



Canadian Radio-television and  
Telecommunications Commission

Conseil de la radiodiffusion et des  
télécommunications canadiennes

# NAVIGATING THE ROAD AHEAD

Making informed choices about television providers  
and improving accessibility to television programming



LET'S TALK TV

Canada





## Broadcasting Regulatory Policy CRTC 2015-104

PDF version

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Ottawa, 26 March 2015

### Let's Talk TV

## Navigating the Road Ahead – Making informed choices about television providers and improving accessibility to television programming

*This policy sets out the Commission's findings on ways to build a future Canadian television system that provides Canadians with recourse mechanisms in the case of disputes, and empowers them to access and make informed choices about programming. This policy is a result of the process initiated by Let's Talk TV: A Conversation with Canadians. It follows the Commission's policy decisions regarding local over-the-air television, simultaneous substitution, the creation of compelling and diverse Canadian programming, and consumer choice and flexibility.*

### ***Improved customer service and handling of complaints***

*Canadians should be better equipped to make informed choices about television providers in a dynamic marketplace. To improve customer service and the handling of complaints, the Commission is creating a new Television Service Provider (TVSP) Code of Conduct and identifying an appropriate independent ombudsman. The code will govern the relationship between television service providers (also known as broadcasting distribution undertakings, or BDUs), such as cable providers, and their customers. It will address issues such as:*

- *the clarity of communications, promotions and offers, service agreements and related policies;*
- *notification in the event of changes; and*
- *cancellation and disconnection.*

*Today, the Commission has also published a notice of consultation seeking comments on the wording of the TVSP Code of Conduct working document.*

### ***Improved access and experience for Canadians with disabilities***

*Canadians with disabilities should have more access to accessibility features and a seamless experience when accessing their content of choice.*

*Accordingly, the Commission will require programming services to increase the availability of described video. Described video provides an audio description of a program's main visual*

*elements so that Canadians who are blind or have a visual impairment better understand what is occurring on the screen. One of these requirements will be that, by September 2019, certain programming services must provide described video for all programming aired during the prime time hours of 7 p.m. to 11 p.m.*

*Closed captioning provides an on-screen textual representation of the audio component of a program for the benefit of Canadians who are deaf or hard of hearing. The Commission will maintain its existing approach for ensuring that closed captioning is of high quality. However, the Commission considers that online availability of closed captioning should be increased. Therefore, the Commission expects that when programming with closed captioning for traditional television is made available on non-linear online platforms, the closed captioning should be included.*

*Finally, the Commission acknowledges the technical challenges faced by Canadians who are blind or have a visual impairment or have fine motor skill disabilities, when accessing television content. Accessible remote controls, set-top boxes and electronic program guides must be made available for these Canadians. The Commission will therefore amend the Broadcasting Distribution Regulations to require BDUs to make accessible set-top boxes and remote controls available to subscribers, where they are available and compatible with the BDUs' distribution systems.*

## **Introduction**

1. On 24 April 2014, the Commission launched a proceeding to conduct a formal review of its television policies (Broadcasting Notice of Consultation 2014-190). This review, which included a public hearing that began on 8 September 2014, represented Phase 3 of *Let's Talk TV: A Conversation with Canadians* (Let's Talk TV) and drew on issues and priorities identified by Canadians in the two earlier phases of that conversation.<sup>1</sup>
2. During the consultation, the Commission received over 13,000 comments and interventions, many of those from individual Canadians from all parts of the country. The public record for this proceeding, including reports on the comments and input from Canadians received in Phases 1 and 2, can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca).
3. In August 2014, the Commission published Broadcasting Notice of Consultation 2014-190-3 (the Working Document), which set out various proposals for the future regulation of the Canadian television system. In the Working Document, the Commission noted that the inclusion of certain proposals should not be seen as an indication that it had made up its mind on any issue or that it preferred one option over another, and that the document was intended only to provide parties with a possible model to stimulate discussion and debate.

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<sup>1</sup> In this regard, see also Broadcasting Notice of Invitation 2013-563.

