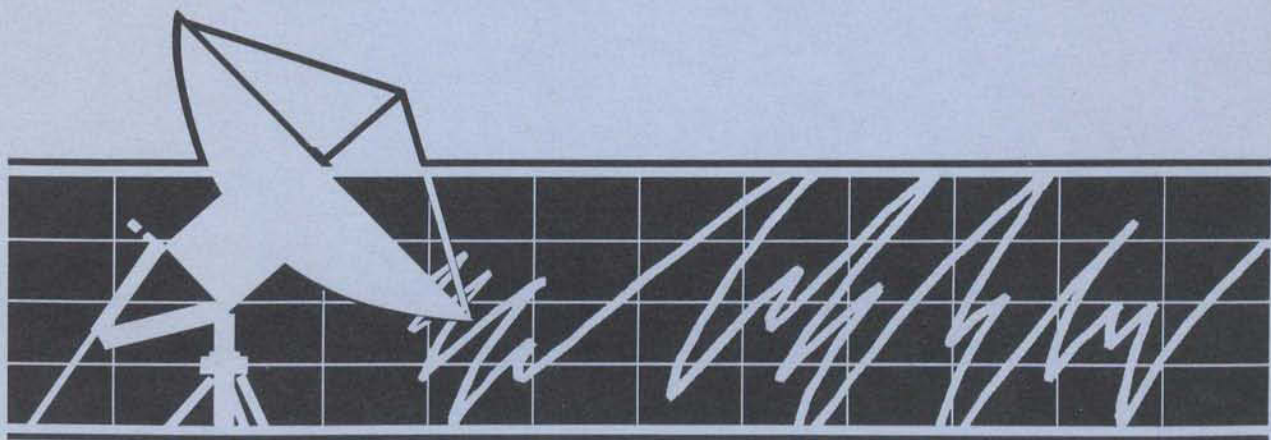


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Communications
Canada

Decoding The Law on Decoding



*Information on changes
in Canada's broadcasting
legislation for satellite
dish owners and
satellite equipment dealers
and distributors*

Canada



NEW BROADCASTING ASSOCIATION

Decoding The Law on Decoding

Copyright Commission
dealt with the situation
article

The court provides
subscribers with an overview

Creators of Satellite Music
systems (SMATV) and
Distribution Unions
rights to contribution

How this booklet can help

The booklet will help
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Existe aussi en français

CANADIAN CATALOGUING IN PUBLICATION DATA

Main entry under title:

Decoding the law on decoding : information on changes in Canada's broadcasting legislation for satellite dish owners and satellite equipment dealers and distributors

Issued also in French under title: Comment décodé la législation sur le décodage.

ISBN 0-662-18963-9

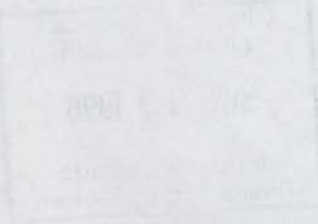
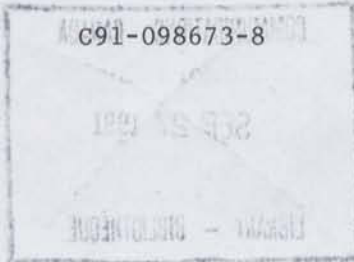
DSS cat. no. Co22-109/1991E

1. Direct broadcast satellite television -- Law and legislation -- Canada. 2. Direct broadcast satellite television -- Scrambling systems. 3. Broadcasting -- Law and legislation -- Canada. I. Canada. Communications Canada. II. Title: Information on changes in Canada's broadcasting legislation for satellite dish owners and satellite equipment dealers and distributors.

KE2640.D52 1991

343.7109'946

C91-098673-8



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Cat. No. Co22-109/1991E

ISBN 0-662-18963-9



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DD 10662546
DH 10850267

NEW BROADCASTING LEGISLATION

Canada's broadcasting legislation has recently changed. A new *Broadcasting Act* was proclaimed into law on June 4, 1991 and the *Radiocommunication Act* was amended to deal with the unauthorized decoding and retransmission of scrambled satellite TV signals.

This booklet provides individual satellite dish owners, and equipment dealers and distributors with an overview of the new legislation.

Operators of Satellite Master Antenna Television or Master Antenna Television systems (S/MATVs) and rebroadcasting systems should consult the booklet *Distribution Undertakings and the Broadcasting Act* for information specifically related to distribution undertakings, although this booklet will also be helpful.

