



Broadcasting Notice of Consultation CRTC 2015-421

PDF version

Ottawa, 14 September 2015

Notice of hearing

25 January 2016
Gatineau, Quebec

A review of the policy framework for local and community television programming

Deadline for submission of interventions/comments: 29 October 2015

[\[Submit an intervention/comment/answer or view related documents\]](#)

The Commission launches a review of the policy framework for local and community television programming. This review builds on the determinations made during the Let's Talk TV proceeding and will include an oral public hearing that will begin on 25 January 2016.

*The Commission calls for comments on the questions set out in this notice. The deadline for filing comments is **29 October 2015**. Complete information about how to file can be found at the end of this notice.*

Introduction

1. The Commission stated in its three-year plan that it would assess the ongoing effectiveness of the community television policy in the 2015-2016 fiscal year. In Broadcasting Regulatory Policy 2015-24, the Commission announced that the planned policy review would also include a review of the overall state and funding of locally relevant and locally reflective television programming including community access programming.
2. The Commission calls for comments on the questions listed in the following sections. Parties submitting comments in response to this notice must copy the questions, providing their answers beneath, along with supporting evidence for their comments and proposals. The deadline for filing comments is **29 October 2015**. The Commission also encourages interested persons and parties to monitor the record of the proceeding, which can be found on the Commission's website, as information may be added to the public file which they may find useful when preparing their submissions. The Commission is providing data on the costs and revenues associated with local and access programming to help parties prepare submissions that are based on evidence. This data will be placed on the public record of the proceeding in the coming days and will include data on the broadcast of local programming, local news programming, access programming hours available in the broadcasting system,

financial contributions by BDUs to local expression as well as other relevant figures. The Commission may also ask parties to answer additional questions. These questions and the answers will form part of the public record.

3. The Commission will hold a hearing beginning on **25 January 2016 at 9 a.m. at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec**, to consider the matters discussed below.
4. To focus discussion and debate during the oral phase of the public hearing, the Commission expects to publish an additional document before the hearing that will set out areas for exploration at the hearing based on the comments received.
5. Although the public hearing will be held in Gatineau, Quebec, parties may participate from the Commission's regional offices via videoconference. Parties interested in doing so are asked to indicate, at the time they file their interventions, the regional office where they wish to appear. A list of the Commission's regional offices is included in this notice. In addition, the Commission may provide Skype, videoconference or teleconference links to other locations should it receive requests to do so. The oral phase of the public hearing may be followed by a written reply period.
6. Public interest and consumer groups that require financial assistance to meet the cost of participating in this proceeding may apply to the [Broadcasting Participation Fund](#). Complete information on how to file comments can be found at the end of this notice.

Background

The *Broadcasting Act*

7. In its review of local and community programming, the Commission is guided by section 3(1)(i) of the *Broadcasting Act* (the Act), which states that the programming provided by the Canadian broadcasting system should:
 - be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes;
 - be drawn from local, regional, national and international sources;
 - include educational and community programs;
 - provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern; and
 - provide a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view.

8. Further, section 3(1)(b) of the Act recognizes community as one of the three elements of the Canadian broadcasting system alongside the private and the public elements. Section 3(1)(e) also specifies that “each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.” The Commission is also guided by section 3(1)(c) of the Act, which states that English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements. As such, the Commission must consider the conditions and requirements of the two linguistic markets, which include the linguistic minority communities, in making its determinations.

Current regulatory approach

9. The Commission has developed different regulatory approaches for the local and community programming provided by conventional television stations on the one hand and community programming services—most of which are offered by broadcasting distribution undertakings (BDUs)—on the other. These approaches are due primarily to the different role played by these types of programming services. However, many similarities also exist in the local programming offered by both types of service. Both offer programs that reflect the needs and interests of a particular locality. Moreover, the two regulatory approaches find common ground in their encouragement of:
 - locally relevant programming;
 - diversity of voices and perspectives; and
 - production by members of the local community or market.
10. The Commission currently defines “local programming” on commercial conventional stations as programming that is produced by these stations with local personnel or by locally based independent producers and that reflects the particular needs and interests of the market’s residents.¹
11. The Commission requires that commercial conventional stations provide such programming in exchange for the ability to sell local advertising. In Broadcasting Regulatory Policy 2009-406, the Commission stated that it would require English-language stations owned by the major broadcast groups to air a minimum of 7 hours of local programming per week in non-metropolitan markets and a minimum of 14 hours of local programming per week in metropolitan markets. The Commission implemented this approach through the group-based licence renewals in 2011 and expanded it, with some exceptions, to most English-language independent television stations in 2013. For French-language conventional television stations, the Commission has adopted a case-by-case approach.

