically, the Commission **approves** the application submitted by Quebecor Media Inc., on behalf of TVA Group Inc., to remove the advertising time limit of 12 minutes per clock hour on its discretionary services. It also **removes** the advertising time limit for all other discretionary services, but maintains the requirement that they not broadcast any paid advertising material other than paid national advertising, unless otherwise authorized by the Commission. Moreover, the Commission **removes** the limit on local advertising of 6 minutes per clock hour that was imposed on third-language discretionary services.
102. To reflect these determinations, the Commission has modified the standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services.⁴⁴ Pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** these discretionary services to comply with the advertising conditions of service set out in Appendices 1 (condition of service 18), 2 (condition of service 3) and 3 (condition of service 4), where appropriate.
103. For ease of reference, the Commission has reproduced all the standard conditions of service for these types of discretionary services in Appendices 1, 2 and 3 to this regulatory policy, respectively. Specifically, discretionary services that were

⁴⁴ Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, conditions of licence that existed prior to the date on which that Act received Royal Assent are deemed to be conditions imposed by an order made pursuant to section 9.1 of the new *Broadcasting Act* or subsection 11.1(2) in the case of expenditure requirements. In this way, the conditions of licence that applied to licensees become conditions of service and continue to apply.

subject, by condition of service, to Appendix 2 of Broadcasting Regulatory Policy 2016-436 are now subject to the conditions of service set out in Appendix 1 to this regulatory policy. National news discretionary services that were subject, by condition of service, to the appendix to Broadcasting Regulatory Policy 2015-436 are now subject to the conditions of service set out in Appendix 2 to this regulatory policy. Mainstream sports discretionary services that were subject, by condition of service, to Appendix 1 to Broadcasting Regulatory Policy 2009-562-2 or that were authorized, by condition of service, to distribute the maximum 12 minutes of advertising allowed per clock hour over the entire broadcast day (i.e., RDS, TSN and TVA Sports) are now subject to the conditions of service set out in Appendix 3 to this regulatory policy.

104. For national news and mainstream sports discretionary services (Appendices 2 and 3), the Commission has also added the definition of “paid national advertising”. In addition, it has updated the terminology and references which are set out in the appendix to this regulatory policy.
105. Moreover, the Commission **removes** the limit on local advertising of 6 minutes per clock hour that was imposed on licensed discretionary services that broadcast local programming, as long as they continue to solicit local advertising only in markets where they broadcast local programming. To reflect this determination, the Commission invites these licensees to file an application to modify their specific condition of service to reflect the Commission’s determinations to remove the 12-minute limit per clock hour and the limit on local advertising of 6 minutes per clock hour. This approach will enable the Commission to ensure that, as a condition of service, licensees must continue to solicit local advertising only in markets where they broadcast local programming.
106. Given that this application was filed and processed prior to the coming into force of the new *Broadcasting Act*, that the Commission made it clear in Notice 2022-272 that it could apply the same approach to all licensees, and that interested parties had the opportunity to comment on the changes to the conditions of service as part of this process, the Commission considers that this proceeding satisfies the publication and consultation requirement for the purposes of subsection 9.1(4) of the *Broadcasting Act*.
107. Moreover, in order to remove the 12-minute limit per clock hour imposed on exempted discretionary services and the limit on local advertising of 6 minutes per clock hour imposed on exempt third-language discretionary services, the Commission modified the exemption condition relating to the advertising time limit for exempt discretionary services by means of an order, pursuant to subsection 9(4) of the *Broadcasting Act*. Exempt discretionary services that were subject to the conditions of exemption set out in the appendix to Broadcasting Order 2015-88 are now subject to Broadcasting Order 2023-307, set out in Appendix 4 to this regulatory policy.

108. In addition, the Commission intends to amend the *Broadcasting Distribution Regulations* to refer to these new appendices and the new Broadcasting Order.