How this booklet can help you

This booklet will help you determine if and how you are affected by the new broadcasting legislation and provides general guidance on:

- * what is and what is not legal with respect to decoding scrambled TV signals;
- * what the penalties are for illegal activity;
- * how to tell if you have an illegal decoder;
- * who to contact to obtain a legal decoder;
- * what legitimate programming is available and how to get it;
- * why you must pay for scrambled programming;
- * where and how to contact Communications Canada or the Canadian Radio-television and Telecommunications Commission (CRTC) for more information on the changes to the law.

Although you may continue to own and operate a television receive only (TVRO) satellite dish without a licence, it is now clearly illegal to decode scrambled satellite TV signals without proper authorization and to receive and/or retransmit scrambled signals that have been decoded without authorization.

If you are engaged in any of these activities you should read this information booklet carefully. If you have specific questions on how these changes to the law apply to you, it would probably be helpful to consult a lawyer.

WHAT DO YOU MEAN BY "UNAUTHORIZED RECEPTION"?

While many Canadians own and operate satellite dishes using authorized decoders, others use "chipped" or otherwise unauthorized decoders, sometimes without even knowing that their equipment is unauthorized.

Essentially, there are three kinds of unauthorized, or illegal, reception.

Chipping

One kind of unauthorized reception is the use of a decoder that has been altered by the unauthorized addition of a computer chip(s) or by the modification of a chip already in the decoder or integrated receiver-decoder (IRD) to decode scrambled signals. This modification of the decoder, known as *chipping*, enables it to decode the scrambled signals of satellite programming services without permission, and without payment to the programming services.

Black Box

Another kind of unauthorized reception occurs when devices popularly known in the satellite dish trade as *black boxes* or *black ciphers* are used to decode signals. These devices are capable of decoding several different encryption formats, without the authorization of the format developers, such as General Instrument (VideoCipher[®]) or Oak (Cancom decoder). Therefore, when a black box or a similar device is used to decode programming signals, the user is decoding signals without authorization and the programming services are unable to collect subscription payments for signals decoded by such devices.

Grey Market

The third kind of unauthorized reception is often referred to as "grey market" reception. This occurs when a decoder that is authorized to decode a signal in a programming service's legitimate market territory is used to decode the signals in an area where the programming service is not permitted to sell subscriptions. Many American pay-TV and specialty services do not have the lawful right from program suppliers to sell subscriptions in Canada. Through "grey market" techniques however, these services have been made available here without their knowledge or authorization.

Authorized reception of a scrambled signal means your decoder has been activated by a programming service or an authorized agent for use at your place of residence and that you pay a monthly or annual subscription fee to the programming service.

SO WHAT IS ILLEGAL?

The Radiocommunication Act and Decoding Scrambled Signals

The changes to the *Radiocommunication Act* only affect encrypted, in other words *scrambled*, signals. It is now an offence to *possess* or *operate* a decoder that enables you to decode scrambled satellite TV signals without authorization, that is, to unscramble or decode signals without paying a subscription fee to the programming service.

It is also an offence to *decode* a scrambled programming signal or a scrambled network feed without authorization; to *receive* a scrambled signal that has been decoded without authorization; or to *retransmit* scrambled signals that have been decoded without authorization, for instance to hotel rooms or apartment units.

The new law also makes it illegal to manufacture, modify, or otherwise deal in equipment that could be used to decode scrambled signals without authorization. In other words, it is illegal to chip decoders, to sell chipped decoders or to sell black box decoders. It is also illegal to manufacture components for a decoder that would make it capable of decoding signals without authorization.

These offences apply to individuals as well as to corporations or companies.

The retransmission of a signal that is decoded without authorization is the most serious offence.

The specific offences and penalties related to unauthorized decoding under the *Radiocommunication Act* are summarized in the shaded box on page 12. It should be noted that you cannot be convicted for decoding the scrambled signal of a programming service that has the lawful right to make the signal available to you, but does not do so.

Private Right of Action

The new law also establishes a civil -- or private -- right of action.

This right of action permits anyone with a proprietary interest in scrambled programming, or anyone who holds a CRTC broadcasting licence or is a manufacturer, supplier or seller of legitimate decoders to seek legal recourse through a civil court action for any financial loss suffered as a result of unauthorized reception.

