

Broadcasting Distribution Regulations (SOR/97-555)

Enabling Statute: Broadcasting Act

Regulation current to February 26th, 2011

Attention: See coming into force provision and notes, where applicable.

Broadcasting Distribution Regulations

SOR/97-555

Registration December 8, 1997

BROADCASTING ACT

Broadcasting Distribution Regulations

Whereas, pursuant to subsection 10(3) of the *Broadcasting Act*^a, a copy of the proposed *Broadcasting Distribution Regulations*, substantially in the annexed form, was published in the *Canada Gazette*, Part I, on July 12, 1997, and a reasonable opportunity was given to licensees and other interested persons to make representations to the Canadian Radio-television and Telecommunications Commission with respect thereto;

Therefore, the Canadian Radio-television and Telecommunications Commission, pursuant to subsection 10(1) of the *Broadcasting Act*^a, hereby makes the annexed *Broadcasting Distribution Regulations*.

Hull, Quebec, December 8, 1997

a S.C. 1991, c. 11

BROADCASTING DISTRIBUTION REGULATIONS

INTERPRETATION

1. The definitions in this section apply in these Regulations.

"Act" means the *Broadcasting Act*. (*Loi*)

"AM station" means a station that broadcasts in the AM frequency band of 525 to 1 705 kHz. It does not include a carrier current undertaking or a transmitter that only rebroadcasts the radiocommunications of another station. (*station AM*)

"available channel" means any unrestricted channel of a distribution undertaking in a licensed area, other than a channel on which is distributed

(a) the programming service of a licensed programming undertaking other than a video-on-demand programming undertaking;

(b) community programming;

(c) the House of Commons programming service; or

(d) a programming service consisting of the proceedings of the legislature of the province in which the licensed area is located. (*canal disponible*)

"basic band" means the 12 analog cable channels that are commonly identified by the numbers 2 to 13 and that are used in the frequency bands 54 to 72 MHz, 76 to 88 MHz and 174 to 216 MHz. (*bande de base*)

"basic monthly fee" means the total amount that a licensee is authorized to charge to a subscriber on a monthly basis for provision of the basic service to an outlet to which a television receiver, FM receiver, channel converter or other terminal device may be connected in the subscriber's residence or premises. It does not include federal or provincial taxes. (*tarif mensuel de base*)

"basic service" means the services distributed in a licensed area by a licensee as a package consisting of the programming services the distribution of which is required under sections 17, 22, 32 or 37, or a condition of its licence, and any other services that are included in the package for a single fee. (*service de base*)

"broadcast week" means a period of seven consecutive days beginning on a Sunday. (*semaine de radiodiffusion*)

"broadcast year" means the period beginning on September 1 in a calendar year and ending on August 31 of the following calendar year. (*année de radiodiffusion*)

"cable distribution undertaking" means an undertaking that distributes broadcasting to subscribers predominantly over closed transmission paths. (*entreprise de distribution par câble*)

"Canadian production fund" means the Canada Television and Cable Production Fund, or its successor. (*fonds de production canadien*)

"Canadian programming service" means

(a) a programming service that originates entirely within Canada or is transmitted by a licensed station;

(b) a programming service consisting of community programming;

(c) a specialty service;

(d) a pay television service;

(e) a television pay-per-view service;

(f) a DTH pay-per-view service;

(g) a video-on-demand service; or

(h) a pay audio service. (*service de programmation canadien*)

"Category 1 service" means a Canadian programming service designated as such by the Commission. (*service de catégorie 1*)

"Category 2 service" means a Canadian programming service designated as such by the Commission. (*service de catégorie 2*)

"channel" includes a digital channel. (*cana*)

"Class 1 licensee" means the holder of a Class 1 licence or a Class 1 regional licence. (*titulaire de classe 1*)

"Class 2 licensee" means

(a) the holder of a Class 2 licence or a Class 2 regional licence issued on or after the coming into force of these Regulations; or

(b) for the remainder of the term of a licence issued before the coming into force of these Regulations, the holder of a Class 2 licence that carried on an undertaking that had 2,000 or more subscribers immediately before the coming into force of these Regulations. (*titulaire de classe 2*)

"Class 3 licensee" means

(a) the holder of a Class 3 licence or a Class 3 regional licence issued on or after the coming into force of these Regulations; or

(b) for the remainder of the term of a licence issued before the coming into force of these Regulations,

(i) the holder of a Class 2 licence that carried on an undertaking that had fewer than 2,000 subscribers immediately before the coming into force of these Regulations, or

(ii) a licensee that, immediately before the coming into force of these Regulations, was a Part III licensee within the meaning of section 2 of the *Cable Television Regulations, 1986*. (*titulaire de classe 3*)

"clock hour" means a period of 60 minutes beginning on each hour and ending immediately before the next hour. (*heure d'horloge*)

"commercial message" means an advertisement that is intended to sell or promote goods, a service or an activity, directly or indirectly, or an announcement that mentions or displays in a list of prizes the name of the person selling or promoting those goods or that service or activity. (*message publicitaire*)

"community access television programming" means programming produced by an individual, group or community television corporation residing within the licensed area of a cable distribution undertaking. (*programmation d'accès à la télévision communautaire*)

"community-based digital undertaking" means a programming undertaking whose service is distributed on a digital basis and that is licensed as a community-based digital undertaking. (*entreprise communautaire numérique*)

"community-based low-power television station" means an analog or digital over-the-air programming undertaking that is licensed as a community-based low-power television station. (*station de télévision communautaire de faible puissance*)

"community channel" means the channel of a distribution undertaking that is used by a licensee or by a community programming undertaking for the distribution of community programming within a licensed area of the distribution undertaking. (*canal communautaire*)

"community programming" means, in relation to a licensed area, programming that is produced

- (a) by the licensee in the licensed area or by members of the community served in the licensed area;
- (b) by the licensee in another licensed area or by the members of the community served in that other licensed area and that is relevant to the community referred to in paragraph (a);
- (c) by another licensee in a licensed area or by the members of the community served in that licensed area and that is relevant to the community referred to in paragraph (a); or
- (d) by a person licensed to operate a network for the purpose of producing community programming for distribution by the licensee on a community channel.

This definition includes community access television programming and local community television programming. (*programmation communautaire*)

"community programming undertaking" means a television programming undertaking operated by a not-for-profit organization that is licensed to operate a community channel. (*entreprise de programmation communautaire*)

"community television corporation" means a not-for-profit corporation that resides within a licensed area, that is incorporated by or under the laws of Canada or of a province and of which

- (a) the primary activity is to produce local community television programming or to operate a community channel that is reflective of the community it represents;
- (b) board members are drawn from the community; and
- (c) all board members are entitled to participate and vote at an annual meeting. (*société de télévision communautaire*)

"comparable", in respect of two or more programming services, means that not less than 95% of the video and audio components of those programming services,

exclusive of commercial messages and of any part of the services carried on a subsidiary signal, are the same. (*comparable*)

"customer" means a person who is liable for payment for programming services that are distributed by a licensee and that are received directly or indirectly by one or more subscribers. It does not include the owner or operator of a hotel, hospital, nursing home or other commercial or institutional premises. (*client*)

"demarcation point", in respect of the wire that is used by a distribution undertaking for the distribution of programming services to a subscriber, means

- (a) if the subscriber resides in a single-unit dwelling,
 - (i) 30 cm outside the exterior wall of the subscriber's premises, or
 - (ii) any point to which the licensee and the customer have agreed; and
- (b) if the subscriber resides in a multiple-unit dwelling,
 - (i) the point inside the dwelling at which the wire is diverted to the exclusive use and benefit of that subscriber, or
 - (ii) any point to which the licensee and the customer have agreed. (*point de démarcation*)

"digital radio station" means a station that broadcasts in the frequency band of 1 452 to 1 492 MHz (L-Band) using a digital transmission system. (*station de radio numérique*)

"digital service area" means a service area marked for a licensed digital radio station on the map that pertains to that station and that is most recently published under the *Department of Industry Act* by the Minister of Industry. (*zone de desserte numérique*)

"discretionary service" means a programming service that is not included in the basic service and that is distributed to subscribers on a discretionary basis for a fee separate from and in addition to the fee charged for the basic service. (*service facultatif*)

"distant television station" means a licensed television station that is not a local television station, regional television station or extra-regional television station. (*station de télévision éloignée*)

"DTH distribution undertaking" means a direct-to-home (DTH) satellite distribution undertaking. (*entreprise de distribution par SRD*)

"DTH eligible satellite service" means a programming service included in Appendix C of the Commission's *Revised Lists of Eligible Satellite Services*, as amended from time to time. (*service par satellite admissible distribué par SRD*)

"DTH pay-per-view service" means the pay-per-view service provided by a person licensed to carry on a direct-to-home pay-per-view television programming undertaking. (*service à la carte par SRD*)

"educational authority" means a body that is

- (a) an independent corporation, within the meaning of section 2 of the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*; or
- (b) a provincial authority, within the meaning of section 2 of the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*. (*autorité éducative*)

"educational radio programming service" means a radio programming service that provides the programming described in the definition of "independent corporation" in section 2 of the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*. (*service de programmation de radio éducative*)

"educational television programming service" means a television programming service that provides the programming described in the definition of "independent corporation" in section 2 of the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*. (*service de programmation de télévision éducative*)

"election period" means

(a) in the case of a federal or provincial election or of a federal, provincial or municipal referendum, the period beginning on the date of the announcement of the election or referendum and ending on the date of the election or referendum; or
(b) in the case of a municipal election, the period beginning two months before the date of the election and ending on the date of the election. (*période électorale*)

"emergency alert message" [Repealed, SOR/2007-164, s. 1]

"ethnic station" means a station that is licensed as an ethnic station. (*station à caractère ethnique*)

"exempt programming undertaking" means a programming undertaking the operator of which is exempted from any or all of the requirements of Part II of the Act in an order made by the Commission under subsection 9(4) of the Act. (*entreprise de programmation exemptée*)

"extra-regional television station" means, in relation to a licensed area of a distribution undertaking, a licensed television station that has

(a) a Grade A official contour or Grade B official contour that does not include any part of the licensed area; and

(b) a Grade B official contour that includes any point located 32 km or less from the local head end of the licensed area. (*station de télévision extra-régionale*)

"FM station" means a station that broadcasts in the FM frequency band of 88 to 108 MHz. It does not include a carrier current undertaking or a transmitter that only rebroadcasts the radiocommunications of another station. (*station FM*)

"House of Commons programming service" means the programming service of an undertaking required by the Commission to cover the entire proceedings of the House of Commons. (*service de programmation de la Chambre des communes*)

"independent production fund" means a production fund, other than the Canadian production fund, that meets the criteria listed in the Commission's Public Notice entitled *Contributions to Canadian Programming by Broadcasting Distribution Undertakings*, as amended from time to time. (*fonds de production indépendant*)

"inside wire" means the wire that is used by a distribution undertaking for the distribution of programming services that extends from the demarcation point to one or more terminal devices inside a subscriber's residence or premises. It includes the outlets, splitters and faceplates that are attached or connected to the wire but does not include a secured enclosure that is used to house the wire and that is attached to the exterior wall of a subscriber's premises, an amplifier, a channel converter, a decoder or a remote control unit. (*câblage intérieur*)

"licence" means a licence issued by the Commission to carry on a distribution undertaking. (*licence*)

"licensed" means licensed by the Commission under paragraph 9(1)(b) of the Act. (*autorisé*)