¹ See Broadcasting Regulatory Policy 2009-406.

12. With respect to community programming services, since 2002, the Commission has required that no less than 60% of the programming aired during the broadcast week be devoted to programs that are reflective of the community and produced by the licensee in the licensed area or by members of the community from the licensed area.
13. In Public Notice 1991-59, the Commission identified the community channel as a meaningful provider of local information and views. The Commission considered local expression to be the core of the community channel and stated that the community channel is a public service that facilitates self-expression through free and open access by all members of the community. The Commission was of the view that the community channel should promote access by members of the community to participate in the programming and the availability of training programs. The community is meant to be at the heart of the community channel's operations, with community members serving as key creative contributors to programming. This view is echoed in the 2002 policy on community-based media (Broadcasting Public Notice 2002-61), where the Commission stated that the objective of the community sector, particularly community television, is to ensure the creation and exhibition of locally produced and locally reflective programming.
14. In its last examination of community programming (Broadcasting Regulatory Policy 2010-622), the Commission took measures to help ensure that members of the community continued to have access to the community channel by increasing access programming exhibition requirements from 30% to 50% of the broadcast week by 2014.
15. Contrary to its approach for conventional commercial stations, the Commission imposed an expenditure requirement on community channels in order to maintain the local aspect of their programming. This expenditure requirement stipulates that at least 50% of all programming-related expenses must be spent on access programming.
16. Funding for community programming has increased significantly over time. The Commission adopted measures to maintain an appropriate level of funding for community programming by BDUs in Broadcasting Regulatory Policy 2010-622. Community channels are primarily funded by BDUs through a percentage of the BDUs' contributions to Canadian programming. With respect to commercial conventional television stations, in addition to advertising revenues, some of the stations are eligible for funding from the Small Market Local Production Fund (SMLPF).
17. The BDU sector contributed in excess of \$151 million toward community channels in 2014. Contributions by direct-to-home (DTH) BDUs to the SMLPF amounted to over \$10 million shared among 22 independent television stations in the same year. However, the growth of SMLPF contributions has stagnated in recent years due to a reduction in revenue growth for DTH BDUs.

18. Total contributions by BDUs to locally reflective, locally relevant and community access programming amounted to over \$161 million in 2014 alone. This amount does not take into account all of the expenditures by conventional television stations on local programming. The Commission maintains the view it expressed in Broadcasting Regulatory Policy 2015-24 that there is sufficient funding within the system to ensure the creation of locally relevant and reflective programming.

Looking ahead

19. As with other types of programming, the consumption and, in some ways, the financing of locally reflective, locally relevant and community access programming are influenced by the changing habits of Canadian viewers.

20. Viewership to local and community access content on traditional platforms remains relatively stable. However, Canadians are embracing newer ways of consuming and discovering content. More programming is available on multiple platforms than ever before and Canadians now have access to programming in ways not previously conceived of. The trend toward targeted and customizable content available on many platforms will continue to shape viewing habits. Locally relevant, locally reflective and community access programming is no less vulnerable to shifting viewing patterns than any other type of programming.

21. In its 1999 policy framework for Canadian television (Public Notice 1999-97), the Commission stated that sufficient market incentives exist to ensure that audiences continue to receive a variety of local programming, particularly local news programming, without regulatory intervention. Since then, the business case for local television has changed significantly: there has been a fragmentation of advertising revenues and a trend toward consolidation in the industry.

22. BDU revenue growth has moderated and subscription growth has stagnated. Revenue from local programming is also down or stagnating. Given that BDUs are a key source of funding for the production of locally relevant, locally reflective and community access programming, there may be limited growth in the funding available for this programming.

Outcomes of this proceeding

23. In Broadcasting Regulatory Policy 2015-24, the Commission reaffirmed that the Canadian television system should encourage the creation of compelling and diverse Canadian programming produced by and reflective of local communities, whether such programming is produced by the private, public or community element. This programming should include news, analysis and interpretation in order to ensure the presence of a local perspective on current events in the broadcasting system.