Secretary General

Related documents

- *Call for comments on an application by TVA to remove the advertising time limit of 12 minutes per clock hour on its discretionary services and on the possibility of removing this limit for other discretionary services*, Broadcasting Notice of Consultation CRTC 2022-272, 6 October 2022
- *Shaw Communications Inc. – Change of ownership and effective control*, Broadcasting Decision CRTC 2022-76, 24 March 2022
- *V Interactions inc. – Change in ownership and effective control*, Broadcasting Decision CRTC 2020-154, 19 May 2020
- *V Interactions inc. – Change in ownership and effective control*, Broadcasting Decision CRTC 2020-116, 3 April 2020
- *Corus Entertainment Inc. – Licence renewals for English-language television stations and services*, Broadcasting Decision CRTC 2017-150, 15 May 2017
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *Revised standard conditions of licence for Canadian discretionary services operating as national news services*, Broadcasting Regulatory Policy CRTC 2015-436, 23 September 2015
- *Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers*, Broadcasting Order CRTC 2015-88, 12 March 2015
- *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news – Definition of “broadcast day” for mainstream sports*, Broadcasting Regulatory Policy CRTC 2009-562-2, 25 May 2012
- *Regulatory Policy – Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007

Appendix 1 to Broadcasting Regulatory Policy CRTC 2023-306

Standard conditions of service, expectations and encouragements for discretionary services

General

The following terms, conditions of service, expectations and encouragements are applicable to all discretionary services, including those operating as specialty services or as pay television services, except where an authorization that represents a change from or addition to these terms and conditions is included in any decision pertaining to a particular licence.

Discretionary services are also subject to the *Discretionary Services Regulations*, as amended from time to time.

Conditions of service

Operation and control

1. Except as authorized by the Commission, the programming undertaking shall be operated in fact by the licensee itself. The broadcasting licence cannot be transferred or assigned.
2. In order to ensure that the licensee complies at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, the licensee shall file, within 30 days of its execution, for the Commission's review, a copy of the programming supply agreement or licence or trademark agreement it has entered into with a non-Canadian party. In addition, the Commission may request any additional document(s) that could affect control of the programming or management of the service.

Adherence to various codes

3. The licensee shall adhere to the *Broadcast Code for Advertising to Children*, published by Ad Standards, as amended from time to time and approved by the Commission.
4. The licensee shall adhere to the *Canadian Association of Broadcasters' Equitable Portrayal Code (2008)* and the *Canadian Association of Broadcasters' Violence Code (1993)*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of service will be suspended if the licensee is a broadcaster associate in good standing of the Canadian Broadcast Standards Council.

5. The licensee shall adhere to the Wholesale Code, set out in the appendix to *The Wholesale Code*, Broadcasting Regulatory Policy CRTC 2015-438, 24 September 2015, in its dealings with any licensed or exempt broadcasting undertaking.

General programming

6. The licensee shall file with the Commission the name of the service and a brief description of the programming offered by the service, and update this information with the Commission prior to making any changes.
7. The licensee may draw programming from all of the program categories set out in Item 6 of Schedule I to the *Discretionary Services Regulations*, as amended from time to time.
8. The licensee shall not devote more than 10% of the programming broadcast during the broadcast month to live professional sports programming, which falls under program category 6(a) Professional sports.

Multiplexing

9. The licensee shall not offer multiplexed channels, unless authorized to do so by condition of service. If authorized to do so by condition of service originally imposed prior to **2 November 2016**, the licensee is prohibited from offering more multiplexed channels than permitted under that condition of service.
10. If the licensee is authorized by condition of service to offer multiplexed channels, for each multiplexed channel offered, it shall adhere to the conditions set out herein and as specified in its individual conditions of service.

Accessibility

11. The licensee shall caption 100% of the English- and French-language programs broadcast over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
12. Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009:
 - (a) for a service operating in its first licence term, the licensee shall ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the fourth year of the licence term; or
 - (b) for a service operating in its second or subsequent licence term, the licensee shall ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned.

13. Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal, and this captioning reaches the distributor of that signal, in its original form.
14. In regard to the quality of closed captioning:
- (a) for French-language services, the licensee shall adhere to the requirements set out in the appendix to *Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning Working Group*, Broadcasting Regulatory Policy CRTC 2011-741-1, 21 February 2012, as amended from time to time; and
 - (b) for English-language services, the licensee shall adhere to the requirements set out in the appendix to *English-language closed captioning quality standard related to the accuracy rate for live programming*, Broadcasting Regulatory Policy CRTC 2016-435, 2 November 2016, as amended from time to time.
15. In accordance with *Let's Talk TV: Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015, the licensee shall file a report relating to the provision of closed captioning when distributed on non-linear online platforms operated by the licensee, in a format deemed acceptable by the Commission, by no later than 30 November of each year for the broadcast year ending the previous 31 August, consistent with other reporting requirements.
16. The licensee shall provide audio description for all the key elements of Canadian information programs, including news programming.
17. In accordance with *Let's Talk TV: Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015:
- (a) if the licensee broadcasts four hours or more per broadcast week of English- or French-language programming drawn from any of the program categories listed below, it shall, by the beginning of the fourth year of the first licence term during which this condition of service applies, provide a minimum of four hours of described video per broadcast week for that programming.
 - (b) if the licensee broadcasts less than four hours per broadcast week of English- or French-language programming drawn from any of the program categories listed below, it shall, by the beginning of the fourth year of the

first licence term during which this condition of service applies, provide described video for all of that programming.

These requirements apply to programming drawn from the following program categories set out in Item 6 of Schedule I to the *Discretionary Services Regulations*, as amended from time to time: 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest, and 11(b) Reality television, or to programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

Advertising

18. In regard to the broadcast of advertising material, the licensee shall not broadcast any paid advertising material other than paid national advertising, with the exception of licensees of services where at least 90% of the programming in a broadcast week is offered in one or more languages other than English and French (third-language services).

Programming in high definition

19. The licensee is authorized to make available for distribution both a standard definition and a high-definition version of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.

Programming policies

20. If the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, it shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming.
21. If the licensee broadcasts adult programming, it shall adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003.

Expectations

Accessibility

If closed captioning is available, the Commission expects the licensee to provide viewers with a closed-captioned version of all programming broadcast during the overnight period.

The Commission expects the licensee to ensure that when programming with closed captioning on traditional platforms is made available on non-linear online platforms operated by the licensee, the closed captioning is included.

The Commission expects the licensee to:

- display a standard described video logo and broadcast an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

On-screen portrayal of ethnocultural minorities, Indigenous Peoples, and persons with disabilities

The Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect the presence in Canada of ethnocultural minorities, Indigenous Peoples, and persons with disabilities. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.

Employment equity

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992 (Public Notice 1992-59), licensees with 100 or more employees are subject to the *Employment Equity Act*. If the licensee has from 25 to 99 employees, the Commission expects the licensee to have in place an employment equity plan that addresses the equitable representation of the four designated groups (women, Indigenous Peoples, persons with disabilities and visible minorities), as set out in Public Notice 1992-59 and in *Amendments to the Commission's Employment Equity Policy*, Public Notice CRTC 1997-34, 2 April 1997.

In regard to the implementation of the licensee's employment equity plan, the Commission further expects the licensee to:

- ensure that the details of the licensee's employment equity policies are communicated to managers and staff;
- assign a senior level person to be responsible for tracking progress and monitoring results; and
- dedicate financial resources to the promotion of employment equity in the workplace.

Broadcast of adult programming

If the licensee operates an adult programming service, the Commission expects the licensee to provide the Commission with a copy of its internal policy on adult

programming as required by the Commission in *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003. The Commission further expects the licensee to submit any future changes that it makes to its internal policy on adult programming for Commission approval prior to their implementation.

The Commission expects the licensee to adhere to its internal policy on adult programming, as amended from time to time and approved by the Commission.

Encouragements

The Commission encourages the licensee to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.