4. In keeping with its mission of ensuring that Canadians have access to a world-class communications system, the Commission set out the following three intended outcomes to guide the Let's Talk TV process:
  - I. A Canadian television system that encourages the creation of compelling and diverse programming made by Canadians
  - II. A Canadian television system that fosters choice and flexibility in selecting programming services
  - III. A Canadian television system that empowers Canadians to access and make informed choices about programming, and provides recourse mechanisms in the case of disputes
5. In Broadcasting Notice of Consultation 2014-190, the Commission stated that these outcomes may be achieved without regulation, through the evolution of the marketplace or the changing technological environment. Should regulatory intervention be warranted, it would only be used where specific outcomes or objectives would not be achievable without intervention. Further, such measures should be as simple as possible, proportionate, easily administered and adaptable to change.
6. In the context of the Let's Talk TV proceeding, the Commission has already addressed issues relating to local over-the-air television (Broadcasting Regulatory Policy 2015-24), simultaneous substitution (Broadcasting Regulatory Policy 2015-25), the creation of compelling and diverse Canadian programming (Broadcasting Regulatory Policy 2015-86), and consumer choice and flexibility (Broadcasting Regulatory Policy 2015-96). The Commission will also prohibit the use of 30-day cancellation policies by broadcasting distribution undertakings (BDUs), as set out in Broadcasting and Telecom Regulatory Policy 2014-576. In that regulatory policy, the Commission considered that the records of the Let's Talk TV and Eastlink<sup>2</sup> proceedings, as well as the numerous complaints to the Commission and the Commissioner for Complaints for Telecommunications Services (CCTS) about 30-day cancellation policies, demonstrated that such policies were a source of consumer frustration regarding local voice, Internet, wireless, and BDU services, and made it difficult for consumers to exercise their power to choose their preferred service providers. By inhibiting consumer choice, BDU's use of 30-day cancellation policies did not contribute to a more dynamic marketplace.
7. In the present regulatory policy, the Commission builds on the above determinations and maintains its focus on the ability of consumers to act in an informed manner in a dynamic marketplace. Specifically, it focuses on the third outcome listed above: a Canadian television system that empowers Canadians to access and make informed choices about television programming, and provides recourse mechanisms in the case of disputes.

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<sup>2</sup> In Broadcasting and Telecom Regulatory Policy 2014-576, the Commission approved an application by Bragg Communications Incorporated, operating as Eastlink, requesting that the Commission prohibit service providers from requiring that their customers provide 30 days' notice before terminating the following services: regulated and forborne retail local voice, Internet, and BDU services provided to residential and small-business customers.

## Issues

8. In this policy, the Commission addresses the following issues:
- improving customer service and the handling of complaints by creating a new Television Service Provider Code of Conduct and identifying an appropriate independent ombudsman;
  - increasing the availability of described video for Canadians who are blind or have a visual impairment;
  - increasing the quality and online availability of closed captioning; and
  - increasing access to programming for Canadians with disabilities by making set-top boxes and remote controls more accessible.

### **Television Service Provider Code of Conduct and ombudsman – Improving customer service and the handling of complaints in a dynamic marketplace**

9. In the Working Document, the Commission proposed the creation of a new code to govern the relationship between BDUs and their subscribers. This code, referred to hereafter as the Television Service Provider (TVSP) Code of Conduct, would ensure that Canadians are notified of changes in the packaging and genres of the programming services to which they subscribe. The new code would address, for example, clarity of language in agreements, notice of changes to agreement terms, and cancellation fees. Further, it would allow Canadians to benefit from more consistent customer service. With greater knowledge about their agreements and bills, and about how to make complaints, Canadians would be able to act with more confidence in the marketplace and make more informed choices about the services and channels they receive.
10. The Commission also proposed the appointment of an industry-wide ombudsman, in addition to companies' internal procedures, to adjudicate the new code. The proposed ombudsman would ensure that Canadians have a single point of contact to which they can make complaints. Moreover, the proposed ombudsman would provide for consistent, predictable and transparent decisions relating to the enforcement of the proposed code.

### **Positions of parties**

11. Consumer groups, such as the Union des consommateurs (UDC), and the Public Interest Advocacy Centre, the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, the National Pensioners Federation, Option consommateurs and the Canadian Ethnocultural Council (collectively, PIAC et al.) expressed support for a TVSP Code of Conduct and the appointment of an ombudsman. PIAC et al. viewed this as a means to promote transparency and accountability. In the UDC's view, the code should be implemented rapidly and efficiently. It added that although BDU-related complaints may be simpler to adjudicate than those related to the wireless industry, this in no way diminishes the importance of having a TVSP Code of Conduct.