A company that distributes programming, such as First Choice, or a company that has the lawful right to package and distribute programming services, such as Cancom, all have proprietary interests in the scrambled programming they distribute because their business depends on revenues from subscriber fees. Naturally, program creators also have proprietary interests in the programs they make.

Complainants can sue individual home dish owners as well as commercial enterprises for damages, obtain injunctions against persons or companies engaged in the illegal activity, or seek any other remedy that a court sees fit to impose. The maximum amount that a private individual who is decoding signals strictly for personal use can be sued for is \$1,000, but there is no limit to the damages that can be awarded when a corporation or company is sued.

BUT CAN I CONTINUE TO WATCH MY SATELLITE TV?

Certainly.

You may continue to own and operate a TVRO satellite dish without a licence. You may also continue to purchase legitimate decoders or IRDs and use them to decode TV signals delivered by satellite provided it is for personal use only and you receive authorization to decode the signals from the programming services or their authorized direct-to-home (DTH) agents.

You may not, however, redistribute these signals to someone else.

In addition, bars, taverns, nightclubs and similar commercial establishments can own and operate TVRO satellite dishes without a licence provided that the signals are received and displayed only to their patrons and not redistributed. Of course, such establishments must also receive authorization to decode signals.

So if you are a home dish owner currently receiving scrambled signals and paying the programming service(s) for them, you have nothing to worry about. The changes to the law should not affect you.

Similarly, if you are a S/MATV operator and you are operating your system in accordance with CRTC requirements, and you have authorization from the programming services to redistribute their signals -- for instance, to hotel rooms or condominium units -- the changes should not affect you either. (A broadcasting licence is not required for S/MATV operators who follow the CRTC's exemption criteria outlined in CRTC Public Notice 1989-47, entitled *Master Antenna Television Systems Exemption*.)

IF YOU OWN A SATELLITE DISH

First, relax.

As a home dish owner, you may own and use your dish, receiver and decoder to receive all kinds of programming as long as your decoder (or IRD) is authorized legally and you pay a subscription fee to the program provider, either directly or through an *authorized* agent. You may not redistribute the signals you receive to someone else.

The changes in the law affect you *only* if you own an illegal decoder that enables you to receive signals for which you do not pay a subscription fee, or if your decoder has been fraudulently authorized, through the use of a false address, to receive scrambled signals.

The new legislation does not affect in any way the reception of unscrambled signals.

How can I tell if I'm breaking the law?

Often without knowing it, dish owners have purchased decoders that have been chipped or are capable of receiving signals they are not supposed to.

You may have been told that your decoder "includes the programming subscription." If the decoder has been chipped, whatever you paid for programming probably never reached the programming service, since the service may not have, in reality, authorized you to receive its programming. In such cases, or if your decoder has been authorized for a U.S. address, you are probably breaking the law.

Here are some questions you can ask yourself in order to find out if you are using an illegal decoder.

Do you receive HBO, ESPN, Showtime or Cinemax? If your answer is YES, then you probably have an illegal decoder and you are receiving these services without authorization. These services and a number of other American services do not own the program rights for Canada so therefore do not sell subscriptions here. (For more detailed information on programming rights, see the section in this booklet entitled *But I'm Still Wondering: Why Do I Have to Pay?*)

If you live west of Ontario, are you receiving First Choice? If your answer is YES, then you are probably receiving it without authorization. First Choice is a regional pay-TV service and the CRTC permits it to sell subscriptions only east of the Manitoba-Ontario border. Likewise, do you live in Ontario or eastern Canada and are you receiving Superchannel? If your answer is YES, then you are likely breaking the law, since Superchannel is only allowed to sell subscriptions west of the Manitoba-Ontario border.

DTH PROGRAMMING SERVICES AVAILABLE

CANCOM VALUEVISION

(Oak decoder)

Superchannel Pay-TV
(west of Ontario)

The Family Channel
(west of Ontario)

TSN - The Sports Channel
CBC Newsworld
MuchMusic
The Nashville Network

CHCH-TV Hamilton
CHAN-TV Vancouver
CITV-TV Edmonton
CFTM-TV Montreal
WXYZ-TV (ABC) Detroit
WJBK-TV (CBS) Detroit
WDIV-TV (NBC) Detroit
WTVS-TV (PBS) Detroit
WTBS-TV Atlanta
WPIX-TV New York
WWOR-TV New York
WGN-TV Chicago

**Call CANCOM VALUEVISION at
1-800-268-2878 for details.**

FIRST CHOICE PAY TELEVISION

(VideoCipher[®] decoder)