"licensed area" means an area for which a licensee has been licensed to carry on a distribution undertaking. (*zone de desserte autorisée*)

“licensee” means a person who is authorized by a licence or a regional licence to carry on one or more distribution undertakings. (*titulaire*)

“local AM station” means, in relation to a licensed area of a distribution undertaking, a licensed AM station that has its principal studio located within 32 km of the local head end of the licensed area. (*station AM locale*)

“local community television programming” means, in relation to a licensed area, programming that is reflective of the community served in the licensed area and that is produced

(a) by the licensee in the licensed area, by the members of the community served in the licensed area or by a community television corporation residing in the licensed area; or

(b) by another licensee in a licensed area within the same municipality as the licensee referred to in paragraph (a), by the members of the community served in that licensed area or by a community television corporation residing within that licensed area. (*programmation locale de télévision communautaire*)

“local digital radio station” means, in relation to a licensed area of a distribution undertaking, a licensed digital radio station that has a digital service area that includes any part of the licensed area. (*station de radio numérique locale*)

“local FM station” means, in relation to a licensed area of a distribution undertaking, a licensed FM station that has a 500 µV/m official contour that includes any part of the licensed area. (*station FM locale*)

“local head end”, in respect of

(a) a licensed area of a cable distribution undertaking, means the specific location at which a licensee receives the majority of the programming services that are transmitted by local television stations or, if there are no such stations, by regional television stations, and that are distributed by the licensee in the licensed area; and

(b) a radiocommunication distribution undertaking, means the licensee’s transmitter site. (*tête de ligne locale*)

“Local Programming Improvement Fund” means the Local Programming Improvement Fund — established in Broadcasting Public Notice CRTC 2008-100 entitled *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* — or its successor. (*Fonds pour l’amélioration de la programmation locale*)

“local radio station” means a local AM station, a local FM station or a local digital radio station. (*station de radio locale*)

“local television station”, in relation to a licensed area of a distribution undertaking, means a licensed television station that

(a) has a Grade A official contour that includes any part of the licensed area; or

(b) has, if there is no Grade A official contour, a transmitting antenna that is located within 15 km of the licensed area. (*station de télévision locale*)

“non-Canadian television station” means a television station that has a transmitter site located outside Canada. (*station de télévision non canadienne*)

“official contour” means a service contour marked for a licensed television station, licensed AM station or licensed FM station on the map most recently published under the *Department of Industry Act* by the Minister of Industry and that pertains to that station. (*périmètre de rayonnement officiel*)

"Part 2 eligible satellite service" means a programming service included in Appendix A of the Commission's *Revised Lists of Eligible Satellite Services*, as amended from time to time. (*service par satellite admissible en vertu de la partie 2*)

"Part 3 eligible satellite service" means a programming service included in Appendix B of the Commission's *Revised Lists of Eligible Satellite Services*, as amended from time to time. (*service par satellite admissible en vertu de la partie 3*)

"pay audio service" means the programming service provided by a person licensed to carry on a pay audio programming undertaking. (*service sonore payant*)

"pay-per-view service" means a scheduled programming service that is provided to subscribers on a pay-per-view basis. (*service à la carte*)

"pay television service" means the programming service, other than the pay-per-view service, provided by a person licensed to carry on a pay television programming undertaking. (*service de télévision payante*)

"programming service" means a program that is distributed by a licensee. (*service de programmation*)

"public affairs programming service" means the programming service of a person licensed to carry on a programming undertaking of which 100% of the programming provided represents categories 3 (reporting and actualities) and 12 (filler programming), as referred to in column I of item 6 of Schedule I to the *Specialty Services Regulations, 1990*. (*service de programmation d'affaires publiques*)

"radiocommunication distribution undertaking" means a distribution undertaking, other than a DTH distribution undertaking, that distributes programming services predominantly by means of radio waves. (*entreprise de distribution de radiocommunication*)

"regional licence" means a licence issued by the Commission that authorizes the licensee to carry on distribution undertakings in two or more licensed areas. (*licence régionale*)

"regional television station" means, in relation to a licensed area of a distribution undertaking, a licensed television station, other than a local television station, that has a Grade B official contour that includes any part of the licensed area. (*station de télévision régionale*)

"relay distribution undertaking" means a distribution undertaking that receives the programming services of radio or television programming undertakings and distributes them only to one or more other distribution undertakings. (*entreprise de distribution par relais*)

"restricted channel" means, in relation to a licensed area of a cable distribution undertaking, a channel of that undertaking that is the same channel on which signals are transmitted by

(a) a local television station or a local FM station; or

(b) a television station or an FM station that has a transmitter site located outside Canada within 60 km of any part of the licensed area. (*canal à usage limité*)

"service area" means an area for which a community-based digital undertaking or a community-based low-power television station has been licensed. (*zone de service*)

"specialty audio service" means a programming service provided by a person licensed to carry on a specialty audio programming undertaking. (*service sonore spécialisé*)

"specialty service" means the programming service provided by a person licensed to carry on a specialty programming undertaking. (*service spécialisé*)

"station" means a radio or television programming undertaking, or a radiocommunication distribution undertaking that rebroadcasts the programming service of a radio or television programming undertaking and whose signal is not encrypted and for which no fee is payable to a third party for the undertaking's right to distribute the signal. (*station*)

"subscriber" means

(a) a household of one or more persons, whether occupying a single-unit dwelling or a unit in a multiple-unit dwelling, to which service is provided directly or indirectly by a licensee; or

(b) the owner or operator of a hotel, hospital, nursing home or other commercial or institutional premises to which service is provided by a licensee. (*abonné*)

"subscription television system" means an undertaking that distributes encrypted programming services by low-power transmitters using the conventional VHF or UHF television bands. (*système de télévision par abonnement*)

"television pay-per-view service" means the pay-per-view service provided by a person licensed to carry on a pay television programming undertaking. (*service de télévision à la carte*)

"unserved community" means the licensed area of a distribution undertaking where there is no local radio station and no local television station. (*collectivité non desservie*)

"video-on-demand service" means the programming service provided by a person licensed to carry on a video-on-demand programming undertaking. (*service de vidéo sur demande*)

SOR/2001-75, s. 3; SOR/2002-322, s. 1; SOR/2003-29, s. 1; SOR/2003-217, s. 1; SOR/2003-458, s. 1; SOR/2007-164, s. 1; SOR/2009-234, s. 1.

APPLICATION

2. These Regulations apply to persons licensed to carry on a distribution undertaking, other than a person licensed to carry on

(a) a subscription television system;

(b) a relay distribution undertaking; or

(c) an undertaking that only rebroadcasts the radiocommunications of one or more other licensed undertakings.

PART 1 GENERAL

Prohibition

3. A licensee shall not distribute programming services except as required or authorized under its licence or these Regulations.

Transfer of Ownership

4. (1) The definitions in this subsection apply in this section.

"associate", when used to indicate a relationship with a person, includes

(a) a partner of the person;

(b) a trust or an estate in which the person has a substantial beneficial interest or in respect of which the person serves as a trustee or in a similar capacity;

(c) the spouse or common-law partner of the person;

(c.1) a child of the person or of their spouse or common-law partner, including a child adopted in fact by the person or by the spouse or common-law partner;

(c.2) the spouse or common-law partner of a child referred to in paragraph (c.1);

(d) a relative of the person, or of the spouse or common-law partner referred to in paragraph (c), if that relative has the same residence as the person;

(e) a corporation of which the person alone, or the person together with one or more associates as described in this definition, has, directly or indirectly, control of 50% or more of the voting interests;

(f) a corporation of which an associate, as described in this definition, of the person has, directly or indirectly, control of 50% or more of the voting interests; and

(g) a person with whom the person has entered into an arrangement, a contract, an understanding or an agreement in respect of the voting of shares of a licensee corporation or of a corporation that has, directly or indirectly, effective control of a licensee corporation, except when the person controls less than 1% of all issued voting shares of a corporation whose shares are publicly traded on a stock exchange.

(liens)

"common-law partner", in respect of a person, means an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year. *(conjoint de fait)*

"common shares" means the shares that represent the residual equity in the earnings of a corporation, and includes securities that are convertible into such shares at all times at the option of the holder and the preferred shares to which are attached rights to participate in the earnings of the corporation with no upper limit;

(actions ordinaires)

"person" includes an individual, a partnership, a joint venture, an association, a corporation, an estate, a trust, a trustee, an executor and an administrator or a legal representative of any of them. *(personne)*

"voting interest", in respect of

(a) a corporation with share capital, means the vote attached to a voting share;

(b) a corporation without share capital, means an interest that entitles the owner to voting rights similar to those enjoyed by the owner of a voting share;

(c) a partnership, a trust, an association or a joint venture, means an ownership interest in the assets of it that entitles the owner to receive a share of its profits, to receive a share of its assets on dissolution and to participate directly in its management or to vote on the election of the persons to be entrusted with the power and responsibility to manage it; and

(d) a not-for-profit partnership, trust, association or joint venture, means a right that entitles the owner to participate directly in its management or to vote on the election of the persons to be entrusted with the power and responsibility to manage it.

(intérêt avec droit de vote)

"voting share" means a share in the capital of a corporation, to which is attached one or more votes that are exercisable at meetings of shareholders of the corporation, either under all circumstances or under a circumstance that has occurred and is continuing, and includes any security that is convertible into such a share at all times at the option of the holder. *(action avec droit de vote)*

(2) For the purposes of this section, control of a voting interest by a person includes situations in which

(a) the person is, directly or indirectly, the beneficial owner of the voting interest; or

(b) the person, by means of an arrangement, a contract, an understanding or an agreement, determines the manner in which the interest is voted, but the solicitation of proxies or the seeking of instructions regarding the completion of proxies in respect of the exercise of voting interests is not considered to be such an arrangement, contract, understanding or agreement.

(3) For the purposes of this section, effective control of a licensee or its undertaking includes situations in which

(a) a person controls, directly or indirectly, other than by way of security only, a majority of the voting interests of the licensee;

(b) a person has the ability to cause the licensee or its board of directors to undertake a course of action; or

(c) the Commission, following a public hearing of an application for a licence, or in respect of an existing licence, determines that a person has such effective control and sets out that determination in a decision or public notice.

(4) Except as otherwise provided under a condition of its licence, a licensee shall obtain the prior approval of the Commission in respect of any act, agreement or transaction that directly or indirectly would result in

(a) a change of the effective control of its undertaking; or

(b) a person who, alone, or together with an associate,

(i) controls less than 30% of the voting interests of the licensee, having control of 30% or more of those interests,

(ii) controls less than 30% of the voting interests of a person who has, directly or indirectly, effective control of the licensee, having control of 30% or more of those interests,

(iii) owns less than 50% of the issued common shares of the licensee, owning 50% or more of those shares but not having, directly or indirectly, effective control of the licensee, or

(iv) owns less than 50% of the issued common shares of a person who has, directly or indirectly, effective control of the licensee, owning 50% or more of those shares but not having, directly or indirectly, effective control of the licensee.