12. The CCTS, an independent organization dedicated to working with consumers and service providers to resolve complaints about telephone and Internet services, stated that the Commission should be responsible for developing a TVSP Code of Conduct. It further stated that any such code need not be perfectly symmetrical with the Commission's Wireless Code.<sup>3</sup> The CCTS added that it was open to revising its mandate to include the administration of such a code.
13. The Competition Bureau was in favour of a TVSP Code of Conduct as long as it does not affect the competitive marketplace. The Government of Ontario was generally in favour of such a code, whereas the Government of Quebec was opposed, based on arguments concerning provincial jurisdiction over consumer protection issues. The Government of Manitoba did not take a position on the creation of a TVSP Code of Conduct. However, it noted its own efforts to examine the views of Manitobans on their "distance communications services" (such as cable or satellite television, telephone, cellular phone or Internet) and provided a summary of the results of a [public survey](#) on this topic.
14. Vertically integrated entities generally opposed the creation of a TVSP Code of Conduct. Bell argued that the BDU market is different than the wireless market and questioned whether regulatory symmetry between the two markets in the form of such a code is warranted. Rogers, stating that the overall volume of complaints about BDU services is low, considered such a code and an industry ombudsman to be unnecessary. It instead encouraged all BDUs to adopt its approach to complaint resolution (i.e., a multi-step complaint resolution process and the establishment of an Office of the Ombudsman). Shaw similarly stated that evidence of consumer dissatisfaction is absent and submitted that the Commission should leave it to BDUs to deliver the best possible product and service to their customers. It proposed a set of guidelines (Market Guidelines to Maximize Customer Choice and Flexibility) that include a number of provisions relating specifically to service agreements. For its part, Quebecor stated that a TVSP Code of Conduct would be unnecessary in its circumstances given that it operates under the *Consumer Protection Act* in Quebec.
15. Some independent BDUs also expressed opposition to a TVSP Code of Conduct. Cogeco argued against the necessity for such a code and noted the Commission's determinations in Broadcasting Public Notice 2008-100, where it favoured a market-driven approach for overseeing and applying customer service standards rather than the application of standards administered by an independent industry body. It submitted, however, that if the Commission were to decide that a code should be implemented, it should be developed in a separate process that would preferably be industry led. Finally, Cogeco did not see the necessity for an industry-wide ombudsman, but proposed that the CCTS would be an appropriate ombudsman should the Commission determine that such a body is necessary.
16. SaskTel expressed the view that national data and its own data for BDU complaints do not indicate a need for a code. It submitted that a TVSP Code of Conduct would result in greater overhead costs, and suggested that the Commission instead continue to monitor the issues raised by consumers and the quantity of complaints received by BDUs. Bragg (operating as

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<sup>3</sup> See Appendix 1 to Telecom Regulatory Policy 2013-271



Eastlink) indicated that it has already taken a strong consumer-focussed approach in its operations.

### **Commission's analysis and decisions**

17. Some participants in the [initial phase of Let's Talk TV](#) expressed the view that BDUs are less than forthcoming about their packaging and pricing, while others considered that the information provided by BDUs to their customers is misleading, confusing or inaccurate. Certain participants further stated that BDUs provide poor or inconsistent customer service.
18. In April 2014, the Commission posted [Let's Talk TV: Quantitative Research Report](#), which provided the results of a public opinion survey conducted by Harris/Decima. Some of the survey's key findings reflected consumers' dissatisfaction with their BDU service providers. For example, only 60% of Canadian consumers expressed satisfaction with the clarity of contracts, while satisfaction with overall customer service was only marginally better at 67%. Moreover, only 54% of Canadians were satisfied with the flexibility offered by their service providers to cancel or modify their contracts.
19. Respondents to the above-noted Government of Manitoba public survey pointed to gaps in the information provided by BDUs. For example, only 30.4% of respondents indicated that they had received a detailed description of the services they had purchased. Only 4.3% of respondents indicated that their contracts clearly explained the recourse mechanisms available to them in the case of disputes.
20. The number of complaints made by Canadians about BDU services is considerable. According to its [2013-2014 annual report](#), the CCTS received 3,496 complaints about television-related matters that it considered to be outside of its current mandate. This level was similar to that of its 2012-2013 reporting year, and represents a significant increase over the number of television-related complaints received during its 2011-2012 reporting year. Moreover, the Commission itself received 4,369 BDU-related complaints concerning billing, channel placement, disconnection, and other contract-related issues between January 2011 and December 2014. The Commission does not have any information on the number of complaints received by the various BDUs and how many of these were successfully resolved, given that BDUs failed to provide such information for the present proceeding. Further, BDUs did not provide compelling quantitative data supporting their position despite this issue lying squarely within the scope of this proceeding.
21. The Commission stated in Broadcasting Public Notice 2008-100 that it favoured a market-driven approach for overseeing and applying customer service standards. However, in light of all of the above, the Commission is of the view that a market-based solution to customer service standards has not met, and is unlikely to meet, the outcomes set for the present proceeding. Consequently, additional measures should be taken to ensure that Canadians are better equipped to make their own informed choices in a dynamic marketplace.
22. As set out in Broadcasting Notice of Consultation 2014-190, the Commission is of the view that regulatory intervention is warranted where specific outcomes or objectives would not be achievable without it. Based on the record of this proceeding, the Commission finds that the



creation of a code for Canadian consumers that would govern certain aspects of the relationship between television service providers and their customers is warranted and necessary. It further finds it both warranted and necessary to assign the code's administration to an independent ombudsman, so as to ensure that Canadians are able to make informed choices about their service providers and that they have access to recourse mechanisms in the case of disputes.