If the licensee has fewer than 25 employees, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

Definitions

For the purposes of these conditions of service, expectations and encouragements:

“audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs;

“broadcast day,” “broadcast month” and “broadcast year” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*, as amended from time to time;

“broadcast week” shall have the same meaning as that set out in the *Radio Regulations, 1986*, as amended from time to time;

“described video” (also referred to as videodescription or described narrative) consists of a narrated description of a program’s main visual elements, such as settings, costumes and body language;

“multiplexed channel” refers to a channel that is part of a group of channels offered together for a single programming service across which programs from that service are spread;

“original form” means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition;

“overnight period” means the total time devoted to broadcasting between midnight and 6:00 a.m. during each day; and

“paid national advertising” means advertising material as defined under the *Discretionary Services Regulations*, as amended from time to time, that is broadcast in a break within a program or between programs, and that is purchased at a national rate and receives national distribution on the service.

Appendix 2 to Broadcasting Regulatory Policy CRTC 2023-306

Standard conditions of service, expectations and encouragement for discretionary services operating as national news services

Conditions of service

1. The licensee:
 - (a) shall provide a national, English- or French-language discretionary programming service consisting of mainstream national news and information programming. The licensee shall provide updated news reports every 120 minutes;
 - (b) shall broadcast at least 16 hours per day of original programming, seven days a week, averaged over the broadcast year. This original programming is not required to be first-run original programming;
 - (c) may draw programming from all program categories set out in Item 6 of Schedule I to the *Discretionary Services Regulations*, as amended from time to time; and
 - (d) shall devote at least 95% of all programming broadcast during the broadcast month to programs drawn from the following program categories:
 - 1 News
 - 2a) Analysis and interpretation
 - 2b) Long-form documentary
 - 3 Reporting and actualities
2. The licensee shall devote at least 90% of the broadcast day to Canadian programming, averaged over the broadcast year.
3. The licensee shall not broadcast any paid advertising material other than paid national advertising.
4. The licensee shall operate a live broadcast facility and maintain news bureaus in at least three regions other than in that of the live broadcast facility.
5. The licensee must have the ability to report on international news and events from a Canadian perspective.
6. The licensee is authorized to make available for distribution an upgraded version of its service in high definition (HD) format, provided that not less than 95% of the video and audio components of the upgraded and standard definition version of the service are the same, exclusive of the commercial messages and of any part

of the service carried on a subsidiary signal. All of the programming making up the 5% allowance shall be provided in HD format.

7. The licensee shall caption 100% of its programs over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
8. The licensee shall adhere to the following Commission policies relating to the quality of closed captioning:
 - (a) *Quality standards for French-language closed captioning*, Broadcasting Regulatory Policy CRTC 2011-741, 1 December 2011;
 - (b) *Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning Working Group*, Broadcasting Regulatory Policy CRTC 2011-741-1, 21 February 2012; and
 - (c) *Quality standards for English-language closed captioning*, Broadcasting Regulatory Policy CRTC 2012-362, 5 July 2012.
9. In accordance with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall:
 - (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned; and
 - (b) implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. “Original form” means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.
10. The licensee shall provide audio description for all the key elements of information programs, including news programming. For the purposes of this condition of service, “audio description” refers to announcers reading aloud the textual and graphic information that is displayed on the screen during the information programs.
11. In accordance with *Let’s talk TV: Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015,