(5) A licensee shall notify the Commission within 30 days after the occurrence of any act, agreement or transaction that, directly or indirectly, results in a person who, alone, or together with an associate, controls less than

(a) 20% of the voting interests of the licensee, having control of 20% or more but less than 30% of those interests;

(b) 20% of the voting interests of a person who has, directly or indirectly, effective control of the licensee, having control of 20% or more but less than 30% of those interests;

(c) 40% of the voting interests of the licensee, having control of 40% or more but less than 50% of those interests but not having, directly or indirectly, effective control of the licensee; or

(d) 40% of the voting interests of a person who has, directly or indirectly, effective control of the licensee, having control of 40% or more but less than 50% of those interests but not having, directly or indirectly, effective control of the licensee.

(6) A notification referred to in subsection (5) shall set out the following information:

(a) the name of the person or the names of the person and the associate;

(b) the percentage of the voting interests controlled by the person or by the person and the associate; and

(c) a copy or a complete description of the act, agreement or transaction.

SOR/2001-357, s. 5; SOR/2006-109, s. 1.

Distribution of Basic Service

5. Except as otherwise provided under a condition of its licence or these Regulations, no licensee shall provide a subscriber with any programming services, other than pay-per-view services, video-on-demand services or the programming services of

exempt programming undertakings, without also providing the basic service of the licensee.

Majority of Canadian Programming Services

6. (1) For the purposes of this section, each pay television service, television pay-per-view service, DTH pay-per-view service and video-on-demand service shall be counted as a single video channel.

(2) Except as otherwise provided under a condition of its licence, a licensee shall ensure, in respect of each of analog and digital technology, that a majority of the video and audio channels received by a subscriber are devoted to the distribution of Canadian programming services, other than the programming distributed on program repeat channels.

(3) Except as otherwise provided under a condition of its licence, this section does not apply to a Class 3 licensee in respect of a licensed area in which the licensee only distributes programming services on the basic band.

SOR/2001-334, s. 1; SOR/2003-217, s. 2.

Alteration or Deletion of Programming Service

7. A licensee shall not alter or delete a programming service in a licensed area in the course of its distribution except

(a) as required or authorized under a condition of its licence or these Regulations;

(b) for the purpose of complying with subsection 328(1) of the *Canada Elections Act*;

(c) for the purpose of deleting a programming service to comply with an order of a court prohibiting the distribution of the service to any part of the licensed area;

(d) for the purpose of altering a programming service to insert a warning to the public announcing

(i) any danger to life or property if the insertion is provided for in an agreement entered into by the licensee with the operator of the service or the network responsible for the service, or

(ii) an imminent or unfolding danger to life if there is no agreement with the operator of the service or the network responsible for the service;

(e) for the purpose of preventing the breach of programming or underlying rights of a third party, in accordance with an agreement entered into with the operator of the service or the network responsible for the service;

(f) for the purpose of deleting a subsidiary signal, unless the signal is, itself, a programming service or is related to the service being distributed; or

(g) for the purpose of inserting a commercial message, if the insertion is in accordance with an agreement between the licensee and the operator of a Canadian programming service or the network responsible for that Canadian programming service and that agreement pertains to commercial messages directed at a target market of consumers.

SOR/99-423, s. 1; SOR/2003-217, s. 3; SOR/2007-164, s. 2; SOR/2009-234, s. 2.

Prohibited Programming Content

8. (1) No licensee shall distribute a programming service that the licensee originates and that contains

(a) anything that contravenes any law;

(b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;

(c) any obscene or profane language or pictorial representation; or

(d) any false or misleading news.

(2) For the purpose of paragraph (1)(b), sexual orientation does not include the orientation towards a sexual act or activity that would constitute an offence under the *Criminal Code*.

Undue Preference or Disadvantage

9. (1) No licensee shall give an undue preference to any person, including itself, or subject any person to an undue disadvantage.

(2) In any proceedings before the Commission, the burden of establishing that any preference or disadvantage is not undue is on the licensee that gives the preference or subjects the person to the disadvantage.

SOR/2001-75, s. 4(F); SOR/2009-234, s. 3.

Inside Wire

10. (1) A licensee that owns an inside wire shall, on request, permit the inside wire to be used by a subscriber, by another licensee, or by a broadcasting undertaking in respect of which an exemption has been granted, by order under subsection 9(4) of the Act, from the requirement to obtain a licence.

(2) The licensee that owns an inside wire may charge a just and reasonable fee for the use of the wire.

(3) The licensee that owns an inside wire must not remove it from a building if a request for the use of the wire has been made and is pending under subsection (1), or while the wire is being used in accordance with that subsection.

SOR/2000-356, s. 1.

Information To Be Submitted to the Commission

11. (1) On or before November 30 of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the 12-month period ending on the previous August 31.

(2) At the request of the Commission, a licensee shall submit to the Commission information in accordance with the form entitled *Summary of Basic Tier/STV Fixed Assets*, and any other forms that are issued by the Commission.

(3) At the request of the Commission, a licensee shall provide the Commission with a response to any inquiry regarding the licensee's programming, ownership or any other matter within the Commission's jurisdiction that relates to the licensee's undertaking.

Dispute Resolution

12. (1) For the purposes of sections 12 and 15, "wholesale rate" means the fee payable on a monthly basis by a licensee to a programming undertaking to receive a programming service.

(2) If there is a dispute between the licensee of a distribution undertaking and the licensee of a programming undertaking or the operator of an exempt programming undertaking concerning the carriage or terms of carriage of programming, including the wholesale rate, originated by the programming undertaking, one or both of the parties to the dispute may refer the matter to the Commission for dispute resolution.

(3) The Commission may require the parties to engage in mediation before the Commission accepts a referral of the matter for dispute resolution.

(4) If the Commission accepts a referral of a matter for dispute resolution, the Commission may appoint a person to assist in the resolution of the dispute, by way of mediation or otherwise, or may proceed to render a decision in accordance with section 15.

(5) Any information relating to the resolution of a dispute filed with the Commission must be kept confidential, unless the Commission determines that it would be in the public interest to do otherwise.

(6) When the Commission accepts a referral of a matter for dispute resolution, information provided by a party for the purposes of the dispute resolution may not be used by the other party to the dispute for any other purpose except with the prior consent of the party providing the information.

(7) During dispute resolution, the person appointed under subsection (4) may request additional information from the parties or require their attendance at a meeting to discuss the matters in dispute.

(8) A person appointed under subsection (4) may refer a matter to the Commission if a party does not comply with a request under subsection (7), and the Commission may require the additional information or attendance at a meeting in order to discuss the matters in dispute.

13. An agreement that is reached after dispute resolution must be in writing and be signed by all parties.

14. If no agreement is reached by the parties, the person appointed under subsection 12(4) must submit a report to the Commission concerning all unresolved matters within the period established by the Commission.

15. The Commission may, after accepting a referral of a matter for resolution under section 12, render a decision concerning any unresolved matters, including the wholesale rate.

PART 2 CLASS 1 AND CLASS 2 LICENSEES

Application

16. Except as otherwise provided in this Part or in a licensee's condition of licence, this Part applies to Class 1 and Class 2 licensees.

Continued Distribution of French-language Canadian Programming Services in Anglophone Markets

16.1 A licensee that is operating in a licensed area that is an anglophone market within the meaning of paragraph 18(4)(b) shall distribute on an analog basis, in the licensed area, at least the same number of French-language Canadian programming services as it distributed on an analog basis in the licensed area on March 10, 2000. SOR/2001-334, s. 2; SOR/2003-217, s. 4.

Television Programming Services that Must Be Distributed as Part of the Basic Service

17. (1) Except as otherwise provided in subsections (3) to (6) or under a condition of its licence, a licensee shall distribute in each licensed area the following as part of its basic service, in the following order of priority:

(a) the programming services of all local television stations owned and operated by the Corporation;

(b) the educational television programming services received over the air or by satellite or microwave relay, the operation of which is the responsibility of an educational authority designated by the province in which the licensed area of the undertaking is located;

(c) the programming services of all other local television stations;

(d) the programming services of a regional television station owned and operated by the Corporation, unless the licensee is distributing, under paragraph (a), the programming services of a local television station owned and operated by the Corporation that broadcasts in the same official language as the regional television station;

(e) the programming services of all other regional television stations, unless the licensee is distributing, under paragraph (a), (c) or (d), the programming services of a television station that is an affiliate or member of the same network;

- (f) if they are received by satellite or microwave relay and if they are not being distributed under paragraph (a), (c), (d) or (e), the programming services of at least one television station that broadcasts in English and at least one that broadcasts in French that are owned and operated by, or that are affiliates of, the Corporation;
- (g) the programming services of an extra-regional television station owned and operated by the Corporation, unless the licensee is distributing, under paragraph (a), (d) or (f), the programming services of a television station owned and operated by the Corporation that broadcasts in the same official language as the extra-regional television station;
- (h) the programming services of all other extra-regional television stations that are not affiliates or members of the network to which a station referred to in any of paragraphs (a) to (g) belongs;
- (i) if the licensee is operating in a francophone market within the meaning of paragraph 18(4)(a), the House of Commons programming service, including the main audio channel of that service in the French language and an auxiliary audio channel of the service in the English language; and
- (j) if the licensee is operating in an anglophone market within the meaning of paragraph 18(4)(b), the House of Commons programming service, including the main audio channel of that service in the English language and an auxiliary audio channel of the service in the French language.
- (2) A licensee of a cable distribution undertaking shall distribute in each licensed area the programming services referred to in subsection (1) beginning with the basic band.
- (3) If a licensee receives programming services that are identical, the licensee is required to distribute, under subsection (1), only one of them.
- (4) If a licensee receives over the air an educational television programming service the operation of which is the responsibility of an educational authority designated by a province other than the province in which the licensed area of the undertaking is located, the licensee is not required to distribute it under subsection (1) but may distribute the service as part of the basic service.
- (5) If the Commission has determined that a programming service is of national public interest and has licensed the service as a mandatory service, the licensee shall distribute the service in each licensed area as part of the basic service.
- (6) If the programming services of two or more television stations rank equally in the order of priority established by this section, unless the operators of the stations agree otherwise in writing, a licensee shall give priority
- (a) if the studios of the stations are located in the same province as the licensed area or in the National Capital Region, as described in the schedule to the *National Capital Act*, to the programming services of the stations in the order of the proximity of their main studios to the local head end of the licensed area; and
- (b) in any other case, to the programming service of the station that has a studio located in the same province as the licensed area.

SOR/2002-322, s. 2; SOR/2003-217, s. 5.

Access for Specialty, Pay Television and Television Pay-per-view Services and for the House of Commons Programming Service

[SOR/2002-322, s. 3]

18. (1) Except as otherwise provided under a licensee's condition of licence, this section applies to Class 1 licensees.

(1.1) Except as otherwise provided under a licensee's condition of licence, subsections (4), (4.1) and (11) to (14) apply also to Class 2 licensees.

(2) In this section, "general interest television pay-per-view service" means a television pay-per-view service the programming of which may be selected from any of the categories listed in column I of item 6 of Schedule I to the *Pay Television*

Regulations, 1990, that selection not being restricted by a condition relating to the service.

(3) For the purposes of this section, other than subsections (11) to (11.5), a licensee makes use of digital technology for the delivery of programming to subscribers in a licensed area when at least 15% of its subscribers in the licensed area receive one or more programming services on a digital basis.

(4) For the purpose of this section, in a licensed area

(a) a licensee is considered to be operating in a francophone market if more than 50% of the total population of all cities, towns and municipalities encompassed in whole or in part within the licensed area has French as its mother tongue, according to the most recent population figures published by Statistics Canada; and

(b) a licensee that is not operating in a francophone market is considered to be operating in an anglophone market.