23. The Commission notes that the majority of BDUs that offer other communications services, such as Internet, local voice services and wireless services, will offer incentives for their customers to purchase a bundle of these services. In a marketplace where a growing number of consumers take advantage of these offers, it becomes ever more important to have a consistent approach to informing consumers and dealing with consumer complaints. As such, given its expertise in administering the Wireless Code and handling telecommunications complaints, the Commission considers that the CCTS would be the appropriate ombudsman to administer the TVSP Code of Conduct.
24. In Broadcasting Notice of Consultation 2015-105, also issued today, the Commission has initiated a proceeding to call for comments on a TVSP Code of Conduct working document. This code would govern certain aspects of the relationship between television service providers<sup>4</sup> and their customers. This working document focuses on issues including, but not limited to, the following:
  - the clarity of communications, promotions and offers, service agreements and related policies;
  - notification in the event of changes; and
  - cancellation and disconnection.
25. The Commission notes that this proceeding has been coordinated with the upcoming review of the CCTS's mandate. Details regarding governance and funding related to the administration of a TVSP Code of Conduct will be dealt with specifically as a part of this later CCTS review.

### **Described video – Increasing availability for Canadians who are blind or have a visual impairment**

26. Described video (also referred to as video description or described narrative) consists of a narrated description of a program's main visual elements, such as settings, costumes, or body language. The description is added during natural pauses in dialogue, and enables people to form a mental picture of the program. When described video is used, persons who are blind or have a visual impairment can better understand what is occurring on the screen.<sup>5</sup>

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<sup>4</sup> Television service providers are also known as BDUs.

<sup>5</sup> See Broadcasting and Telecom Regulatory Policy 2009-430 for information on the Commission's approach to the provision of described video.

27. Described video typically uses a separate audio track. There are two means to pass through described video. One is to embed the audio track containing the descriptions with the television program's video and primary audio track. This approach, which is known as "embedded described video," requires a means to select the audio track that provides the descriptions. A person who is blind or has a visual impairment turns on the described video to hear the descriptions. Alternatively, the audio track containing described video can be distributed together with the original audio and video on a dedicated channel. This is known as "open format described video." Under this approach, described video is always turned on and can be heard by all tuning into the program.

### **Current requirements**

28. Licensees of various types of television services are subject to different described video requirements.<sup>6</sup> If licensees of basic television services (i.e., conventional television stations) or certain discretionary television services (i.e., Category A) devote at least half of their program schedules to drama, comedy or long-form documentary programming,<sup>7</sup> they must provide at least four hours of described video per broadcast week, two hours of which must be original to the service. The programming with described video may be of the types noted above, or it may be variety, general entertainment, human interest or reality programming, or programming targeting children.

29. Further, in order to allow individuals who are blind or have a visual impairment, as well as those assisting them, to identify programming with described video, the Commission expects licensees of all types of television services 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 to make information available regarding the described programs that they will broadcast. For video-on-demand (VOD) services, the Commission expects licensees to acquire and make available described versions of programming, where possible, and to ensure that their customer service responds to the needs of persons with a visual impairment.

30. Finally, the Commission encourages all licensees of television services, with the exception of VOD and pay-per-view (PPV) services, to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.<sup>8</sup>

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<sup>6</sup> As set out in Broadcasting Regulatory Policy 2015-86, the Commission will be adopting a streamlined licensing process that consolidates virtually all television programming service licences into three broad categories: basic services (which includes conventional television stations), discretionary services (which includes specialty Category A and B services) and on-demand services (pay-per-view and VOD services).

<sup>7</sup> These "program categories," as well as the other program categories for various types of services, are set out in Item 6 of Schedule I to the *Specialty Service Regulations, 1990*, the *Pay Television Regulations, 1990* or the *Television Broadcasting Regulations, 1987*, as applicable.

<sup>8</sup> Specific details on television broadcasters' current requirements relating to accessibility, including described video and closed captioning, are set out in the following documents: basic services (i.e., conventional television stations), the appendix to Broadcasting Regulatory Policy 2011-442; discretionary services: Appendices 1 and 2 to Broadcasting Regulatory Policy 2011-443 (Category A), Appendices 1 and 2 to Broadcasting Regulatory Policy 2010-786-1 (Category B) and Appendices 1 and 2 to Broadcasting Regulatory Policy 2009-562-2 (Category C); on-demand services: Appendix 6 to Broadcasting Regulatory Policy 2014-444 (VOD) and the appendix to Broadcasting Regulatory Policy 2013-561 (PPV).

