



Broadcasting Notice of Consultation CRTC 2010-703

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Ottawa, 23 September 2010

Call for comments on a proposed exemption order for small video-on-demand undertakings

*The Commission calls for comments on a proposed exemption order for small video-on-demand undertakings. The deadline for comments is **25 October 2010**.*

Introduction

1. In *Regulatory framework for video-on-demand undertakings*, Broadcasting Regulatory Policy CRTC 2010-190, 29 March 2010, the Commission stated that it would initiate a further process to establish an exemption order for small video-on-demand (VOD) undertakings owned by exempt broadcasting distribution undertakings (BDUs).
2. For these purposes, the Commission considered that it may be appropriate to define an exempt VOD undertaking as one owned by a party that does not hold a BDU licence and is not an affiliate of a party that holds a BDU licence. In addition, the Commission stated that the exempt VOD undertaking could only provide VOD services using the facilities of exempt BDUs. The Commission noted that, in this way, the VOD undertakings in most need of regulatory relief would be captured, while those belonging to the largest cable undertakings would continue to fall under a single licence.
3. The Commission considers that, for such undertakings, compliance with Part II of the *Broadcasting Act* (the Act) and applicable regulations made thereunder will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection (3)(1) of the Act. It therefore invites written comments on the proposed VOD exemption order set out in the appendix to this notice. The Commission considers that the exemption criteria for small VOD undertakings should be minimal. Given the limited number of such undertakings as well as their small size, it is unlikely that these exempt VOD undertakings will have an impact on other licensed broadcasters.
4. Accordingly, the Commission has proposed that exempt VOD undertakings be subject only to criteria respecting adherence to relevant broadcasting codes and prohibitions against certain types of programming content (e.g. abusive comment).

Call for comments

5. The Commission calls for comments on the proposed exemption order set out in the appendix to this document. The Commission will accept comments that it receives on

or before **25 October 2010**. The Commission will not formally acknowledge written comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedure for filing comments

6. Interested parties can file their comments to the Secretary General of the Commission in only one of the following formats:

by using the
[\[Broadcasting interventions/comments form\]](#)

OR

by mail to
CRTC, Ottawa, Ontario K1A 0N2

OR

by fax at
819-994-0218

7. Submissions longer than five pages should include a summary.
8. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Important notice

9. All information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers and any other personal information parties provide.
10. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission or for a use consistent with that purpose.
11. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

12. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.
13. The Commission encourages interested parties to monitor the public examination file and the Commission's website for additional information that they may find useful when preparing their comments.

Examination of documents

14. A list of all comments will also be available on the Commission's website. An electronic version of all comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.
15. The public may examine public comments and related documents at the following Commission offices during normal business hours.

Location of Commission offices

Toll-free telephone: 1-877-249-2782
Toll-free TDD: 1-877-909-2782

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional offices

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West
Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East
Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Kensington Building
275 Portage Avenue
Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306
Fax: 204-983-6317

2220 - 12th Avenue
Room 620
Regina, Saskatchewan S4P 0M8
Tel.: 306-780-3422

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

858 Beatty Street
Suite 290
Vancouver, British Columbia V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Appendix to Notice of Consultation CRTC 2010-703

Proposed exemption order respecting video-on-demand undertakings

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

Purpose

The purpose of these television programming undertakings is to provide on-demand programming services for distribution by broadcasting distribution undertakings.

Description

1. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
2. The undertaking is owned by a person that does not hold a broadcasting distribution licence and is not an affiliate of a person that holds a broadcasting distribution licence (licensee). An “affiliate” means a person who controls the licensee, or who is controlled by the licensee or by a person who controls the licensee.
3. The undertaking provides video-on-demand (VOD) services that are distributed using only the facilities of exempt broadcasting distribution undertakings operating pursuant to the exemption order set out in *Exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers*, Broadcasting Order CRTC 2009-544, 31 August 2009, as may be amended from time to time.
4. The undertaking files information with the Commission specifying: the name of the service provider, the name under which the service operates, the broadcasting distribution undertaking(s) that distribute the service, the service’s contact information, including mailing address, telephone number, fax number, email address, and website. In the case of a new undertaking, the above information is filed with the Commission when the undertaking is ready to commence operations. The undertaking will advise the Commission if there are any changes to this information.
5. The undertaking submits any information requested by the Commission in order to ascertain the undertaking’s compliance with the terms of this order.

6. The undertaking does not distribute programming 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.

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

- 7. The undertaking adheres to the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.
- 8. The undertaking adheres to the *Pay television and pay-per-view programming code regarding violence*, as amended from time to time and approved by the Commission.
- 9. The undertaking shall adhere to the *Industry Code of Programming Standards and Practices Governing Pay, Pay-Per-View and Video-On-Demand Services*, as amended from time to time and approved by the Commission.