(4.1) For the purposes of subsection (5)

(a) a specialty service does not include a Category 1 or Category 2 service; and

(b) a pay television service does not include a Category 2 service.

(5) Except as otherwise provided under a condition of its licence or in this section, and subject to section 20, a licensee shall distribute, to the extent of available channels,

(a) if the licensee is operating in an anglophone market,

(i) each English-language specialty service, the operator of which is authorized to provide the service to all or part of the licensed area of the undertaking, other than a single or limited point-of-view religious specialty service,

(ii) each English-language pay television service, the operator of which is authorized to provide the service to all or part of the licensed area of the undertaking, other than a single or limited point-of-view religious pay television service, and

(iii) at least one English-language general interest television pay-per-view service;

(b) if the licensee is operating in a francophone market,

(i) each French-language specialty service, the operator of which is authorized to provide the service to all or a part of the licensed area of the undertaking, other than a single or limited point-of-view religious specialty service,

(ii) each French-language pay television service, the operator of which is authorized to provide the service to all or a part of the licensed area of the undertaking, other than a single or limited point-of-view religious pay television service, and

(iii) at least one French-language general interest television pay-per-view service;

and

(c) the ethnic programming service of a programming undertaking authorized to provide the service to all or any part of the licensed area of the undertaking if

(i) the licensee was distributing the service on December 16, 2004, or

(ii) 10% or more of the total population of all cities, towns and municipalities encompassed in whole or in part within the licensed area of the licensee is of one or a combination of the ethnic origins to which the service is intended to appeal, according to the most recent population figures published by Statistics Canada.

(6) If a licensee is distributing a pay-per-view service in a licensed area on more than 10 analog channels, the Commission may declare one or more channels in the licensed area to be available channels for the purposes of subsection (5).

(7) A licensee is not required to distribute in a licensed area, under subsection (5), the service of a programming undertaking that was licensed after May 6, 1996 if the only available channel in the licensed area is one on which the licensee is distributing a non-Canadian programming service that was distributed by the licensee in the licensed area before May 6, 1996.

(8) If, at the time the Commission licensed a programming undertaking, the Commission included a condition authorizing the programming undertaking to require the licensee to commence distribution of its programming service on the

earlier of the date on which the licensee makes use of digital technology for the delivery of programming to subscribers and September 1, 1999, the licensee is not required to distribute the service under subsection (5) until the earlier of the two dates.

(9) Subject to subsection (10), if a licensee has not made use of digital technology for the delivery of programming to subscribers in a licensed area by September 1, 1999, the licensee shall distribute in the licensed area the programming service referred to in subsection (8) on an analog channel, unless the operator of the programming service agrees in writing to the distribution of its service on a digital basis.

(10) When a licensee makes use of digital technology for the delivery of programming to subscribers in a licensed area, the licensee may distribute in the licensed area the programming service referred to in subsection (8) on an analog channel or on a digital basis, or both.

(11) Except as otherwise provided under a condition of its licence, a licensee that delivers any programming service to any subscriber on a digital basis in a licensed area shall distribute in the licensed area, on a digital basis,

(a) if the licensee is operating in an anglophone market, each English-language Category 1 service that the operator of which is authorized to provide to all or part of the licensed area; and

(b) if the licensee is operating in a francophone market, each French-language Category 1 service that the operator of which is authorized to provide to all or part of the licensed area.

(11.01) Except as otherwise provided under a condition of its licence, a licensee that delivers any programming service to any subscriber on a digital basis shall distribute, on a digital basis,

(a) the programming service of a community-based low-power television station to the subscribers of the distribution undertaking who reside within the service area of the community-based low-power television station; and

(b) the programming service of a community-based digital undertaking to the subscribers of the distribution undertaking who reside within the service area of the community-based digital undertaking.

(11.1) Except as otherwise provided under a condition of its licence, a licensee that has a nominal capacity of at least 750 MHz in a licensed area and that makes use of digital technology for the delivery of any programming service in the licensed area shall distribute in the licensed area

(a) at least one pay television service in each official language;

(b) all French-language and English-language Canadian specialty services, other than Category 2 services distributed on a digital basis;

(c) the House of Commons programming service, including the main audio channel of that service in the English language if the licensee is operating in a francophone market within the meaning of paragraph 18(4)(a); and

(d) the House of Commons programming service, including the main audio channel of that service in the French language if the licensee is operating in an anglophone market within the meaning of paragraph 18(4)(b).

(11.2) Subject to subsection (11.3) and except as otherwise provided under a condition of its licence, a licensee that has a nominal capacity in a licensed area that is less than that referred to in subsection (11.1) and that makes use of digital technology for the delivery of any programming service in the licensed area shall distribute in the licensed area

(a) at least one French-language Canadian specialty service for every 10 English-language programming services that it distributes, if the licensee is operating in an anglophone market; and

(b) at least one English-language Canadian specialty service for every 10 French-language programming services that it distributes, if the licensee is operating in a francophone market.

(11.3) The requirements of subsection (11.2) do not apply to multipoint distribution system distribution undertakings.

(11.4) For the purposes of paragraph (11.2)(a), any French-language programming service, other than a service that is required to be distributed in the licensed area pursuant to paragraph 9(1)(h) of the Act or section 17 of these Regulations, constitutes a French-language Canadian specialty service.

(11.5) For the purposes of paragraph (11.2)(b), any English-language programming service, other than a service that is required to be distributed in the licensed area pursuant to paragraph 9(1)(h) of the Act or section 17 of these Regulations, constitutes an English-language Canadian specialty service.

(12) The definitions in this subsection apply in this subsection, subsection (14) and section 27.

“affiliate” has the same meaning as in subsection 21(2). (*affiliée*)

“control” has the same meaning as in subsection 21(2). (*contrôle*)

“related programming undertaking” means a programming undertaking of which the licensee or an affiliate, or both, controls more than 10% of the total shares issued and outstanding. (*entreprise de programmation liée*)

“share” has the same meaning as in subsection 21(2). (*action*)

(13) For the purpose of subsection (14), Category 2 service includes

(a) a video-on-demand service;

(b) a pay-per-view service, distribution of which began on or after February 1, 2001; and

(c) a DTH pay-per-view service, distribution of which began on or after February 1, 2001.

(13.1) For the purpose of subsection (14), “exempt third-language service” means a programming service offered by a programming undertaking that is an exempt programming undertaking as a result of the Commission’s order entitled *Exemption order respecting third-language television programming undertakings*, as set out in the Appendix to Broadcasting Public Notice CRTC 2007-33.

(14) Except as otherwise provided under a condition of its licence, a licensee shall — for each Category 2 service and each exempt third-language service of a related programming undertaking that it distributes in a licensed area — distribute at least five Category 2 services or exempt third-language services, or a combination of at least five of those services, of any unrelated programming undertakings in the licensed area.

SOR/2001-75, s. 5; SOR/2001-334, s. 3; SOR/2002-322, s. 4; SOR/2003-217, s. 6; SOR/2003-458, s. 2; SOR/2006-11, s. 1; SOR/2007-222, s. 1.

Television Programming Services that May Be Distributed

18.1 For the purposes of section 19

(a) a pay television service does not include a Category 2 service; and

(b) a specialty service does not include a Category 1 or Category 2 service.

SOR/2001-75, s. 6.

19. Except as otherwise provided under a condition of its licence, if a licensee satisfies the requirements of sections 17 and 18, it may distribute in any licensed area

(a) the programming service of any regional television station that is not distributed under section 17;

- (b) the programming service of any extra-regional television station that is not distributed under section 17;
- (c) any pay television service and any television pay-per-view service that is not distributed under section 18, the operator of which is authorized to provide the service to all or part of the licensed area of the undertaking;
- (d) any specialty service that is not distributed under section 18, the operator of which is authorized to provide the service to all or part of the licensed area of the undertaking;
- (e) any video-on-demand service, the operator of which is authorized to provide the service to all or part of the licensed area of the undertaking;
- (f) subject to section 27, community programming;
- (g) the programming service of any non-Canadian television station that is received directly over the air at the local head end, other than
 - (i) a programming service consisting of programming that has predominantly religious content, and
 - (ii) the programming service of a non-Canadian television station that began operation after January 1, 1985;
- (h) any Part 2 eligible satellite service that the licensee was authorized to distribute in the licensed area as part of its basic service before June 3, 1993;
- (i) any Part 2 eligible satellite service other than one referred to in paragraph (h);
- (j) the programming service of any distant television station that is not a Part 2 eligible satellite service and that was distributed throughout the licensed area by any licensee before June 3, 1993;
- (k) the programming service of any local television station or any specialty service authorized by the Commission for distribution on program repeat channels, in accordance with Public Notice CRTC 1993-74, entitled *Structural Public Hearing*;
- (l) any public affairs programming service;
- (m) subject to section 21, the programming service of any exempt programming undertaking;
- (n) any programming service that promotes a programming service distributed by the licensee and that meets the criteria set out in Broadcasting Public Notice CRTC 2007-74, dated July 5, 2007 and entitled *Previews and promotional channels*; and
- (o) any programming service authorized under a condition of its licence.

SOR/2003-217, s. 7; SOR/2006-11, s. 2; SOR/2007-248, s. 1.

19.1 Except as otherwise provided under a condition of its licence, a licensee that delivers any programming service to any subscriber on a digital basis in a licensed area, and satisfies the requirements of section 18, may distribute in that licensed area, but only on a digital basis, any Category 1 service not distributed by the licensee under that section, and any Category 2 service.

SOR/2001-75, s. 7; SOR/2003-217, s. 8.

Distribution and Linkage

20. (1) Except as otherwise provided under a condition of its licence, if a licensee distributes a Category 1 service, a Category 2 service, or a programming service referred to in subsection 18(5) or paragraph 19(c), (d) or (i), the licensee shall distribute the service in accordance with the Commission's Public Notice entitled *Distribution and Linkage Requirements for Class 1 and Class 2 Licensees*, as amended from time to time.

(2) If a licensee distributes in a licensed area a programming service consisting of the proceedings of the legislature of the province in which the licensed area is located, the licensee shall include that service as part of its basic service, unless the operator of the programming service agrees in writing to the distribution of its service as a discretionary service.

(3) [Repealed, SOR/2006-11, s. 3]

SOR/2002-322, s. 5; SOR/2003-217, s. 9; SOR/2006-11, s. 3.

Access by Exempt Programming Undertakings

21. (1) Except as otherwise provided under a licensee's condition of licence, this section applies to Class 1 licensees.

(2) The definitions in this subsection apply in this section.

"affiliate" means a person who controls the licensee, or who is controlled by the licensee or by a person who controls the licensee. (*affiliée*)

"control" means control in any manner that results in control in fact, whether directly through the ownership of securities or indirectly through a trust, an agreement or an arrangement, the ownership of a body corporate or otherwise. (*contrôle*)

"share" means a share in the capital of a corporation and includes a security that is convertible into a share at all times at the option of the holder. (*action*)

"third party exempt programming undertaking" means an exempt programming undertaking of which the licensee or an affiliate, or both, controls less than 15% of the total shares issued and outstanding. (*entreprise de programmation tierce exemptée*)

(3) If a licensee distributes in a licensed area on one or more analog channels the programming services of an exempt programming undertaking of which the licensee or an affiliate, or both, controls 15% or more of the total shares issued and outstanding, the licensee shall make available in the licensed area an equal number of analog channels for the distribution of programming services of third party exempt programming undertakings.