First Choice Pay TV
(east of Manitoba)

The Family Channel
(east of Manitoba)

The Nashville Network
CNN/CNN Headline News
Arts & Entertainment

WABC-TV (ABC) New York
WBBM-TV (CBS) Chicago
WXIA-TV (NBC) Atlanta
WWOR-TV New York
WPIX-TV New York
WSBK-TV Boston
KTLA-TV Los Angeles
KTVT-TV Dallas
WGN-TV Chicago

**Call FIRST CHOICE at
1-800-263-8965 for details.**

DTH PROGRAMMING SERVICES AVAILABLE

SATELBEC

(VideoCipher[®] decoder)

Super Écran
Le Canal Famille
Le Réseau des Sports
Spice

**Call SATELBEC at
1-514-435-0575 for details.**

Subscription Information

These are private companies offering satellite programming services, and neither Communications Canada nor the CRTC favour any particular company or service. The programming services listed here are available from these wholesalers only to home satellite dish owners. Some of the wholesale companies offer programming services in various packages at various prices. Because of programming rights, the companies may offer some programming services only in certain parts of the country. Generally, subscriptions can be purchased on an annual or on a monthly basis.

*Some of the programming services may not be available to cable, S/MATV and other distribution systems. Operators of these kinds of systems might wish to consult the information booklet **Distribution Undertakings and the Broadcasting Act**, available from any Communications Canada or CRTC office, for information on how to arrange affiliation agreements.*

SPECIALTY PROGRAM SOURCE

(VideoCipher[®] decoder)

First Choice Pay TV
(east of Manitoba)

The Family Channel
(east of Manitoba)

Spice
Super Écran
Le Canal Famille
Le Réseau des Sports
The Nashville Network
Arts & Entertainment
CNN/CNN Headline News
Prime Network Sports
Country Music Channel
Black Entertainment TV
The Learning Channel
The Weather Channel
WABC-TV (ABC) New York
WBBM-TV (CBS) Chicago
WXIA-TV (NBC) Atlanta
WWOR-TV New York
WPIX-TV New York
WSBK-TV Boston
KTLA-TV Los Angeles
KTVT-TV Dallas
WTBS-TV Atlanta
WGN-TV Chicago

**Call SPECIALTY PROGRAM
SOURCE at 1-800-461-3255
for details.**

Do you pay a monthly or annual subscription fee directly to the programming service or to an authorized agent? If your answer is NO, then chances are you are breaking the law.

If you are paying your dealer for programming, is your dealer an authorized agent for the programming services you are receiving? If not, your decoder may not be authorized to receive the programs.

Do you have a black box decoder? That is, do you own a single decoder that can decode both VideoCipher-encrypted and Oak-encrypted (Cancom) programming signals? If your answer is YES, you are probably receiving the signals without authorization.

Do you have a friend or a relative in the United States through whom you are paying a subscription to U.S. programming services? If your answer is YES, you are probably breaking the law.

You can also, of course, ask your dealer whether you have legitimate authorization to receive the services you are watching.

What can I do if my decoder is illegal?

Unfortunately, you have to get rid of your decoder. It should not have been sold to you.

Inform your dealer that you would like to purchase a legitimate decoder and that you want to subscribe legally to programming services.

If you have an illegal VideoCipher[®] II (VC II) decoder, you should exchange it and purchase a new VC II PLUS decoder from your dealer. (The basic VC II is no longer being manufactured and is being replaced by the PLUS.) If your dealer is uncertain of what to do, information is available directly from the manufacturer of the decoder. Dealers can call General Instrument at 1-704-327-4700.

If you own a Cancom decoder (which is manufactured by Oak), you should call Cancom at 1-800-268-2878.

O.K., now that I'm legal, what can I watch?

Anything that isn't scrambled, provided permission is not required from the unscrambled services.

Plus a lot of scrambled channels, too. Canadian superstations, Canadian movie, sports and specialty channels, U.S. networks, superstations and specialty channels are all available to you *legally*.

There are several distributors, or wholesalers, of legitimate satellite programming to home dish owners. Some of the major wholesale companies are listed in the centre pages, along with the programming services they offer and a telephone number to call for information or to subscribe. This list of programming services available on a DTH basis is subject to change, as the wholesalers may add additional Canadian and U.S. services if they become available.

BUT I'M STILL WONDERING: WHY DO I HAVE TO PAY?