## **Working Document proposal**

31. In the Working Document, the Commission proposed the following in regard to described video:

- The amount of described video would be increased through a requirement that by the end of the next licence term:
  - broadcasters that are currently subject to described video requirements, as well as those that are part of a vertically integrated group, are required to provide described video for programming aired between 7 p.m. and 11 p.m. (prime time) that could be described based on existing program categories for described video; and
  - all licensed broadcasters, including educational broadcasters, are required to provide four hours of described video per week, consistent with the existing described video requirement.
- As part of this approach, the obligation to ensure that two of the four hours of described video are original to the service would be eliminated.
- Exempt services that are not part of a vertically integrated group would not be subject to the new described video requirements.

32. The increase in the availability of described video in the broadcasting system would ensure that Canadians who are blind or have a visual impairment can better understand what is occurring on the screen.

## **Positions of parties**

33. Various BDUs and broadcasters expressed the view that the current described video requirements are sufficient. Certain of these parties noted the significant costs associated with producing described programming. Others noted that technical limitations of direct-to-home satellite services make passing through an increased amount of described programming problematic. There was, however, general consensus that it would be possible to reach the quantity of described video required, as long as an appropriate amount of time is provided to ramp up to the new level.

34. Individual interveners, user groups and other organizations expressed general support for the Commission's proposal. Certain of these parties noted that the provision of described video for all suitable programming during prime time is a good start, and that an increase in described video would allow a greater number of people to access the broadcasting system. Some considered, however, that the proposal does not go far enough to fully address the needs of Canadians who are blind or have a visual impairment, given that these Canadians continue to be unable to access all the programming they want due to a lack of described video, and given that demand for described video may increase as the population ages.

35. Although concerns were voiced relating to additional costs to the system, there was general consensus among individual interveners and user groups that the costs involved with the provision of described video would decrease over time.

#### **Commission's analysis and decisions**

36. Section 3 of the *Broadcasting Act* sets out objectives for the Canadian broadcasting system, including those relating to accessibility, that articulate the principle that access promotes full participation in and integration into society. As stated in Broadcasting and Telecom Regulatory Policy 2009-430, the Commission must act in a manner that is consistent with the *Canadian Charter of Rights and Freedoms*.

37. There is consensus within the industry that ramping up to the proposed levels of described video is feasible. In addition, several large, English- and French-language broadcasters are currently exceeding the minimum requirements for described video.

38. In recognition of the variation across broadcasters in regard to types of service and availability of resources, the Commission is of the view that smaller, independent broadcasters should be subject to new described video requirements that are not as extensive as those for broadcasters who are part of vertically integrated groups, or who are currently subject to described video requirements. This will ensure that the amount of described video available on different services in the broadcasting system appropriately reflects the resources of broadcasters.

39. In the U.S., the [\*21<sup>st</sup> Century Communications and Video Accessibility Act\*](#) (CVAA) imposes increased described video requirements on the top U.S. channels and networks. As a consequence, the Commission is of the view that more U.S. programs with described video, which can be purchased at a fraction of the cost to produce described video, will become available to English-language broadcasters, who tend to broadcast U.S. programs during prime time. Certain French-language broadcasters may also be able to leverage the Canadian Media Fund to support the production of French-language programming with described video. The Commission is also aware that other jurisdictions are implementing described video requirements, and that Canadian programming with described video could become more attractive to broadcasters outside of Canada. Thus, increasing the pool of available Canadian-made programming with described video can achieve both social and economic outcomes by making Canadian programming more exportable to foreign markets.

40. The introduction and ramping up of closed captioning requirements led to an increase of closed captioning providers to meet increased market demand, and an ensuing decrease in the cost of producing closed captioning. In parallel to this experience, the Commission considers it likely that the cost of described video will decrease over time as the market for described video services grows. In addition, it is the Commission's view that if described video is incorporated early into the development and production cycle, the incremental cost to have a program available with described video is low when compared to the overall production budget of a program. The Commission would encourage Canadian broadcasters to work with their production partners to include described video as an early consideration in the development and production cycle.