SOR/2003-217, s. 10.

Audio Programming Services that Must Be Distributed

22. (1) Except as otherwise provided under a condition of its licence, a Class 1 licensee, and any Class 2 licensee that elects to distribute an audio programming service in a licensed area, shall distribute in the licensed area

(a) the programming services of each local radio station that is a radio programming undertaking licensed as a campus station, a community station or a native station; and

(b) the programming services of at least one radio station that broadcasts in English and at least one that broadcasts in French that are owned and operated by the Corporation.

(2) Despite subsection (1), a licensee is not required to distribute the programming service of a digital radio station that is licensed on a transitional basis.

SOR/2003-217, s. 11; SOR/2006-174, s. 1.

Audio Programming Services that May Be Distributed

23. (1) Except as otherwise provided under a condition of its licence or in subsection (2), a licensee may distribute in any licensed area

(a) any audio Canadian programming service of a licensed or exempt broadcasting undertaking;

(b) any audio non-Canadian programming service that is received over the air at the local head end, unless the service

(i) solicits advertising in Canada, or

(ii) consists of programming that has predominantly religious content;

(c) any international radio service operated or funded by a national government or its agent; and

(d) any audio programming service authorized under a condition of its licence.

(2) Except as otherwise provided under a condition of its licence, no licensee shall distribute in a licensed area

(a) the programming service of a carrier current undertaking that is an exempt programming undertaking; or
(b) any audio Canadian programming service of a licensed broadcasting undertaking in a language other than French, English or a language spoken by an aboriginal people of Canada, that contains commercial messages unless
(i) the audio programming service was authorized by the Commission for distribution throughout the licensed area by any licensee on or before July 4, 1985,
(ii) there is no local radio station that is an ethnic station, or
(iii) the licensee distributes the audio programming service solely on a digital basis;
(3) In subsection (4), "related programming undertaking" has the same meaning as in subsection 18(12).
(4) Except as otherwise provided under a condition of its licence, a licensee shall, for each specialty audio service of a related programming undertaking that it distributes in a licensed area, distribute the lesser of
(a) five specialty audio services of any unrelated programming undertakings, and
(b) the number of specialty audio services of any unrelated programming undertakings that are available for distribution in the licensed area.
SOR/2003-29, s. 2; SOR/2003-217, s. 12.

Access by Pay Audio Programming Undertakings

24. (1) The definitions in this subsection apply in this section.

"affiliate" has the same meaning as in subsection 21(2). (*affiliée*)

"control" has the same meaning as in subsection 21(2). (*contrôle*)

"share" has the same meaning as in subsection 21(2). (*action*)

"third party pay audio programming undertaking" means a pay audio programming undertaking of which the licensee or an affiliate, or both, controls less than 30% of the total shares issued and outstanding. (*entreprise tierce de programmation sonore payante*)

(2) Subject to subsection (3), if a Class 1 licensee distributes in a licensed area the programming service of a pay audio programming undertaking of which the licensee or an affiliate, or both, controls 30% or more of the total shares issued and outstanding, the licensee shall distribute in the licensed area the programming service of at least one third party pay audio programming undertaking.

(3) A licensee is not required to distribute in a licensed area the programming service of a third party pay audio programming undertaking that is delivered to the licensee's head end in a format that is technically incompatible with the licensee's method of signal distribution.

SOR/2003-217, s. 13.

Restricted Channel

25. Except as otherwise provided under a condition of its licence, a licensee shall not distribute on a restricted channel

(a) a programming service referred to in subsection 18(5) or paragraph 19(f); or
(b) a programming service referred to in subsection 17(1) or (5) or 20(2) or section 22, unless the licensee has the prior written agreement of the operator of the programming service.

Notice of Channel Realignment

26. If a licensee intends to change the channel on which a Canadian programming service is distributed, the licensee shall not implement the change unless, at least 60 days before the proposed effective date of the change, it sends a written notice indicating the intended date of the change and the channel number on which the

programming service will be distributed, to each of the operators of the programming services whose channel placements will be affected by the proposed realignment.

Community Channel

27. (01) Except as otherwise provided under a condition of its licence, if a licensee elects to distribute community programming under paragraph 19(f) or if a community programming undertaking is licensed in the licensed area, the licensee shall distribute the community programming as part of the basic service.

(1) If a licensee elects to distribute community programming under paragraph 19(f), except as otherwise provided in subsections (2) and (3) or under a condition of its licence, the licensee shall not distribute on the community channel in a licensed area any programming service other than

(a) community programming;

(b) a maximum of two minutes during each clock hour of announcements promoting broadcasting services that the licensee is authorized to provide;

(c) a public service announcement;

(d) an information program funded by and produced for a federal, provincial or municipal government or agency or a public service organization;

(e) the question period of the legislature of the province in which the licensed area is located;

(f) an announcement providing information about the programming to be distributed on the community channel;

(g) a commercial message that mentions or displays the name of a person who sponsored a community event or the goods, services or activities sold or promoted by the person, if the mention or display is in the course of, and incidental to the production of, community programming relating to the event;

(h) an oral or written acknowledgement, that may include a moving visual presentation of no more than 15 seconds per message, contained in community programming that mentions no more than the name of a person, a description of the goods, services or activities that are being sold or promoted by the person, and their address and telephone number, if the person provided direct financial assistance for the community programming in which the acknowledgement is contained;

(i) an oral or a written acknowledgement contained in community programming that mentions no more than the name of a person, the goods or services provided by the person and their address and telephone number, if the person provided the goods or services free of charge to the licensee for use in connection with the production of the community programming in which the acknowledgement is contained;

(j) a still image programming service as described in Public Notice CRTC 1993-51, entitled *Exemption Order Respecting Still Image Programming Service Undertakings*, if the service is produced by the licensee or by members of the community served by the undertaking and does not contain commercial messages, other than commercial messages contained within the programming service of a licensed radio station; or

(k) the programming of a community programming undertaking.

(1.1) At least 75% of the time for promotional announcements broadcast in each broadcast week under paragraph (1)(b) shall be made available for the promotion of the community channel and for the promotion, by Canadian programming undertakings other than related programming undertakings, of their respective services.

(1.2) A maximum of 25% of the time for promotional announcements broadcast in each broadcast week under paragraph (1)(b) may be made available for the promotion of the services of related programming undertakings, discretionary services and programming packages, cable FM service and additional cable outlets

and for the distribution of information on customer services and channel realignments.

(2) Whenever a licensee is not distributing community programming on the community channel in a licensed area, or is distributing on that channel community programming that has no audio component, the licensee may distribute on that channel the programming service of a local radio station, other than an educational radio programming service the operation of which is the responsibility of an educational authority.

(3) Whenever a Class 2 licensee is not distributing community programming on the community channel in a licensed area, the licensee may distribute in that licensed area the programming services referred to in Public Notice CRTC 1985-151, entitled *Complementary Programming on the Community Channel*.

(4) If a licensee provides time on the community channel in a licensed area during an election period for the distribution of programming of a partisan political character, the licensee shall allocate that time on an equitable basis among all accredited political parties and rival candidates.

SOR/2003-217, s. 14; SOR/2003-458, s. 3; SOR/2006-11, s. 4.

27.1 (1) Except as otherwise provided under a condition of its licence, a licensee shall devote not less than 60% of the programming distributed on the community channel in the licensed area in each broadcast week to the distribution of local community television programming.

(2) The time allocated to the distribution of alphanumeric message services is excluded from the calculation of the programming requirement under this section.

(3) Except as otherwise provided under a condition of its licence, a licensee (a) shall devote not less than 30% of the programming distributed on the community channel in each broadcast week to community access television programming; (b) shall devote from 30% to 50% of the programming distributed on the community channel in each broadcast week to community access television programming, according to requests;

(c) if one or more community television corporations are in operation in a licensed area, shall make available to them up to 20% of the programming distributed on the community channel in each broadcast week for community access television programming; and

(d) if one or more community television corporations are in operation in a licensed area, shall make available to each of them, on request, not less than four hours of community access television programming in each broadcast week.

SOR/2003-458, s. 4.

28. (1) Except as otherwise provided under a condition of its licence, a licensee shall (a) keep a program log or a machine-readable record of programs distributed on the community channel in each licensed area and retain it for a period of one year after distribution of the programs; and

(b) enter into the program log or machine-readable record of programs each day the following information for each program:

(i) the title of the program,

(ii) the date of distribution, time of commencement and completion, and duration of the program, which includes announcements and commercial messages referred to in paragraphs 27(1)(b) and (g),

(iii) a brief description of the program, including a statement as to whether the program is local community television programming,

(iv) the name of the undertaking for which the program was produced and the name of the producer,

(v) a statement as to whether the program is community access television programming and the identification of the party having been provided access, and

(vi) the time of commencement of announcements and commercial messages referred to in paragraphs 27(1)(b) and (g), the duration and, in the case of a

commercial message, the name of the person selling or promoting goods, services or activities.

(2) A licensee shall retain a clear and intelligible audio-visual recording of each program distributed on the community channel in each licensed area for a period of
(a) four weeks after the date of distribution of the program; or
(b) eight weeks after the date of distribution of the program, if the Commission receives a complaint from a person regarding the program or, for any other reason, wishes to investigate, and so notifies the licensee before the end of the period referred to in paragraph (a).

(3) If, before the end of the relevant period referred to in subsection (1) or (2), the Commission requests from a licensee a program log, machine-readable record or clear and intelligible audio or audio-visual recording of a program, the licensee shall immediately furnish the log, record or recording to the Commission.

SOR/2003-217, s. 15; SOR/2003-458, s. 5.

Contribution to Local Expression, Canadian Programming and Community Television
[SOR/2003-458, s. 6]

29. (1) In this section, "contribution to local expression" means a contribution made in accordance with Public Notice CRTC 1997-25, entitled *New Regulatory Framework for Broadcasting Distribution Undertakings*.

(2) If a licensee is required under this section to make a contribution to Canadian programming, it shall contribute

(a) to the Canadian production fund at least 80% of its total required contribution; and

(b) to one or more independent production funds, the remainder of its total required contribution.

(3) Except as otherwise provided by a condition of its licence, if a licensee does not distribute its own community programming on the community channel and if a community programming undertaking is licensed in the licensed area, the licensee shall make, for each broadcast year, a contribution of 3% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming and a contribution of 2% of its gross revenues derived from broadcasting activities in the broadcast year to the community programming undertaking.

(4) Except as otherwise provided by a condition of its licence, if a licensee does not distribute its own community programming on the community channel and if no community programming undertaking is licensed in the licensed area, the licensee shall make, for each broadcast year, a contribution of 5% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming.

(5) Except as otherwise provided by a condition of its licence, if a licensee distributes its own community programming on the community channel, the licensee shall make, for each broadcast year, a contribution to Canadian programming that is the greater of

(a) 5% of its gross revenues derived from broadcasting activities in the broadcast year, less any contribution to local expression made by the licensee in that broadcast year; and

(b) 3% of its gross revenues derived from broadcasting activities in that broadcast year.

(6) Despite subsections (3) to (5) and except as otherwise provided by a condition of its licence, a licensee that has less than 20,000 subscribers on August 31, 2009 shall make, for the broadcast year beginning on September 1, 2009, a contribution of

(a) if the licensee does not distribute its own community programming on the community channel, 5% of its gross revenues derived from broadcasting activities in the broadcast year to

(i) the community programming undertaking, if a community programming undertaking is licensed in the licensed area, or

(ii) Canadian programming, if a community programming undertaking is not licensed in the licensed area; or

(b) if the licensee distributes its own community programming on the community channel, 5% of its gross revenues derived from broadcasting activities in the broadcast year, less any contribution to local expression made by the licensee in that year, to Canadian programming.