Some companies have money invested in the creation of programming carried on satellite TV channels. Other companies have money invested in distributing it. So there are companies that pay to create the programming and other companies that pay to distribute it. These companies must pay the costs for running their businesses. They have to recoup these costs in order to continue creating and distributing the programming to the consumer -- you.

Since many satellite programming services rely on subscriptions as well as advertising to generate revenue, they scramble their signals in order to restrict their reception to fee-paying subscribers.

If these services could not collect subscription revenues, they would not be able to operate and the programming they provide would no longer be available.

Some services, such as Superchannel, First Choice, and the Family Channel rely entirely on subscriptions for revenue. Satellite programming wholesalers, or packagers, such as Cancom's VALUEVISION and Specialty Program Source, derive no income from the advertising on the channels they distribute. They earn revenue only from sales commissions on subscriptions.

Obviously, without revenues, none of these services would be in business long.

It is true that a number of scrambled U.S. signals are not available to Canadians who are willing to pay for them. This is not related to the provisions of the *Broadcasting Act* or the *Radiocommunication Act*, but to copyright agreements. These foreign services have not bought the programming rights for Canada. Therefore, these services cannot authorize reception in Canada. Examples of this are HBO (for which First Choice and Superchannel hold most of the Canadian rights) and ESPN (for which The Sports Network holds most of the Canadian rights). Much of the same programming is usually available from these Canadian rights holders.

The protection of territorial rights is another reason why many satellite programming services scramble their signals.

For instance, when HBO or Showtime purchase the right to show a movie or a special event, they do so on the condition that they transmit the programs only to residents in the United States. If they were to make the programs available elsewhere, for example in Canada, they would be breaking their contract with the program supplier.

Similarly, First Choice purchases programming for transmission only in eastern Canada, while Superchannel purchases programming for transmission only in western Canada. If their signals were made available outside their territory, they, too, would be in breach of their contracts with their program suppliers.

Thus, scrambling the signals enables programming services to authorize reception only in the areas where they are allowed to show their programming. This enables them to maintain their agreements with program suppliers and to ensure continued access to programming from those suppliers.

IF YOU ARE A DEALER

Although the provisions in the *Radiocommunication Act* related to unauthorized decoding also apply to dealers, the new law affects you in another way.

For instance, if you deal solely in legitimate decoders, the changes should make competition fairer since you will no longer need to worry about illegal decoders. In addition, as a dealer or an authorized agent for a programming service, you, too, can take advantage of the civil right of action to recover money lost as a result of unfair competition from competitors who deal in illegal decoders.

As well, dealers who are authorized agents of programming services and wholesalers can benefit from ongoing sales commissions received through the sale of legitimate subscriptions.

As a result of the new law, dish owners with illegal decoders will likely be approaching their dealers to replace their equipment with legitimate decoders. In order to stay in business, dealers should be prepared to satisfy their customers' desire to possess legitimate decoders.

Any person or company, however, that continues to sell illegal decoders or engages in the illegal activities described in this booklet will face significant penalties. The specific offences and penalties related to unauthorized decoding under the *Radiocommunication Act* are summarized in the shaded box on page 12.

So what do I do? What do I tell my customers?

If you have illegal decoders in stock, remove them from your shelves and dispose of them. Do not sell them. You are breaking the law just by having them in your store.

You should replace the illegal decoders with legitimate devices as soon as possible. For details on what to do if you have any illegal VideoCipher® decoders in stock, call General Instrument at 1-704-327-4700 and ask to speak to a VideoCipher® Module Service Dealer representative for Canada.

If you have any illegal Cancom decoders in stock, contact Cancom at 1-800-268-2878.

Notify your suppliers, preferably in writing, that you wish to deal only in legitimate equipment.

Call the DTH programming services and programming wholesalers to inquire about selling their services legitimately as an authorized agent.

Call the nearest Communications Canada or CRTC office to request additional copies of this information booklet for your customers.

Write to your existing customers informing them of the change in the law and ask them to upgrade, legitimately, to a new decoder. Enclose a copy of this booklet. Offer to pass on any manufacturer's discount to them. Communications Canada will be happy to provide you with a sample letter.

IF YOU OPERATE A S/MATV OR REBROADCASTING SYSTEM

The offences and penalties related to unauthorized decoding under the *Radiocommunication Act* also apply to you.

