

June 20, 2016

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Danielle May-Cuconato
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Subject: Broadcasting Notice of Consultation CRTC 2016-195 – Call for comments on standard requirements for television stations, discretionary services, and on-demand services

Dear Ms. May-Cuconato,

1. CBC/Radio-Canada is pleased to provide its comments in BNC CRTC 2016-195 regarding the Commission's proposed standard requirements for television stations, discretionary services and on-demand services.
2. Our comments relate to the following two specific areas:
 - Accessibility; and
 - Advertising on on-demand services.

Accessibility

3. The Commission has proposed the following condition of licence with respect to Quality standards for French-language and for English-language closed captioning (the Standards), for television stations, discretionary and on-demand services:

- a) for French-language services, the licensee shall adhere to the requirements set out in the appendix to *Quality standards for French-language closed captioning – Enforcement, monitoring and the future mandate of the French-language Closed Captioning Working Group*, Broadcasting Regulatory Policy CRTC [2011-741-1](#), 21 February 2012; and
 - b) for English-language services, the licensee shall adhere to the requirements set out in the appendix to *Quality standards for English-language closed captioning*, Broadcasting Regulatory Policy CRTC [2012-362](#), 5 July 2012.
4. The Commission has recently initiated a policy review with respect to the accuracy rate of live closed captioning for English-language services which forms part of the Standards. This review may result in changes to these Standards. Therefore, in order to permit changes to the Standards that may occur in the future, we propose that the condition of licence for both English- and French-language services recognize that these Standards may change by adding “as amended from time to time” at the end of paragraphs a) and b).

Advertising on on-demand services

5. The Commission has invited comments on whether VOD and PPV services should continue to be prohibited by condition of licence from broadcasting commercial messages unless certain conditions are met, or whether they should no longer be subject to such a prohibition. The Commission also states in its notice of consultation that should the prohibition be lifted, on-demand services would be fully authorized to sell and broadcast commercial messages on a going forward basis.
6. The current standard conditions on advertising for VOD services prohibit the insertion of advertising in programming obtained from a related or unrelated Canadian programming undertaking, except in cases where “the program’s inclusion as part of the video-on-demand offering [is] the subject of a written agreement entered into with the programming undertaking that owns the rights to the program.”¹ PPV services have an analogous condition of licence.²

¹ Standard conditions of licence for VOD services, Appendix 2 to BRP [2015-355](#), condition #8.

² Standard conditions of licence for PPV services, appendix to BRP [2013-561](#), condition #11.

7. CBC/Radio-Canada maintains that Canadian programming undertakings that obtain the on-demand rights for this type of programming should continue to have a reasonable opportunity to monetize those rights. Prior written agreement of the Canadian programming service must continue to form the basis of any approval that the Commission may give in regard to advertising on on-demand platforms. Accordingly, it would be appropriate to permit VOD and PPV services to broadcast advertising subject to a condition they obtain the written agreement from the Canadian programming undertaking that owns the rights to the program.
8. The requirement of a written agreement will become even more important in the future. It is expected that viewership to on-demand content and opportunities for ad insertion will increase with the development of dynamic advertising insertion technologies that will enable VOD services – much like on-line services – to manage and insert new advertising content into on-demand programs. Going forward, it is essential that Canadian programming undertakings that acquire linear and non-linear rights be fully engaged in the rollout and opportunities presented by this emerging advertising market. The regulatory framework for on-demand services must enable programming undertaking to negotiate how advertising revenues are shared. Otherwise, it will be even more difficult for Canadian programming undertakings to access potential advertising opportunities and create a disincentive to acquire non-linear programming rights. The effect will be ever-increasing concentration of programming rights ownership by companies that own the means of distribution.
9. Most licensed VOD services are linked to specific BDUs and there are no specific rules for VOD services relating to the provision of programming from non-vertically integrated sources. The Commission has recognised the need for protections for independent programming undertakings in an increasingly consolidated and vertically-integrated broadcasting system and has enacted a number of safeguards to this effect. At a minimum, the Corporation believes that it would be appropriate to maintain the current requirement for a written agreement where the programming is provided by an independent programming service³

³ As defined in s.19(1) of the BDU Regulations : « **independent programming undertaking** means a programming undertaking for which no licensee of a distribution undertaking or operator of an exempt distribution undertaking, or an affiliate of the licensee or operator, holds, directly or indirectly, an interest or right in the assets. (*entreprise de distribution indépendante*) »

10. The Corporation thanks the Commission for the opportunity to provide comments in this proceeding.

Yours truly,

A handwritten signature in black ink, reading "Bev Kirshenblatt". The signature is written in a cursive style with a large initial "B".

Bev Kirshenblatt
Executive Director, Regulatory Affairs
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