(7) and (8) [Repealed, SOR/2009-234, s. 4]

SOR/2003-217, s. 16; SOR/2003-458, s. 7; SOR/2009-234, s. 4.

29.1 (1) Except as otherwise provided by a condition of its licence, a licensee shall make, for each broadcast year, a contribution of 1.5% of its gross revenues derived from broadcasting activities in the broadcast year to Canadian programming. The contribution shall be made to the Local Programming Improvement Fund.

(2) However, a licensee that has less than 20,000 subscribers on August 31, 2009 is not required to make the contribution for the broadcast year beginning on September 1, 2009.

SOR/2009-234, s. 5.

29.2 (1) The licensee shall separately calculate the contributions required under sections 29 and 29.1 on the basis of its gross revenues derived from broadcasting activities in the previous broadcast year.

(2) Each contribution shall be made separately by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month.

(3) Despite subsections (1) and (2), if the licensee's gross revenues derived from broadcasting activities in the previous broadcast year are not known when an instalment is to be made, that instalment shall be equal to an amount that is 1/12 of the contribution to be made, calculated on the basis of an estimate of those gross revenues.

SOR/2009-234, s. 5.

29.3 If, as a result of the calculations performed under subsection 29.2(1), the contribution made by a licensee for a broadcast year is greater than the amount required under section 29 or 29.1, the licensee may deduct the excess from the amount of that contribution that is required for the subsequent broadcast year; however, if it is less than the amount required, the licensee shall make the balance of the contribution by December 31 of the subsequent broadcast year.

SOR/2009-234, s. 5.

Programming Service Deletion and Substitution

30. (1) The definitions in this subsection apply in this section.

"broadcaster" includes an educational authority responsible for an educational television programming service. (*radiodiffuseur*)

"local television station", in addition to the meaning set out in section 1, includes the Atlantic Satellite Network and an educational authority responsible for an educational television programming service. (*station de télévision locale*)

"privately owned local television station" means a local television station that is not owned by the Corporation. (*station de télévision locale privée*)

(2) Except as otherwise provided under a condition of its licence, and subject to subsection (5), a Class 1 licensee

(a) shall, in a licensed area, delete the programming service of a television station and substitute the programming service of a local television station or a regional television station or, with the agreement of the broadcaster operating the local television station or regional television station, have that broadcaster carry out the deletion and substitution, if

(i) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast,

(ii) the local television station or regional television station has a higher priority under section 17, and

(iii) in a case when the broadcaster operating the local television station or regional television station is not to carry out the deletion and substitution under an agreement with the licensee, the licensee has, at least four days before the date on which the programming service is broadcast, received from the broadcaster operating the local television station or regional television station a written request for the deletion and substitution;

(b) may delete and substitute in accordance with paragraph (a) notwithstanding that the licensee has received a written request from the broadcaster operating the local television station or regional television station less than four days before the date on which the programming service is broadcast; and

(c) may, in a licensed area, delete the programming service of a television station and substitute the programming service of a specialty service if

(i) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast, and

(ii) the operator of the specialty service has delivered to the licensee a written request for the deletion and substitution.

(3) Except as otherwise provided under a condition of its licence, and subject to subsection (5), a Class 2 licensee

(a) shall, in a licensed area, delete the programming service of a television station and substitute the programming service of a privately owned local television station or, with the agreement of the broadcaster operating the privately owned local television station, have that broadcaster carry out the deletion and substitution, if

(i) the main studio of the privately owned local television station

(A) is located within the licensed area of the licensee, and

(B) is used to produce locally originated programming,

(ii) the programming service to be deleted and the programming service to be substituted are comparable and simultaneously broadcast,

(iii) the privately owned local television station has a higher priority under section 17, and

(iv) in a case when the broadcaster operating the privately owned local television station is not to carry out the deletion and substitution under an agreement with the licensee, the licensee has, at least four days before the date on which the programming service is broadcast, received from the broadcaster operating the privately owned local television station a written request for the deletion and substitution; and

(b) may delete the programming service of a television station and substitute that of a local television station, regional television station or specialty service in the circumstances in which a Class 1 licensee is required or authorized by subsection (2) to make the deletion and substitution.

(4) If a substitution is requested by more than one broadcaster under paragraph (2)(a) or (3)(a), the licensee shall give preference to the programming service of the television station that has the highest priority under section 17.

(5) A licensee shall not delete the programming service of a television station under subsection (2) or (3) if the Commission notifies the licensee that the deletion is not in the public interest because

(a) undue financial hardship would result for the operator of the television station; or

(b) the programming service to be deleted contains subsidiary signals designed to inform or entertain and the programming service to be substituted does not contain similar signals.

(6) A licensee may discontinue a deletion and substitution made under subsection (2) or (3) if the programming services in respect of which the deletion and substitution are made are not, or are no longer, comparable and broadcast simultaneously.

SOR/2003-217, s. 17.

PART 3 CLASS 3 LICENSEES

Application

31. Except as otherwise provided under a licensee's condition of licence, this Part and subsections 18(12) to (14) and 23(4) apply to Class 3 licensees.

SOR/2001-75, s. 8; SOR/2003-29, s. 3.

Television Programming Services that Must Be Distributed as Part of the Basic Service

32. (1) Except as otherwise provided in this section or under a condition of its licence, a licensee shall distribute in each licensed area as part of its basic service

(a) the programming services of all local television stations;

(b) the programming services of all regional television stations other than affiliates or members of a network of which a local television station is an affiliate or member; and

(c) if not included in the programming services distributed under paragraphs (a) or (b), a programming service in each of English and French of at least one television station owned and operated by the Corporation, if the Corporation makes its signals for the service available to the licensee and pays the costs associated with the transport and reception of the signals at the licensee's local head end.

(2) A licensee of a cable distribution undertaking shall distribute in each licensed area the programming services referred to in subsection (1) beginning with the basic band.

(3) If a licensee receives programming services that are identical, the licensee is required to distribute, under subsection (1), only one of them.

(4) If the programming services of two or more regional television stations that are affiliates or members of the same network are received at the local head end, the licensee is required to distribute only one of them.

(5) If a licensee receives over the air an educational television programming service the operation of which is the responsibility of an educational authority designated by a province other than the province in which the licensed area of the undertaking is located, the licensee is not required to distribute it under subsection (1) but may distribute it as part of the basic service.

SOR/2001-334, s. 4; SOR/2003-217, s. 18.

Television Programming Services that May Be Distributed

32.1 For the purposes of section 33

(a) a pay television service does not include a Category 2 service; and

(b) a specialty service does not include a Category 1 or Category 2 service.

SOR/2001-75, s. 9.

33. Except as otherwise provided under a condition of its licence, a licensee may distribute in any licensed area

(a) the programming service of any regional television station that is not distributed under section 32;

(b) the programming service of any extra-regional television station;

(c) any pay television service and any television pay-per-view service the originator of which is authorized to provide the service to all or part of the licensed area of the undertaking;

- (d) any specialty service the originator of which is authorized to provide the service to all or part of the licensed area of the undertaking;
- (e) any video-on-demand service the originator of which is authorized to provide the service to all or part of the licensed area of the undertaking;
- (f) the programming service of any television station that is received directly over the air at the local head end, other than a non-Canadian television station
- (i) the programming of which has predominantly religious content, or
- (ii) that began operation after January 1, 1985;
- (g) subject to section 35, community programming;
- (h) any Part 3 eligible satellite service;
- (j) any public affairs programming service;
- (j) the programming service of any exempt programming undertaking;
- (k) any programming service that promotes a programming service distributed by the licensee and that meets the criteria set out in Broadcasting Public Notice CRTC 2007-74, dated July 5, 2007 and entitled *Previews and promotional channels*;
- (l) any educational television programming service the operation of which is the responsibility of an educational authority designated by the province in which the licensed area of the undertaking is located; and
- (m) any programming service authorized under a condition of its licence.

SOR/2003-217, s. 19; SOR/2007-248, s. 2.

33.1 Except as otherwise provided under a condition of its licence, a licensee that delivers any programming service to any subscriber on a digital basis in a licensed area may distribute in the licensed area, but only on a digital basis, any Category 1 or Category 2 service.

SOR/2001-75, s. 10; SOR/2003-217, s. 20.

33.2 (1) For the purpose of subsection (2), an independent licensee is a Class 3 licensee whose distribution system is not interconnected with a distribution system of either a Class 1 or Class 2 licensee.

(2) An independent licensee that does not deliver any programming service to any subscriber on a digital basis in a licensed area may distribute in that licensed area any Category 1 service on an analog basis.

SOR/2001-75, s. 10; SOR/2003-217, s. 21.

Television Programming Services that Must Be Distributed by Licensees Using Digital Technology

[SOR/2002-322, s. 6(E)]

33.3 (1) A licensee that has a nominal capacity of at least 550 MHz in a licensed area and that makes use of digital technology for the delivery of any programming service in the licensed area shall distribute in the licensed area

(a) at least one English-language Canadian specialty service for every 10 French-language programming services distributed by the licensee in the licensed area, if the licensee is operating in a francophone market within the meaning of paragraph 18(4)(a);

(b) at least one French-language Canadian specialty service for every 10 English-language programming services distributed by the licensee in the licensed area, if the licensee is operating in an anglophone market within the meaning of paragraph 18(4)(b); and

(c) the English and French language versions of the House of Commons programming service.

(1.1) Except as otherwise provided under a condition of its licence, a licensee that delivers any programming service to any subscriber on a digital basis, shall distribute, on a digital basis,

(a) the programming service of a community-based low-power television station to the subscribers of the distribution undertaking who reside within the service area of the community-based low-power television station; and

(b) the programming service of a community-based digital undertaking to the subscribers of the distribution undertaking who reside within the service area of the community-based digital undertaking.

(2) A licensee whose licensed area is totally interconnected with another licensed area shall distribute in the first-mentioned licensed area the same number of programming services in the language of the official language minority as are distributed in the licensed area with which it is interconnected, unless the licensee does not have the technological capacity to do so.

(2.1) A licensee whose licensed area is totally interconnected with another licensed area shall distribute in the first-mentioned licensed area the English- and French-language versions of the House of Commons programming service with the same distribution status as in the licensed area with which it is interconnected, unless the licensee does not have the technological capacity to do so.

(3) For the purposes of paragraph (1)(a), any English-language programming service, other than a service that is required to be distributed in the licensed area pursuant to paragraph 9(1)(h) of the Act or section 17 of these Regulations, constitutes an English-language Canadian specialty service.

(4) For the purposes of paragraph (1)(b), any French-language programming service, other than a service that is required to be distributed in the licensed area pursuant to paragraph 9(1)(h) of the Act or section 17 of these Regulations, constitutes a French-language Canadian specialty service.

SOR/2001-334, s. 5; SOR/2002-322, s. 7; SOR/2003-217, s. 22; SOR/2003-458, s. 8; SOR/2006-11, s. 5(E).