41. Also, once a program is described, there are no additional costs relating to rebroadcasting that program with described video since the described video remains as programs get recycled and rebroadcast on other channels.
42. In the Commission's view, the current focus should be on increasing the number of programs containing described video in the system while providing broadcasters with an appropriate amount of time to do so. For this reason, the Commission will not consider expanding the number of program categories that would be subject to a described video requirement at the present time.
43. In light of the above, the Commission will implement a tiered approach to ramp up the amount of described video being provided by television broadcasters, with the tiered requirements reflecting the size and resources of broadcasters. Specifically:
- By September 2019, broadcasters currently subject to described video requirements as well as those that belong to vertically integrated entities will be required to provide described video for programming broadcast between 7 p.m. and 11 p.m. (prime time), seven days a week. This requirement will apply to programs that fall into existing program categories that have been identified for described video.<sup>9</sup>
  - By the fourth year of their respective next licence terms, all other non-exempt broadcasters will be required to provide four hours of programming with described video per week, consistent with existing requirements.
  - The current requirement to provide two hours of programming with described video that are original to the service will be discontinued, as the increased described video requirements, in the Commission's view, will ensure that a greater diversity of content featuring described video is continually available.
  - Exempt broadcasters will not have to adhere to a new described video requirement, although they are encouraged to provide programming with described video.
44. In addition, the Commission expects broadcasters subject to described video requirements to display a standard described video logo and air an announcement indicating the presence of described video before the broadcast of each described program, and to make information available regarding the described programs that they will broadcast. It also encourages these broadcasters to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.
45. Further, the Commission expects all content that was offered with described video at some point in the broadcasting system to be offered with described video when it is rebroadcast.

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<sup>9</sup> 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 *Specialty Service Regulations, 1990*, the *Pay Television Regulation, 1990* or the *Television Broadcasting Regulations, 1987*, and programming targeting children.

46. As part of the implementation framework, the Commission will publish biannual summaries from the television logs to inform Canadians on (i) the number of hours of programming with described video available and (ii) the type of content containing described video.<sup>10</sup>

### **Closed captioning – Increasing quality and online availability**

47. Closed captioning is the on-screen textual representation of the audio component of a program. It provides a text rendition of all significant audio content, including on-screen dialog, sound effects and non-speech information such as the identity of speakers and their manner of speaking.
48. For persons who are deaf or hard of hearing, closed captioning provides a critical link to televised news, information and entertainment. Closed captioning can also benefit individuals who are learning English or French, helping them to improve comprehension and fluency, and can help to improve literacy skills in adults and children who are learning to read.<sup>11</sup> It can also be used by persons who are not deaf or hard of hearing as a convenience, for example in public spaces where the television sound volume has been reduced or turned off. As countries around the world are enacting laws about the availability and quality of closed captioning, such as in the [U.S.](#), ensuring that content produced in Canada has high quality closed captioning could make it more attractive to export to broadcasters outside of Canada.

### **Current requirements**

49. Licensees of all English-and French-language television services are required to close caption 100% of programs over the broadcast day. For licensees of PPV services, this requirement applies to all English-and French-language programs in their program schedules. For licensees of VOD services, the closed captioning requirement applies to all English- and French-language programming in their inventories, as well as to all original licensee-produced community programming. Finally, licensees of all types of services with the exceptions of PPV and VOD services also have an expectation relating to the provision of closed captioning for programming aired during the overnight period.
50. Licensees of basic services (e.g., conventional television stations), as well as of certain discretionary services (i.e., Category A, B and C), are also subject to requirements relating to the closed captioning of advertising, sponsorship messages and promos, whereas licensees of other types of television services have expectations in this regard. Finally, licensees of television services are subject to requirements relating to closed captioning quality standards and the monitoring of closed captioning

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<sup>10</sup> Reporting on the type of content would be of particular interest when a broadcaster breaks new ground and provides described video on content that was not initially deemed suitable for described video, as occurred during the live broadcast of Toronto Blue Jays' Major League Baseball games.

<sup>11</sup> For more information on closed captioning and the Commission's approach to the provision of closed captioning, see Broadcasting Public Notice 2007-54 and Broadcasting and Telecom Regulatory Policy 2009-430.

## **Working Document proposal**

51. In the Working Document, the Commission proposed the following in regard to closed captioning:

- Broadcasters would be expected to ensure that, when linear programming that includes closed captioning is broadcast over digital media, the closed captioning is included in the non-linear version.
- The existing approach with respect to the quality of closed captioning would be maintained. Members of the French- and English-language working groups would be asked to report on the status of their ongoing work related to quality standards and the timing of their new proposals.

52. This proposal would mean that more content aired with closed captioning on television would be accessible online for Canadians. The Commission would also examine ongoing developments by the closed captioning working groups to ensure that users of closed captioning are being well served.

