



Broadcasting Regulatory Policy CRTC 2011-288

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Route reference: 2010-903

Ottawa, 3 May 2011

Amendment to the *Television Broadcasting Regulations, 1987* – Broadcast of Canadian programs

The Commission announces that it has amended the Television Broadcasting Regulations, 1987 with respect to the broadcast of Canadian programs.

Introduction

1. In Broadcasting Notice of Consultation 2010-903 (the Notice of Consultation), the Commission called for comments on the wording of a proposed amendment to the *Television Broadcasting Regulations, 1987* (the Regulations) relating to the broadcast of Canadian programs (Canadian content).
2. In the Notice of Consultation, the Commission explained that the amendment would implement the reduction in the minimum level of Canadian content from 60% to 55% of the broadcast year, as determined by the Commission in Broadcasting Regulatory Policy 2010-167 (the Policy).
3. In the Policy, the Commission noted that the advent of digital technologies for the distribution of broadcasting and for the broader exchange of all digital information has fundamentally changed the basis for existing approaches to television broadcasting regulation. The Commission was of the view that attractive Canadian content available at anytime and on any platform represents a goal towards which the Canadian broadcasting system should strive in order to remain not only responsive to the public's demands, but also relevant and competitive in the new digital era. Accordingly, the Commission found that a shift in regulatory focus from program exhibition to program creation by means of a Canadian program expenditure requirement on large broadcast groups would help to ensure the continued presence of Canadian programming options for Canadians however the broadcasting system may evolve.
4. In the policy, the Commission also recognized the importance of regulation to meet the objectives of the *Broadcasting Act* where the market cannot do so, but considered that, in a broadcasting environment characterized by ever increasing choice, the application of regulation must be directed towards the creation of quality Canadian content. The Commission noted that the framework adopted in the Policy was an important and timely step in preparing the Canadian broadcasting system for its digital future.

Comments

5. The Commission received five comments in response to the Notice of Consultation. The complete record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. While an individual, the Canadian Association of Community Television Users and Stations (CACTUS) and the Communications, Energy and Paperworkers Union of Canada (CEP) did not comment on the wording of the draft regulation, they opposed any reduction to the minimum level of Canadian content. The Ministère de la Culture, des Communications et de la Condition féminine du Québec opposed the reduction for French-language television stations only. Shaw Media supported the draft regulation, submitting that the proposed language was in line with the determinations set out in the Policy.
7. In addition, both CACTUS and the CEP submitted that the Notice of Consultation did not provide any rationale for reducing the minimum level of Canadian content and argued against deregulation of Canadian content. Furthermore, the CEP argued that a reduction to the minimum percentage of Canadian content was not reflective of recent changes in ownership of television stations and that the Policy did not provide any evidence supporting the reduction.

Commission's analysis and determinations

8. With respect to the comments opposing a reduction to the minimum level of Canadian content, the Commission notes that the Notice of Consultation called for comments only on the wording of the proposed amendment, not on the Policy itself. The Commission considers that adequate opportunity was given to provide input on this matter in the proceeding leading to the Policy. The Commission also notes that the section of the Policy relating to the reduction in the minimum level of Canadian content applies to both English- and French-language television services.
9. With respect to the other comments, the Commission considers that the rationale supporting the reduction to the minimum level of Canadian content was clearly set out in the Policy, where the Commission explained the need to shift the emphasis from program exhibition to program creation (Canadian programming expenditures) in a new digital environment where Canadian viewers have more options. The Commission also considers that it has not deregulated in this area, given that it is imposing new obligations on Canadian programming expenditures.

Conclusion

10. In light of the above, the Commission adopts the proposed amendment to the Regulations as proposed in the Notice of Consultation. The amended Regulations were registered on 23 March 2011 and were published in the Canada Gazette, Part II, Vol. 145, No. 8 on 13 April 2011 (SOR/2011-77). The amended Regulations come into effect on 1 September 2011. A copy of the amended Regulations is attached to this regulatory policy.

Secretary General

Related documents

- *Call for comments on an amendment to the Television Broadcasting Regulations, 1987*, Broadcasting Notice of Consultation CRTC 2010-903, 3 December 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010

**Appendix to Broadcasting Notice of Consultation
CRTC 2011-288**

**REGULATIONS AMENDING THE TELEVISION BROADCASTING
REGULATIONS, 1987**

AMENDMENT

1. Subsection 4(6) of the *Television Broadcasting Regulations, 1987*¹ is replaced by the following:

(6) Subject to subsection (9), a licensee shall devote not less than 55 per cent of the broadcast year and of any six-month period specified in a condition of licence to the broadcasting of Canadian programs.

COMING INTO FORCE

2. These Regulations come into force on September 1, 2011.

¹ SOR/87-49