



Broadcasting Information Bulletin CRTC 2012-471

PDF version

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Measures to control the loudness of commercial messages – Process for enforcing compliance by the broadcasting industry and addressing complaints

*This bulletin describes how the Commission will enforce the broadcasting industry's compliance with the regulatory requirements regarding the loudness of television commercial messages. In order to demonstrate compliance with these requirements, broadcasters and television service providers are directed to submit a report by no later than **15 October 2012** confirming that the applicable steps set out in this bulletin have been undertaken.*

This bulletin also sets out how the Commission will address complaints about the loudness of television commercial messages, as well as the steps the Commission will take to enforce the broadcasting industry's compliance with the regulatory requirements.

Introduction

1. In *Amendments to various regulations and an exemption order to implement measures to control the loudness of commercial messages*, Broadcasting Regulatory Policy CRTC 2012-273 and Broadcasting Order CRTC 2012-274, 8 May 2012, the Commission announced that it had made amendments to various regulations and an exemption order to require the broadcasting industry to adopt measures to ensure that television commercial messages and regular programming are broadcast at an even volume by 1 September 2012.
2. This bulletin provides the broadcasting industry with guidelines on how to demonstrate compliance concerning the loudness of commercial messages and outlines actions the Commission may take in response to non-compliance with its regulations. This bulletin also sets out the Commission's process for addressing complaints related to the loudness of commercial messages.

The requirements

3. The Commission's regulations require that television programming undertakings¹ (i.e. broadcasters) ensure that every commercial message that is broadcast complies with

¹ Television programming undertakings include conventional over-the-air broadcasters, specialty services and video-on-demand undertakings.

the technical requirements set out in *ATSC Recommended Practice A/85* (the Recommended Practice).² Accordingly, broadcasters are required to ensure that the loudness of all programming, including described video,³ matches the audio metadata⁴ or the loudness target value for content on the channel.

4. Television service providers, such as cable, IPTV and satellite direct-to-home broadcasting distribution undertakings, must ensure the pass-through of accurate audio metadata and that the loudness of content on Canadian programming services is unaltered in its distribution. If a television service provider alters the audio content or format of a programming service (e.g., audio encoding format, number of audio channels), it is required to ensure that every commercial message complies with the technical requirements of the Recommended Practice.
5. Television service providers are also required to ensure that the loudness of programming from non-Canadian services and on their own community channels is compliant with the technical requirements of the Recommended Practice.

Actions that constitute compliance with the Commission's requirements

6. The broadcasting industry will be considered to be compliant with the Commission's requirements if it can demonstrate that it has taken the following actions:
 - For all sources of content (e.g., file-based, live), broadcasters must:
 - properly install, maintain, operate and periodically test equipment that implements the Recommended Practice and provide training for their technicians and engineers regarding its use;
 - acquire programming that is compliant with the Recommended Practice as set out in paragraph 3 above; or
 - a combination of the above.
 - Television service providers must:

² The technical requirements for controlling the loudness of commercial messages are set out in Annex J and Annex K of *ATSC Recommended Practice A/85: Techniques for Establishing and Maintaining Audio Loudness for Digital Television*, which can be found on the Advanced Television Systems Committee Inc.'s (ATSC) website: <http://www.atsc.org>. A French translation is also provided as a convenience. However, the translation has not been approved by the ATSC.

³ Described video (DV) is a narrated description of a program's main visual elements, such as settings, costumes or body language. The description is added during pauses in dialogue and enables people to form a mental picture of the program. It works best for pre-recorded programs, such as dramas and documentaries. DV uses a separate audio track.

⁴ Specifically, in the context of AC-3 encoded audio, loudness-related metadata makes it possible to control the loudness of different content during distribution or upon reception at a subscriber's digital set-top box.

- in the case of unaltered signals, properly install, maintain, operate and periodically test equipment that ensures the pass-through of unaltered audio and accurate audio metadata and provide training for its technicians and engineers regarding its use; and
 - in the case of altered audio content or format or for non-Canadian programming services, undertake the actions described above for broadcasters.
7. With a view to ensuring the successful implementation of the above measures, broadcasters and television service providers are expected to coordinate their approaches to control the loudness of commercial messages.

Initial compliance assessment

8. In order to confirm compliance, the Commission directs broadcasters and television service providers to submit a compliance report by no later than **15 October 2012** demonstrating compliance by confirming that the applicable steps set out above have been undertaken. These compliance reports, which may be published on the Commission's website, should include:
- a description of the measures adopted to ensure consistent loudness between regular programming and commercials, including any contractual measures with other elements of the supply and distribution chains;
 - a description of the steps that have been undertaken to coordinate its approach to controlling the loudness of commercial messages with other elements of the supply and distribution chains;
 - the name and type of equipment installed and a description of its function and location relative to other elements of the supply and distribution chains;
 - information related to maintenance and monitoring procedures, as well as the steps taken to ensure adequate employee training; and
 - information related to the audio formats and encoding received from and provided to other elements of the distribution chain.
9. Commission staff will review compliance reports and determine if further examination and subsequent action are necessary. If a report is satisfactory and no complaints are received, it will be assumed that the party is compliant. This initial compliance assessment does not preclude Commission staff from requesting compliance reports or additional information in the future.
10. The 45-day period prior to the filing deadline does not constitute a grace period with respect to the effective date of the Commission's requirements.