## **Positions of parties**

53. Various BDUs and broadcasters addressed the quality of closed captioning by submitting that a high accuracy rate in the provision of closed captioning is difficult to reach, especially for live programming. Corus expressed concern over who would bear the costs and responsibilities for the provision of closed captioning. Cogeco, SaskTel and Shaw did not raise any objections to the proposal presented in the Working Document.

54. Few broadcasters addressed the Working Document proposal that closed captioning should be made available on non-linear online platforms if it was present in the traditional system. However, Bell and Rogers both agreed that this was a necessary development, and highlighted their own efforts towards that goal. Rogers stated that closed captioning will be available on its online video service, and Bell indicated that by its internal deadline of 31 August 2016, closed captioning should be included in programming on non-linear online platforms if that programming contained closed captioning on traditional platforms. Accessible Media, Shaw and the CBC also noted their own efforts to offer closed captioned content on non-linear online platforms so as to allow Canadians who are deaf or hard of hearing to access television content.

55. Individual interveners and user groups also noted the challenges associated with offering high quality closed captioning, in particular for live programming. They submitted that the quality of closed captioning still needs to be improved, with one intervener suggesting the creation of an independent user group tasked with overseeing the quality of closed captioning in the system. These parties further submitted that content made accessible through closed captioning in the traditional system should also be made accessible when it is made available on non-linear online platforms. While individual interveners and user groups generally agreed with the need for the closed captioning of online programming, concerns were also expressed about the availability of accessible websites and other accessibility features (described video and audio description) on both traditional and non-linear online platforms.



## **Commission's analysis and decisions**

56. In light of the above-noted efforts by broadcasters as well as the concerns expressed by individuals and user groups, the Commission will expect broadcasters, at the time of their next licence renewals, to ensure that when programming with closed captioning on traditional platforms is made available on non-linear online platforms, the closed captioning is included.
57. In addition, licensed broadcasters will be required to adhere to an annual reporting requirement relating to the provision of closed captioning on non-linear online platforms. The results of this reporting may be published in a report card format to keep Canadians abreast of progress. This requirement will be imposed by condition of licence.
58. In regard to concerns over the quality of closed captioning, particularly for live programming, the Commission has taken such challenges into account in establishing mandatory quality standards, and recognizes that processes and tools need to be continuously improved and that monitoring of the quality of closed captioning remains important. Consequently, the Commission will maintain the existing approach to the quality of closed captioning. Based on reports submitted in response to the requirement to provide the Commission with documented evidence of efforts made in-house and requests to captioning providers for ways to improve the accuracy of captioning by the English- and French-language broadcasters,<sup>12</sup> the Commission may take additional action to address ongoing issues, such as engaging the French-language closed captioning working group and re-instating the English-language closed captioning working group.<sup>13</sup>

## **Access to programming – Making set-top boxes and remote controls more accessible to Canadians with disabilities**

59. To access television content, Canadians use a variety of means, such as set-top boxes and remote controls, and use built-in software, such as electronic programming guides (EPGs). Often, these means of access can prove difficult for people with disabilities. For example, to access described video, users would need to turn on the Secondary Audio Program (SAP) track containing the described video through the set-top boxes, which, in many cases, requires more than one button click on the remote control. Further, while EPGs may contain visual indicators highlighting the availability of described video, they do not always include other accessibility features such as voicing on-screen text in an audible format, the audible confirmation of selections, or the ability to increase the font size and/or change the contrast of the interface. To access television content, Canadians with disabilities require equipment that is accessible.

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<sup>12</sup> In this regard, see Broadcasting Regulatory Policies 2011-741-1 and 2012-362.

<sup>13</sup> In Broadcasting Regulatory Policy 2012-362, the Commission considered that the mandate of the English-language closed captioning working group should not be extended.

## **Current requirements**

60. The Commission currently expects BDUs to ensure that subscribers are able to identify programming with described video in the EPGs. The Commission also encourages BDUs to procure and offer at least one set-top box and one remote that are accessible to persons with vision and fine motor skill disabilities. BDUs are currently required to pass through the described video of all services where available, although they are relieved of the requirements to pass through that described video on an analog basis.

## **Working Document proposal**

61. In the Working Document, the Commission proposed the following in regard to accessible hardware:

- BDUs would be required to ensure that:
  - subscribers are able to identify programming with described video in the electronic programming guide; and
  - set-top boxes, where available for procurement, are accessible to subscribers with vision and fine motor skill disabilities. These should include accessibility features such as set and forget, and activation of described video with a single button click.
- Compliance by BDUs with existing customer service requirements with respect to accommodating subscribers with disabilities would be assessed.