- (a) a licensee that was subject to described video requirements prior to renewal or that belongs to a vertically integrated entity shall provide, by September 2019, described video for programming broadcast between 7:00 p.m. and 11:00 p.m., seven days a week, drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, set out in Item 6 of Schedule I to the *Discretionary Services Regulations*, as well as programming targeting children;
 - (b) a licensee not subject to subsection (a) and whose service devotes 50% or more of its program schedule to programming drawn from program categories 7 Drama and comedy or 2(b) Long-form documentary, set out in Item 6 of Schedule I to the *Discretionary Services Regulations* (the Regulations), and/or to children's programming, is required to provide four hours of programming with described video per week by the fourth year of the first licence term in which this condition applies. The minimum four hours of described video programming broadcast each broadcast week may be drawn from the following program categories, set out in Item 6 of Schedule I to the Regulations: 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or may be programming targeting children; and
 - (c) the licensee shall file an annual report relating to the provision of closed captioning on non-linear platforms by no later than 30 November of each year for the broadcast year ending the previous 31 August consistent with other reporting requirements.
12. The licensee shall comply with the following codes administered by the Canadian Broadcast Standards Council:
- (a) the *Radio Television Digital News Association of Canada's Code of Journalistic Ethics (2016)*;
 - (b) the *Canadian Association of Broadcasters' Code of Ethics (2002)*; and
 - (c) the *Journalistic Independence Code (2008)*.
13. The licensee shall adhere to the *Canadian Association of Broadcasters' Equitable Portrayal Code (2008)*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of service will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
14. The licensee shall adhere to the *Broadcast Code for Advertising to Children*, published by Ad Standards, as amended from time to time and approved by the Commission.

15. The licensee shall adhere to the *Canadian Association of Broadcasters' Violence Code (1993)*, as amended from time to time and approved by the Commission. However, application of the foregoing condition of service will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.

For the purposes of these conditions, “broadcast day,” “broadcast month” and “broadcast year” shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*. In addition, “paid national advertising” means advertising material as defined under the *Discretionary Services Regulations*, as amended from time to time, that is broadcast in a break within a program or between programs, and that is purchased at a national rate and receives national distribution on the service.

Expectations

When captions are available, the Commission expects the licensee to provide viewers with a closed-captioned version of all programming aired during the overnight period.

The Commission expects the licensee to ensure that when programming with closed captioning on traditional platforms is made available on non-linear online platforms, the closed captioning is included.

The Commission expects the licensee to acquire and make available described versions of programming such that all content that was offered with described video at some point in the broadcasting system is offered with described video when it is rebroadcast.

Further, the Commission expects the licensee to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

Encouragement

The Commission encourages broadcasters to repeat the standard described video logo and audio announcement indicating the presence of described video, following each commercial break.

Appendix 3 to Broadcasting Regulatory Policy CRTC 2023-306

Conditions of service, expectations and encouragement for mainstream sports discretionary services

Conditions of service

1. (a) The licensee shall provide a national, English- or French-language specialty programming service that shall consist of programming dedicated to all aspects of sports with an emphasis on mainstream Canadian professional sports. The licensee may provide multiple feeds.

(b) Programming may be drawn from all program categories set out in Schedule I of the *Discretionary Services Regulations*, as amended from time to time.

(c) The licensee shall devote no more than 10% of all programming broadcast during the broadcast month to programming from the following categories: 7 Drama and comedy, 7(d) Theatrical feature films aired on TV, 7(e) Animated television programs and films, 8(b) Music video clips, and 8(c) Music video programs.
2. (a) During each broadcast year, the licensee shall devote not less than 60% of the broadcast day and not less than 50% of the evening broadcast period to Canadian programming.

(b) The levels set out in subsection 2(a) shall be met on each feed offered by the service.
3. In accordance with the Commission's position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993, and in *Additional clarification regarding the reporting of Canadian programming expenditures*, Public Notice CRTC 1993-174, 10 December 1993, as amended from time to time:
 - (a) In each broadcast year of the licence term following the first year of operation, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 50% of the gross revenues derived from the operation of this service during the previous broadcast year.
 - (b) In each broadcast year of the licence term following the first year of operation, excluding the final year, the licensee may expend an amount on Canadian programs that is up to five percent (5%) less than the minimum required expenditure for that year calculated in accordance with this condition; in such a case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.