Audio Programming Services that May Be Distributed

34. Except as otherwise provided under a condition of its licence, a licensee may distribute in any licensed area

(a) any audio Canadian programming service of a licensed or exempt broadcasting undertaking;

(b) any audio non-Canadian programming service that is received over the air at the local head end, unless the service

(i) solicits advertising in Canada, or

(ii) consists of programming that has predominantly religious content;

(c) any international radio service operated or funded by a national government or its agent; or

(d) any audio programming service authorized under a condition of its licence.

SOR/2003-29, s. 4; SOR/2003-217, s. 23.

Community Programming

35. (1) Except as otherwise provided under a condition of its licence, if a licensee elects to distribute community programming under paragraph 33(g) or if a community programming undertaking is licensed in the licensed area, the licensee shall distribute the community programming as part of the basic service.

(2) Except as otherwise provided under a condition of its licence, if a licensee elects to distribute community programming under paragraph 33(g), the licensee

(a) shall comply with the requirements of paragraphs 27(1)(a) to (i) and (k) and subsection 27(4);

(b) may distribute a still image programming service as described in Public Notice CRTC 1993-51, entitled *Exemption Order Respecting Still Image Programming Service Undertakings*, if the service is produced by the licensee or by the members of the community served by the undertaking;

(c) may, if it provides service to an unserved community, distribute a maximum of 12 minutes of commercial messages during each clock hour of community programming;

(d) shall devote not less than 60% of the programming distributed on the community channel during each broadcast week to the distribution of local community television programming; and

(e) shall make available not less than 30% of the programming distributed on the community channel in each broadcast week to community access television programming.

(3) The time allocated to the distribution of alphanumeric message services may be included in the calculation of the requirement under paragraph (2)(d).

SOR/2003-458, s. 9.

PART 4 DTH DISTRIBUTION UNDERTAKINGS

Application

36. This Part and, except as otherwise provided under a licensee's condition of licence, subsections 18(12) to (14) and 23(4) apply to licensees that hold a licence to operate a DTH distribution undertaking.

SOR/2001-75, s. 11; SOR/2003-29, s. 5.

Television Programming Services that Must Be Distributed as Part of the Basic Service

37. Except as otherwise provided under a condition of its licence, a licensee shall distribute as part of its basic service

(a) the programming service of at least one of each of the Corporation's English-language and French-language television network affiliates or members;

(b) the programming service of at least one affiliate of each television network licensed on a national basis; and

(c) the English and French language versions of the House of Commons programming service.

SOR/2002-322, s. 8.

Access for Specialty, Pay Television and DTH Pay-per-view Services

38. (1) In this section, "general interest DTH pay-per-view service" means a DTH pay-per-view service, the programming of which may be selected from any of the categories listed in column I of item 6 of Schedule I to the *Pay Television Regulations, 1990*, that selection not being restricted by a condition relating to the service.

(2) Except as otherwise provided under a condition of its licence, a licensee shall distribute, to the extent of available channels,

(a) each specialty service, not including a Category 2 service or a single or limited point-of-view religious specialty service;

(b) each pay television service, not including a Category 2 service or a single or limited point-of-view religious pay television service;

(c) at least one English-language general interest DTH pay-per-view service; and

(d) at least one French-language general interest DTH pay-per-view service.

SOR/2001-75, s. 12.

Programming Services That May Be Distributed

[SOR/2003-217, s. 24]

39. Except as otherwise provided under a condition of its licence, a licensee may distribute

(a) the programming service of any licensed programming undertaking, other than a television pay-per-view service;

(b) any DTH eligible satellite service;

(c) any package that consists of

- (i) the programming services of four non-Canadian television stations that are each affiliated with a different commercial network, and
 - (ii) the programming service of one non-Canadian non-commercial television station;
 - (d) any public affairs programming service;
 - (e) subject to section 41, the programming service of any exempt programming undertaking;
 - (f) any programming service that promotes a programming service distributed by the licensee and that meets the criteria set out in Broadcasting Public Notice CRTC 2007-74, dated July 5, 2007 and entitled *Previews and promotional channels*; and
 - (g) any programming service authorized under a condition of its licence.
- SOR/2007-248, s. 3.

Distribution and Linkage

40. (1) Except as otherwise provided under a condition of its licence, if a licensee distributes one of the programming services referred to in subsection 38(2) or section 39, the licensee shall distribute the service in accordance with the Commission's Public Notice entitled *Linkage Requirements for Direct-to-home (DTH) Satellite Distribution Undertakings*, as amended from time to time.

(2) [Repealed, SOR/2002-322, s. 9]

(3) A licensee shall not distribute an English-language DTH pay-per-view service unless it also distributes a French-language DTH pay-per-view service.

SOR/2002-322, s. 9.

Access by Pay Audio Programming Undertakings

41. (1) The definitions in this subsection apply in this section.

"affiliate" has the same meaning as in subsection 21(2). (*affiliée*)

"control" has the same meaning as in subsection 21(2). (*contrôle*)

"share" has the same meaning as in subsection 21(2). (*action*)

"third party pay audio programming undertaking" has the same meaning as in subsection 24(1). (*entreprise tierce de programmation sonore payante*)

(2) If a licensee distributes the programming service of a pay audio programming undertaking of which the licensee or an affiliate, or both, controls 30% or more of the total shares issued and outstanding, the licensee shall distribute the programming service of at least one third party pay audio programming undertaking.

(3) Despite subsection (2), a licensee is not required to distribute the programming service of a third party pay audio programming undertaking that is delivered to the licensee in a format that is technically incompatible with the licensee's existing method of signal distribution.

Simultaneous Program Substitution and Deletion

42. (1) Except as otherwise provided under a condition of its licence, if a licensee receives, at least four days before the date on which the programming service is broadcast, a written request for substitution or deletion from the operator of a licensed Canadian television programming undertaking, the licensee shall

(a) delete a non-Canadian programming service and substitute the comparable and simultaneously broadcast programming service of the Canadian television programming undertaking whose signal is distributed by the licensee; and

(b) delete, in respect of subscribers located within the Grade B contour of the Canadian television programming undertaking, a programming service that is comparable to that of the Canadian television programming undertaking and that would otherwise be received simultaneously by those subscribers.

(2) A licensee may delete and substitute in accordance with subsection (1) notwithstanding that the licensee has received a written request from the operator of the licensed Canadian television programming undertaking less than four days before the date on which the programming service is broadcast.

(3) A licensee shall not delete the programming service under subsection (1) or (2) if the Commission notifies the licensee that the deletion is not in the public interest because the programming service to be deleted contains subsidiary signals designed to inform or entertain and the simultaneously broadcast programming service does not contain similar signals.

(4) A licensee may discontinue a deletion or substitution made under subsection (1) or (2) if the programming services in respect of which the deletion or substitution is made are not, or are no longer, comparable and broadcast simultaneously.

Non-simultaneous Program Deletion

43. (1) Except as otherwise provided under a condition of its licence, if a licensee receives, at least four days before the date on which the programming service is broadcast, a written request for deletion from the operator of a licensed Canadian television programming undertaking, the licensee shall delete, in respect of subscribers located within the Grade B contour of the Canadian television programming undertaking, a programming service that is comparable to that of the Canadian television programming undertaking and that would otherwise be received by those subscribers on a non-simultaneous basis within the same broadcast week.

(2) A licensee shall not delete the programming service under subsection (1) if the Commission notifies the licensee that the deletion is not in the public interest because the programming service to be deleted contains subsidiary signals designed to inform or entertain and the non-simultaneously broadcast programming service does not contain similar signals.

(3) A licensee may discontinue a deletion made under subsection (1) if the programming services in respect of which the deletion is made are not, or are no longer, comparable and broadcast on a non-simultaneous basis within the same broadcast week.

Contribution to Canadian Programming

44. A licensee shall make, for each broadcast year, the following contributions to Canadian programming based on its gross revenues derived from broadcasting activities in that year:

- (a) to the Canadian production fund, a contribution of 4% of those revenues;
- (b) to one or more independent production funds, a contribution of one per cent of those revenues; and
- (c) to the Local Programming Improvement Fund, a contribution of 1.5% of those revenues.

SOR/2009-234, s. 6.

44.1 (1) The licensee shall separately calculate the contributions required under section 44 on the basis of its gross revenues derived from broadcasting activities in the previous broadcast year.

(2) Each contribution shall be made separately by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month.

(3) Despite subsections (1) and (2), if the licensee's gross revenues derived from broadcasting activities in the previous broadcast year are not known when an instalment is to be made, that instalment shall be equal to an amount that is 1/12 of the contribution to be made, calculated on the basis of an estimate of those gross revenues.

SOR/2009-234, s. 6.

44.2 If, as a result of the calculations performed under subsection 44.1(1), a contribution made by a licensee for a broadcast year is greater than the amount required under section 44, the licensee may deduct the excess from the amount of that contribution that is required for the subsequent broadcast year; however, if it is less than the amount required, the licensee shall make the balance of the contribution by December 31 of the subsequent broadcast year.

SOR/2009-234, s. 6.

PART 5 FEES FOR AND PROVISION OF BASIC SERVICE

Interpretation

45. The definitions in this section apply in this Part.

“base portion” means the basic monthly fee less the pass-through portion. (*frais de base*)

“distribution system” means the equipment and facilities used by a licensee for the distribution of its basic service from its processing facilities to the points at which the service is diverted for the exclusive benefit of a subscriber. (*système de distribution*)

“pass-through portion” means the part of the basic monthly fee that reflects the amount payable by a licensee to a person licensed to operate a broadcasting undertaking for the transmission of programming services, where

- (a) the amount varies in proportion to the number of subscribers to whom the licensee distributes the programming services; and
- (b) the Commission has authorized the amount as a condition relating to the broadcasting undertaking under subsection 9(1) of the Act. (*frais imputables*)

“subscriber drop” means the equipment or facilities used by a licensee for the distribution of the programming services distributed on its basic band from the point at which those services are diverted from the distribution system to a terminal device located in the subscriber’s residence or premises for the exclusive benefit of the subscriber. (*prise de service d’abonné*)

Application

46. Except as otherwise provided in this Part or under a condition of its licence, this Part applies to

(a) a Class 1 licensee that on May 17, 1996 held a licence to carry on a cable distribution undertaking and to which subsection 18(4) of the *Cable Television Regulations, 1986* applied immediately before the coming into force of these Regulations; and

(b) the successor of a licensee referred to in paragraph (a), including a successor who holds a regional licence.

SOR/2003-217, s. 25.

47. (1) Subject to subsection (3), this Part does not apply to a licensee referred to in paragraph 46(a) or (b), with respect to a licensed area, if

(a) the licensee sends to each of its subscribers in the licensed area a written notice that contains the information set out in Schedule 1;

(b) the licensee sends to the Commission

(i) a copy of the notice referred to in paragraph (a),

(ii) a declaration verifying the date on which the notice was sent to subscribers under paragraph (a), and

(iii) on or before the date on which notice was sent to subscribers under paragraph (a), documentation consisting of

(A) evidence demonstrating that the basic service of one or more other licensed distribution undertakings is available to 30% or more of the total of single-unit

dwellings, units in multiple-unit dwellings, hotels, hospitals, nursing homes and other commercial or institutional premises in its licensed area, and

(B) an opinion provided by the licensee's auditor, in accordance with section 5815 of the *Canadian Institute of Chartered Accountants Handbook*, confirming that, on a specified date, the licensee was no longer providing its basic service to 5% or more of the total of single-unit dwellings, units in multiple-unit dwellings, hotels, hospitals, nursing homes and other commercial or institutional premises that it served on a date specified in the opinion, on condition that the date of determination of that total and the date of determination of the percentage lost are on or after the date when the basic service of another licensed distribution undertaking first became available in its licensed area; and

(c) 60 days have elapsed since the date on which the notice was sent to subscribers under paragraph (a).