The new *Broadcasting Act* also clearly applies to all broadcasting undertakings, *whether or not they are carried on for profit or whether or not they are carried on as part of any other activity*, such as a condominium or hotel operation. As a result, it is recommended that operators of unlicensed broadcasting undertakings apply for a broadcasting licence from the CRTC and a broadcasting certificate from Communications Canada. S/MATVs do not require a licence from the CRTC if they operate in accordance with the CRTC's exemption criteria. (CRTC Public Notice 1989-47, *Master Antenna Television Systems Exemption*.)

If you operate a S/MATV system or a community rebroadcasting system, we suggest you read Communications Canada's booklet *Distribution Undertakings and the Broadcasting Act*, available from Communications Canada and CRTC offices across the country. Or call us at Communications Canada or the CRTC for more information. The locations and telephone numbers of our offices are provided at the back of this booklet.

Radiocommunication Act **Offences and Penalties**

- * **For manufacturing, importing, distributing, leasing, offering for sale, selling, installing, modifying, possessing or operating an illegal decoder** A fine of up to \$5,000 per day or a prison term of up to one year, or both, for each offence, for an individual. For a corporation, a fine of up to \$25,000 per day.
- * **For decoding a scrambled signal without permission** A fine of up to \$10,000 per day or a prison term of up to six months, or both, for an individual. For a corporation, a fine of up to \$25,000 per day.
- * **For receiving a scrambled signal that has been decoded without permission** A fine of up to \$10,000 per day or a prison term of up to six months, or both, for an individual. For a corporation, a fine of up to \$25,000 per day.
- * **For retransmitting a scrambled signal that has been decoded without permission** A fine of up to \$20,000 per day or a prison term of up to one year, or both, for an individual. For a corporation, a fine of up to \$200,000 per day.

A person, or a corporation, can be charged for any one of these offences, or for any combination of them, if applicable. Charges can be laid, and penalties applied, for each illegal activity occurring on more than one occasion.

Individual members of a corporation (company), such as directors, could also face these penalties, even if they do not actually engage in the illegal activity. They need only *allow* the illegal activity to go on.

These offences apply **only** to signals that are scrambled, including network feeds. They do **not** apply to unscrambled signals.

Private Right of Action

Any person or commercial enterprise engaging in the above activity will also be liable to civil suits from equipment manufacturers, broadcasting licensees, program distributors or their authorized agents, or distributors and dealers of legitimate equipment. The maximum damages that can be awarded against an individual is \$1,000. There is no limit to the damages that can be awarded against a corporation.

HOW TO REACH US

Call us at Communications Canada or the CRTC if you still have any questions.

Communications Canada Offices

Head Office
Ottawa (613) 990-4900

Atlantic Region

Regional Office - Moncton
(506) 851-6525

Charlottetown District
Office
(902) 566-7007

Halifax District Office
(902) 426-2956

Saint John District Office
(506) 636-4900

St. John's District Office
(709) 772-5351

Quebec Region

Regional Office - Montreal
(514) 283-2307

Chicoutimi District Office
(418) 549-5781

Montreal District Office
(514) 283-2112

Quebec District Office
(418) 648-3715

Sherbrooke District Office
(819) 564-5540

Ontario Region

Regional Office - Toronto
(416) 973-6157

Belleville District Office
(613) 969-3629

Hamilton District Office
(416) 572-2301

Kitchener District Office
(519) 571-6610

London District Office
(519) 645-4336

Ontario North District
Office
(705) 254-7411

Ottawa District Office
(613) 998-3693

Toronto District Office
(416) 973-6270

Central Region

Regional Office -
Winnipeg
(204) 983-4391

Calgary District Office
(403) 292-4207

Edmonton District Office
(403) 495-2470

Grande Prairie District
Office
(403) 532-3533

Manitoba District Office
(204) 983-5590

Regina District Office
(306) 780-5007

Saskatoon District Office
(306) 975-4893

Yellowknife District Office
(403) 920-6603

Pacific Region

Regional Office -
Vancouver
(604) 666-5702

Kootenays District Office
(604) 426-8908

Lower Mainland District
(604) 666-5468

Northern B.C. District
(604) 561-5291

Okanagan District Office
(604) 861-6037

Vancouver Island District
Office
(604) 363-3803

Yukon District Office
(403) 667-5103

CRTC Offices

Ottawa/Hull
(819) 997-0313
Halifax (902) 426-7997
Montreal (514) 283-6607
Winnipeg (204) 983-6306
Vancouver (604) 666-2111