- (c) In each broadcast year of the licence term following the first year of operation, where the licensee expends an amount on Canadian programs that is greater than the minimum required expenditure for that year calculated in accordance with this condition, the licensee may deduct:
- (i) from the minimum required expenditure for the following year of the licence term, an amount not exceeding the amount of the previous year's over-expenditure; and
 - (ii) from the minimum required expenditure for any subsequent broadcast year of the licence term, an amount not exceeding the difference between the over-expenditure and any amount deducted under (i) above.
- (d) Notwithstanding subsections 3(b) and 3(c), during the licence term, the licensee shall expend on Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition.
4. The licensee shall not distribute any paid advertising material other than paid national advertising.
 5. The licensee is authorized to make available for distribution an upgraded version of its service in high definition (HD) format, provided that not less than 95% of the video and audio components of the upgraded and standard definition version of the service are the same, exclusive of the commercial messages and of any part of the service carried on a subsidiary signal. All of the programming making up the 5% allowance shall be provided in HD format.
 6. The licensee shall caption 100% of its programs over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
 7. In accordance with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall:
 - (a) adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
 - (b) implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. "Original form" means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.

8. The licensee shall provide audio description for all the key elements of information programs, including news programming. For the purposes of this condition of service, “audio description” refers to announcers reading aloud the textual and graphic information that is displayed on the screen during information programs.
9. The licensee shall adhere to the *Canadian Association of Broadcasters’ Equitable Portrayal Code (2008)*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of service will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
10. The licensee shall adhere to the *Broadcast Code for Advertising to Children*, published by Ad Standards, as amended from time to time and approved by the Commission.
11. The licensee shall adhere to the *Canadian Association of Broadcasters Violence Code (1993)*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of service will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.

For the purposes of these conditions:

“broadcast day” shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*, unless otherwise approved by the Commission;

“broadcast month” means the total number of hours devoted by the licensee to broadcasting during the aggregate of the broadcast days in a month;

“broadcast year” means the total number of hours devoted by the licensee to broadcasting during the aggregate of the broadcasting months in a 12-month period, beginning on 1 September in any year; and

“paid national advertising” means advertising material as defined in the *Discretionary Services Regulations*, as amended from time to time, that is broadcast in a break within a program or between programs, and that is purchased at a national rate and receives national distribution on the service.

Expectations

When captions are available, the Commission expects the licensee to provide viewers with a closed-captioned version of all programming aired during the overnight period.

The Commission expects the licensees of services whose licence renewal will be considered in the next two years to begin assessing how they will meet the requirement of ensuring that advertising, sponsorship messages and promos in the English and French language are closed captioned. Accordingly, the Commission will consider imposing a condition of service at the licence renewal for such a service that will take into account

the time elapsed since the issuance of the decision relating to the application of the conditions of service set out in this policy to the service in question.

The Commission expects the licensee to acquire and make available described versions of programming whenever possible.

Further, the Commission expects the licensee to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

Encouragement

The Commission encourages broadcasters to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.

Appendix 4 to Broadcasting Regulatory Policy CRTC 2023-306

Broadcasting Order CRTC 2023-307

Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers

By this order, pursuant to subsection 9(4) of the *Broadcasting Act* (the Act), the Commission exempts from the requirements of Part II of the Act and any regulations made thereunder those persons carrying on broadcasting undertakings of the class defined by the criteria set out below.

Purpose

The purpose of these undertakings is to provide television programming services for distribution on a discretionary basis by broadcasting distribution undertakings.

Description

1. For the purpose of this order, the terms “broadcast year” and “evening broadcast period” have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*. The terms “advertising material,” “Canadian program” and “program” have the same meaning as that set out in the *Discretionary Services Regulations*.
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 provides its programming service only to broadcasting distribution undertakings (BDUs) that distribute the service to subscribers. The total number of such subscribers served by the undertaking, collectively by all BDUs, does not exceed 200,000. Once exempt, the undertaking does not have more than 210,000 subscribers for a period of more than three consecutive months.
4. In regard to the filing of information with the Commission:
 - (a) The undertaking files information with the Commission specifying: the name of the service provider, its owner(s) and the person(s) who exercise(s) effective control over the service (if different from the owner(s)), how control is exercised, the name under which the service operates, the service’s contact information, including mailing address, telephone number, fax number, email address and website, the name of any broadcasting distribution undertaking to which the service is related and the operating language(s) of the service. The undertaking also files a brief, one sentence description of the programming offered by the service.