(2) Subject to subsection (3), section 48 does not apply if

(a) the licensee sends to the Commission the documentation referred to in clauses (1)(b)(iii)(A) and (B); and

(b) 60 days have elapsed since the date on which the documentation referred to in paragraph (a) was received by the Commission.

(3) The Commission may, before the date on which a licensee would no longer be subject to the obligations of this Part under subsection (1) or (2),

(a) suspend the application of subsection (1) or (2) in respect of the licensed area, pending further consideration of the licensee's proposal and

(i) the receipt of additional information,

(ii) the completion of a public hearing into the matter, or

(iii) both the receipt of additional information and the completion of a public hearing into the matter; and

(b) disallow the licensee's proposal to be removed from the obligations of this Part in respect of the licensed area either without a suspension under paragraph (a) or after such a suspension.

SOR/2003-217, s. 26.

Installation and Provision of Basic Service

48. Except as otherwise provided under a condition of its licence, each Class 1 licensee shall

(a) install the distribution system necessary for the provision of its basic service at a household or premises within a reasonable time after a request for the service is received from a member of the household or an owner or operator of the premises, if the household or premises are

(i) situated in a residential area within the licensed area, and

(ii) provided with water or sewer services by a municipal or other public authority;

(b) at the request of a member of a household or an owner or operator of premises referred to in paragraph (a), install the subscriber drop and provide the basic service to that household or those premises, unless the member, owner or operator has not complied with the licensee's request for payment of

(i) an amount not greater than the amount of the non-recurring costs to be reasonably incurred by the licensee for the installation or reconnection of the subscriber drop, determined in accordance with *Circular No. 354 to All Class 1 & 2 Cable Licensees*, published by the Commission on November 29, 1988,

(ii) the licensee's fee for the provision of the basic service for one month to that household or those premises, or

(iii) an overdue debt for the provision of basic service that the member, owner or operator owes to the licensee; and

(c) provide the basic service to a subscriber as long as the subscriber pays in advance the fee for each month of the basic service.

SOR/2004-71, s. 1.

Prohibition

49. A licensee shall not increase its basic monthly fee except in accordance with this Part.

Increase in Base Portion

50. Subject to section 51, a licensee may increase the base portion of its basic monthly fee in respect of a licensed area if

(a) it sends to each of its subscribers in the licensed area a written notice that includes the relevant information set out in Schedule 2;

(b) it sends to the Commission

(i) a copy of the notice referred to in paragraph (a),

(ii) a declaration that the notice has been or will be sent to each of its subscribers in the licensed area at least 90 days before the proposed effective date of the increase, and

(iii) appropriate documentation to justify the proposed increase, in accordance with Public Notice CRTC 1993-146, entitled *New Assessment Guidelines for Fee Increases Under Subsection 18(8) of the Cable Television Regulations, 1986*; and

(c) 90 days have elapsed since receipt by the Commission of the documents referred to in paragraph (b).

SOR/2003-217, s. 27.

Commission Suspension or Disallowance

51. The Commission may, before the date on which an increase in the base portion of the basic monthly fee referred to in section 50 is to take effect,

(a) suspend the implementation of all or part of the increase pending further consideration of the increase and

(i) the receipt of additional information,

(ii) the completion of a public hearing into the matter, or

(iii) both the receipt of additional information and the completion of a public hearing into the matter; and

(b) disallow the implementation of all or part of the increase either without suspension under paragraph (a) or after such a suspension.

Increase in Base Portion for Distribution of Specialty Services

52. (1) For the purposes of subsection (2), a licensee, in respect of a licensed area, is considered to be operating in a francophone market if more than 50% of the total population of all cities, towns and municipalities encompassed in whole or in part within the licensed area has French as its mother tongue, according to the most recent population figures published by Statistics Canada.

(2) Subject to section 54, a licensee may increase its base portion in respect of a licensed area by a maximum of

(a) \$0.03 for each specialty service that it distributes as part of the basic service, if that licensee is operating in a francophone market; or

(b) \$0.02 for each specialty service that it distributes as part of the basic service, if that licensee is not operating in a francophone market.

(3) If a licensee has increased its base portion under subsection (2) with respect to a specialty service and ceases to distribute that service as part of the basic service, the licensee shall decrease its base portion in respect of the licensed area by an amount equal to the amount of the increase.

SOR/2003-217, s. 28.

Increase in Pass-through Portion

53. (1) Subject to section 54, a licensee may increase its pass-through portion in respect of a licensed area if the increase does not exceed the amount of an increase

that the Commission has, after September 1, 1986, authorized to be payable to the operator of a broadcasting undertaking.

(2) If a licensee has increased its pass-through portion under subsection (1) with respect to a programming service and ceases to distribute that service as part of the basic service, the licensee shall decrease its pass-through portion in respect of the licensed area by an amount equal to the amount of the increase.

(3) If a licensee has increased its pass-through portion under subsection (1) with respect to a programming service and the operator of the broadcasting undertaking charges the licensee less than the amount in the pass-through portion that reflects the amount payable to the operator of that undertaking for the service, the licensee shall decrease its pass-through portion in respect of the licensed area by an amount equal to the difference.

SOR/2003-217, s. 29; SOR/2006-11, s. 6(F).

Notice

54. (1) If a licensee intends to increase its basic monthly fee under subsection 52(2) or 53(1), it shall not implement the increase unless

(a) it sends to each of its subscribers in the licensed area a written notice in the form set out in Schedule 3;

(b) it sends to the Commission

(i) a copy of the notice referred to in paragraph (a),

(ii) a declaration that the notice has been or will be sent at least 60 days before the proposed effective date of the increase,

(iii) a list of the specialty services for which the increase is sought and the amount of the increase in relation to each specialty service, and

(iv) information to justify the distribution of the specialty services referred to in subparagraph (iii) as part of the basic service; and

(c) 60 days have elapsed since receipt by the Commission of the documents and information referred to in paragraph (b).

(2) The Commission may, before the date on which an increase in the basic monthly fee referred to in subsection 52(2) or 53(1) is to take effect,

(a) suspend the implementation of all or part of the increase pending further consideration of the increase and

(i) the receipt of additional information,

(ii) the completion of a public hearing into the matter, or

(iii) both the receipt of additional information and the completion of a public hearing into the matter; and

(b) disallow the implementation of all or part of the increase, either without suspension under paragraph (a) or after such a suspension, if the Commission determines that the increase is not justified having regard to the broadcasting policy for Canada set out in subsection 3(1) of the Act.

SOR/99-302, s. 1; SOR/2003-217, s. 30.

55. The written notice sent to subscribers under paragraphs 47(1)(a), 50(a) and 54(a) must be clearly identifiable as coming from the licensee and must not be packaged with any material emanating from a person other than the licensee.

Availability of Refund or Credit

56. If a licensee charges a fee for the provision of the basic service that is greater than the basic monthly fee, the licensee must, on receipt of a notice from the Commission that the licensee's fee is greater than the basic monthly fee, provide to each subscriber who is so over charged a refund or credit that is equal to the unauthorized amounts paid by the subscriber.

**PART 6
REPEAL AND COMING INTO FORCE**

Repeal

57. The *Cable Television Regulations, 1986*¹ are repealed.

1 SOR/86-831

Coming into Force

58. These Regulations come into force on January 1, 1998.

SCHEDULE 1
(Paragraph 47(1)(a))

NOTICE TO SUBSCRIBERS

(Name of licensee) is proposing that its basic monthly fee in *(name of licensed area)* be deregulated, in accordance with subsection 47(1) of the *Broadcasting Distribution Regulations*. If a licensee meets the criteria set out in that subsection, its basic monthly fee in *(name of licensed area)* will no longer be regulated by the Canadian Radio-television and Telecommunications Commission under Part 5 of the Regulations unless the Commission intervenes to suspend or disallow the proposed deregulation.

The details of *(name of licensee)*'s justification for the proposed deregulation are set out in documents filed with the Commission, which are available for public inspection during normal business hours at *(address of licensee)* and at the offices of the CRTC, 1 Promenade du Portage, Gatineau, Quebec, and *(address of nearest regional office)*.

SOR/2003-217, s. 31.

SCHEDULE 2
(Paragraph 50(a))

NOTICE TO SUBSCRIBERS

(Name of licensee) is proposing to increase its basic monthly fee in *(name of licensed area)*, in accordance with section 50 of the *Broadcasting Distribution Regulations*. That section permits a licensee to increase its basic monthly fee unless the Canadian Radio-television and Telecommunications Commission intervenes to disallow all or part of the increase.

The proposed amount and effective date of the increase are given below, in items 1 and 2. The reason for the proposed increase is given in item 3.

The details of *(name of licensee)*'s justification for the proposed increase are set out in documents filed with the Commission, which are available for public inspection during normal business hours at *(address of licensee)* and at the offices of the CRTC, 1 Promenade du Portage, Gatineau, Quebec, and *(address of nearest regional office)*.

You may express your comments on the proposed increase by writing to:

Secretary General

Canadian Radio-television and Telecommunications Commission

Ottawa, Ontario

K1A 0N2

before *(30 days after the date of sending of this notice)*. A copy of your letter must be sent to *(name of licensee's representative, title, address)*.

Item 1:

Proposed amount of increase per subscriber per month: \$_____.

Your current basic monthly fee is \$_____.

If the CRTC does not disallow this increase, your new basic monthly fee will be \$_____.

Item 2:

Effective date of the proposed increase: _____.

Item 3:

Reason for the proposed increase.

(Provide a brief statement outlining the justification for the proposed increase and any other relevant information.)

SOR/2003-217, s. 31.

SCHEDULE 3

(Paragraph 54(1)(a))

NOTICE TO SUBSCRIBERS

(Name of licensee) is proposing to increase its basic monthly fee in *(name of licensed area)*, in accordance with section(s) (52, 53 or both) of the *Broadcasting Distribution Regulations*. That section permits a licensee to increase its basic monthly fee unless the Canadian Radio-television and Telecommunications Commission intervenes to disallow all or part of the increase.

The proposed amount and effective date of the increase are given below, in items 1 and 2. The reason for the proposed increase is given in item 3.

The details of *(name of licensee)*'s justification for the proposed increase are set out in documents filed with the Commission, which are available for public inspection during normal business hours at *(address of licensee)* and at the offices of the CRTC, 1 Promenade du Portage, Gatineau, Quebec, and *(address of nearest regional office)*. You may express your comments on the proposed increase by writing to:

Secretary General

Canadian Radio-television and Telecommunications Commission

Ottawa, Ontario

K1A 0N2

before *(30 days after the date of sending of this notice)*. A copy of your letter must be sent to *(name of licensee's representative, title, address)*.

Item 1:

Proposed amount of increase per subscriber per month: \$_____.

Your current basic monthly fee is \$_____.

If the CRTC does not disallow this increase, your new basic monthly fee will be \$_____.

Item 2:

Effective date of the proposed increase: _____.

Item 3:

Reason for the proposed increase

(Provide a brief statement outlining the justification for the proposed increase and any other relevant information.)

SOR/99-302, s. 2; SOR/2003-217, s. 31.