62. Set-top boxes that are accessible to Canadians with disabilities (e.g., those who are blind or have a visual impairment) would be offered as they become available. The Commission would review customer service practices to ensure that all Canadians are well served.

## **Positions of parties**

63. Individual interveners, user groups and other organizations stated that set-top boxes, remote controls, EPGs and any other means to access content should be made more accessible for persons who are blind or have a visual impairment. Although some BDUs noted that they are currently offering remote controls that simplify access, they acknowledged the overall need in Canada for such remote controls. Further, they generally recognized the need for an audible EPG to enhance accessibility, but noted that changing an EPG could prove very expensive.

64. Although various BDUs, including Rogers and Cogeco, stated that accessible remote controls are already available and being offered to Canadians, individual interveners and user groups noted the significant difficulties in obtaining those remote controls, often requiring sustained efforts on their part. Certain interveners and user groups argued that “availability” on paper does not mean that the necessary hardware is available to them, and that without more defined means to ensure availability, the wording in the Working Document “where available for procurement” could see BDUs rule out accessible set-top boxes based on self-imposed criteria.

65. Certain interveners mentioned the potential increased feasibility of procuring more accessible equipment from manufacturers in the U.S., who, under the CVAA, must, by 20 December 2016, ensure that the on-screen text menus and program guides displayed on television by set-top boxes and other video programming equipment is accessible to people who are blind or have a visual impairment. Individual interveners, user groups, and BDUs such as Rogers and Cogeco stated that leveraging ongoing developments in accessible set-top boxes as a consequence of the implementation of the CVAA in the U.S. could allow Canadian BDUs to offer Canadians more accessible set-top boxes. Many interveners noted that Canadian BDUs have very little control over hardware development, and generally agreed that following the lead of the U.S. on accessible hardware would provide a feasible solution.

#### **Commission's analysis and decisions**

66. The Commission acknowledges the technical challenges currently facing Canadians who are blind or have a visual impairment, or who have fine motor skill disabilities, in regard to accessing television content. The Commission considers that it is possible to make the means of accessing content more accessible. A significant proportion of the equipment suppliers to the Canadian BDU industry are based in the U.S., and the accessibility requirements set out in the CVAA are largely in line with what individual interveners and user groups have generally requested.

67. Accordingly, the Commission will issue, in the near future, a call for comments on proposed amendments to the *Broadcasting Distribution Regulations* to require BDUs to make accessible set-top boxes and remote controls available to subscribers, where they are available for procurement and compatible with BDUs' distribution systems.

68. Certain interveners expressed concerns that "where available for procurement" could result in availability on paper, but not in reality. To address these concerns and to assist the Commission in evaluating the effectiveness of the solutions offered by BDUs, the Commission will require BDUs to report annually on accessible solutions offered to Canadians. Accordingly, the Commission intends to impose a set of annual reporting requirements through conditions of licence on BDUs, detailing, for example:

- the availability of accessible set-top boxes and remote controls to customers of BDUs, and their accessibility features;
- the penetration of accessible set-top boxes and remote controls with the BDU's customer base; and
- the number of accessibility-related queries received by the BDUs, and the number successfully resolved.

Secretary General

## Related documents

- *Call for comments on a Television Service Provider Code of Conduct working document*, Broadcasting Notice of Consultation CRTC 2015-105, 26 March 2015
- *A World of Choice – A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015
- *The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Measures to address issues related to simultaneous substitution*, Broadcasting Regulatory Policy CRTC 2015-25, 29 January 2015
- *Over-the-air transmission of television signals and local programming*, Broadcasting Regulatory Policy CRTC 2015-24, 29 January 2015
- *Prohibition of 30-day cancellation policies*, Broadcasting and Telecom Regulatory Policy CRTC 2014-576, 6 November 2014
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption order – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Let's Talk TV*, Broadcasting Notice of Consultation CRTC 2014-190, 24 April 2014, as amended by Broadcasting Notices of Consultation CRTC 2014-190-1, 20 June 2014; 2014-190-2, 23 June 2014; 2014-190-3, 21 August 2014; and 2014-190-4, 15 September 2014
- *Let's Talk TV: A conversation with Canadians about the future of television*, Broadcasting Notice of Invitation CRTC 2013-563, 24 October 2013
- *Revised regulatory framework for pay-per-view services*, Broadcasting Regulatory Policy CRTC 2013-561, 23 October 2013
- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013
- *Quality standards for English-language closed captioning*, Broadcasting Regulatory Policy CRTC 2012-362, 5 July 2012
- *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 services*, Broadcasting Regulatory Policy CRTC 2009-562-2, 25 May 2012

- *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
- *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011
- *Standard conditions of licence, expectations and encouragements for conventional television services*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007