In the case of a new undertaking, all of the above information is filed with the Commission at least 30 days before the service is first distributed.

- (b) The undertaking updates with the Commission the information required under (a) above prior to making any change.
 - (c) By 30 November of each year, the undertaking submits to the Commission all information required as part of the simplified annual return for such undertakings.
5. In regard to Canadian content:
- (a) In the case of an undertaking broadcasting at least 90% of its programming in English or French, not less than 35% of all programs broadcast in each broadcast year and in the evening broadcast period qualify as Canadian programs.
 - (b) In the case of an undertaking broadcasting at least 90% of its programming over the broadcast week in one or more languages other than English or French, or an undertaking that is in its first year of operation, notwithstanding (a) above, it devotes not less than 15% of the broadcast year and of the evening broadcast period to the broadcast of Canadian programs.
 - (c) In the case of an undertaking broadcasting at least 90% of its programming in English or French that is in its second year of operation, notwithstanding (a) above, it devotes not less than 25% of the broadcast year and of the evening broadcast period to the broadcast of Canadian programs.
6. In the case of an undertaking that broadcasts at least 90% of its programming in one or more languages other than English or French, the undertaking can broadcast local advertising.
7. The undertaking's programming complies with sections 3 and 6 of the *Discretionary Services Regulations*.
8. The undertaking's programming complies with section D.3 (Adult programming) of *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003, as well as with the *Canadian Association of Broadcasters' Equitable Portrayal Code (2008)*, the *Broadcast code for advertising to children*, published by Ad Standards, and the *Canadian Association of Broadcasters' Violence Code (1993)*, as amended from time to time and approved by the Commission.

9. The undertaking captions 100% of the English- and French-language programs broadcast over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
10. Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as amended from time to time, the undertaking:
 - (a) ensures that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the fourth year of operation under the present or past exemption orders;
 - (b) adheres to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
 - (c) implements a monitoring system ensuring that, for any signal containing programming in the English and French languages that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. “Original form” means, at a minimum, that the captioning provided by the undertaking reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.
11. The undertaking provides audio description for all the key elements of Canadian information programs, including news programming. For the purposes of this condition, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.
12. The undertaking does not give an undue preference to any person, including itself, or subject any person to an undue disadvantage. In any proceeding before the Commission, the burden of establishing that any preference or disadvantage is not undue is on the party that gives the preference or subjects the person to the disadvantage.
13. Once ready to launch, the undertaking makes itself available for distribution by all licensed broadcasting distribution undertakings or operators of exempt distribution undertakings, despite the absence of a commercial agreement.
14. If there is a dispute between the undertaking and the licensee of a licensed broadcasting distribution undertaking or the operator of an exempt distribution undertaking concerning the carriage or terms of carriage of programming originated by the undertaking, one or both of the parties to the dispute may refer the matter to the Commission for dispute resolution as provided for in *Practices and procedures for staff-assisted mediation, final offer arbitration, and expedited*

hearings, Broadcasting and Telecom Information Bulletin CRTC 2009-38, 29 January 2009, as amended from time to time.

15. In regard to a dispute, pursuant to paragraph 14 above:
 - (a) During any dispute between the undertaking and a person licensed to carry on a broadcasting distribution undertaking or the operator of an exempt distribution undertaking concerning the carriage or terms of carriage of programming originated by the undertaking or concerning any right or obligation under the *Broadcasting Act*, the undertaking continues to provide its programming services to the distribution undertaking at the same rates and on the same terms and conditions as it did before the dispute.
 - (b) For the purposes of subsection (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, if no such agreement is reached, when the Commission renders a decision concerning any unresolved matter.
16. The undertaking ensures that every commercial message that it broadcasts 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.
17. The undertaking retains a clear and intelligible audio-visual recording of all of its programming for a period of four weeks following the date of broadcast, and provides this to the Commission on such terms as the Commission may request.
18. At the request of the Commission, the undertaking provides the Commission with a response to any inquiry that relates to the undertaking.