11. The Commission encourages broadcasters and television service providers to inform their viewers and subscribers of the steps they have taken to control the loudness of commercials.

Classification of loudness complaints

12. Complaints from individuals regarding the loudness of commercial messages are subject to Part 2 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (Rules of Procedure).
13. Complaints initiated by the industry, consumer advocacy groups or industry associations are subject to Part 1 of the Rules of Procedure.

Complaints from individuals

Initiating a complaint

14. If a viewer believes that a broadcaster or television service provider has not adopted the necessary measures to ensure that commercial messages are broadcast at an even volume relative to regular programming, the viewer should:
 - first, contact the broadcaster or television service provider with the specific concerns in order to attempt to resolve the complaint directly; and
 - second, if the complainant's concerns are not addressed by the broadcaster or television service provider, submit a complaint to the Commission via the "Contact us" section of the Commission's website (www.crtc.gc.ca) or by other means listed on the website.
15. The complainant should provide the following information, which is required to properly investigate and track suspected instances of non-compliance with the loudness regulations:
 - the date and time of the program;
 - the title or description of the program and commercial message;
 - the channel number and name of the programming service;
 - the name of the television service provider (e.g., cable, satellite, IPTV), if applicable; and
 - a description of the loudness issue, which may include correspondence with the industry.
16. While the Recommended Practice ensures the normalization of loudness of commercial messages and regular programming, it does not ensure normalization of

loudness between channels. Further, as the Recommended Practice relates to digital television, it is not applicable to analog transmission systems.

Resolution process for complaints filed by individuals

17. Pursuant to Part 2 of the Commission's Rules of Procedure, a complaint regarding the loudness of a commercial message will be forwarded to the broadcaster and the television service provider (if applicable) within 15 calendar days of the date it is received by the Commission. The broadcaster and television service provider will be expected to file a response with the Commission, serving a copy on the complainant, within 20 calendar days of the date on which they receive a copy of the complaint. Failure by the industry to respond to the complaint will result in the party being considered non-compliant with the loudness regulations.
18. As commercial messages can be inserted either by broadcasters or television service providers and given that the Recommended Practice provides more than one approach to control loudness, responses should indicate which party is responsible for insertion and/or control. Further, responses should confirm details of any coordination that has been undertaken by both broadcasters and television service providers. The complainant may file a reply with the Commission to the industry's response, serving a copy on the respondent(s), within 10 calendar days of the date on which the response is filed with the Commission.
19. Commission staff will review the industry's response(s) and the complainant's reply, if applicable. If Commission staff considers that the industry's practice complies with the loudness policy, it will close the complaint and notify the complainant no later than 15 calendar days from the date of receiving the industry's response.

Complaints initiated by broadcasters, television service providers, consumer advocacy groups or industry associations

20. As noted above, complaints initiated by broadcasters, television service providers, consumer advocacy groups or industry associations are subject to Part 1 of the Rules of Procedure.
21. All Part 1 applications will be posted on the Commission's website. The party that is the object of the complaint may file an answer with the Commission within 30 calendar days after the day the application was posted on the Commission's website. Any interested person may intervene in writing within this 30-day period.
22. The applicant may file a reply to a party's answer or the document of an intervener within 10 calendar days after the deadline for filing the answer or intervention.
23. The Commission has adopted a service objective to publish decisions on Part 1 applications within four months of the close of record of the proceeding.

24. Commission staff may also initiate further examination or undertake measures to ensure compliance, as set out in paragraphs 25 through 27, pursuant to a complaint filed under Part 1 of the Rules of Procedure.

Examination, investigation and compliance

25. Commission staff may further examine a matter by requesting specific information related to a particular incident in the following cases:

- unsatisfactory or lack of response to a request for information from the Commission, such as the report outlined in paragraph 8;
- unsatisfactory or lack of industry response to complaints; and/or
- a pattern of complaints.

26. Specific information requests may include a request for recordings of programming and commercial messages, proof of coordination with other elements of the supply and distribution chain, results of tests and monitoring or other information as deemed appropriate.

27. If Commission staff considers that a party is non-compliant with the requirements regarding the loudness of commercial messages, the Commission's Compliance and Enforcement sector may investigate and/or take further action. Such measures include:

- publishing complaint information, responses and/or findings of non-compliance;
- imposing regular reporting requirements, which would include reasons for non-compliance and steps to be undertaken in order to become compliant;
- requesting a compliance meeting with the broadcaster and/or television service provider to discuss the issue in more detail;
- addressing repeated non-compliance at licence renewal;
- issuing a notice of consultation;⁵
- initiating a hearing⁶ at which the broadcaster or television service provider would have to show cause as to why the Commission should not issue a

⁵ The Chief Compliance and Enforcement Officer may recommend to the Commission the initiation of a notice of consultation. Such notices of consultation may result in the amendment, suspension or revocation of a licence.

⁶ The Chief Compliance and Enforcement Officer may recommend to the Commission the initiation of a hearing.

mandatory order, which would direct the party to take corrective measures under section 12(2) of the *Broadcasting Act* and which the Commission could register with the Federal Court; and/or

- other measures as deemed appropriate.

Secretary General