24. The Commission seeks to achieve the following outcomes with this review:

- Canadians have access to locally produced and locally reflective programming in a multi-platform environment.
- Both professional and non-professional independent producers and community members have access to the broadcasting system.
- Locally relevant news and information programming is produced and exhibited within the Canadian broadcasting system.

Local programming

25. Local programming is an important part of the Canadian broadcasting system. Through local programming, Canadians are informed about matters of local concern and local events. They are exposed to local points of view and locally creative programming of relevance to or reflective of the community in which they live. Such programming reflects the local identity of Canadians and facilitates the democratic process.
26. Local programming and local news in particular are important to Canadians. According to a public opinion survey commissioned as part of the Let's Talk TV proceeding, 53% of all respondents consider that local programming in general is important and 81% of all respondents consider that local news is important.² Further, according to Numeris audience data, in certain markets, the local evening newscasts of some local stations generate as much as or more than a 20% share of local tuning.
27. Both local commercial television stations and community channels offer local programming. Local programming can include news and other information programming that is specific to the market and the communities the services are licensed to serve. This programming may be produced by members of the community, including local independent producers, as well as by local television station personnel, who are themselves also members of the community.
28. In large part, regulatory intervention in local programming, both in the commercial and community sectors, has focused on exhibition requirements (the number of hours broadcast).
29. Many commercial conventional broadcasters devote substantial portions of their local programming to news. The cost of producing this programming is significant and represents a great majority of local programming expenses.
30. As part of this review, the Commission will consider the availability of local programming throughout the broadcasting system, including the manner in which both the private and the community elements may contribute to its production. The Commission is seeking comments on how best to ensure that compelling local news and other programming that is both locally relevant and locally reflective is made

² See [Let's Talk TV: Quantitative Research Report](#).

available to Canadians. The Commission is also seeking comments on how the existing funding can be allocated in a manner that is accountable and responds to demonstrated needs.

31. The chosen approach should be forward looking and take into account the technological, cost and market changes occurring in the broadcasting system as well as the new forms of distribution and consumption.

Questions

32. The Commission invites parties to respond to the following questions and provide supporting evidence. Parties should make reference to the English- and French-language markets as appropriate:

- Q1. How should local programming be defined? How should local news be defined?**
- Q2. Should the regulatory approach focus on local news programming, or should it include other types of local programming?**
- Q3. What role should the community element play in providing local programming?**
- Q4. Should the Commission place a greater emphasis on expenditure requirements (the amount of money spent on the programming) or on exhibition requirements (the number of hours of programming broadcast) when it comes to ensuring the presence of local programming in the broadcasting system? What other measures, if any, should be taken to ensure that appropriate amounts of locally relevant and reflective news content is made available to Canadians across the country whether through local television stations or community services?**
- Q5. Is a physical local presence still needed in the digital age? In considering this question, are studio facilities and local staff required to provide meaningful locally reflective and locally relevant programming? If so, what financial resources, infrastructure and staff are necessary?**
- Q6. Is regulatory intervention needed to foster local programming by both the private and community elements of the broadcasting system and to ensure the presence of local programming?**
- Q7. Should the Commission differentiate between small and large markets? Should there be a different approach for small market independent stations?**
- Q8. BDUs currently allocate approximately 40% of local reflection contributions to indirect costs (facilities, equipment, etc.) and 60% to programming. Is this still an appropriate allocation of costs? If not, propose an alternative allocation.**

Q9. How should funding for locally relevant and locally reflective programming be allocated from the various existing funding sources to ensure the continued presence of this programming in the Canadian broadcasting system as a whole?

Q10. How should the Commission and Canadians measure the success of proposed approaches?

Community access programming

33. Community access programming is an important element of the Canadian broadcasting system. It offers Canadians an opportunity for active participation in the Canadian broadcasting system and to move beyond being passive viewers and consumers of content. Canadians of all backgrounds and interests can take creative control over programming and add their distinctive voice and perspective to the diversity of voices already available in the system. Often this programming is specifically relevant to and reflective of the local community. These channels exist to remove barriers to the broadcasting system for individual Canadian citizens. In that sense, community access programming provides a valuable, though not necessarily profitable, public service.
34. The Commission's long-standing approach to the funding and support of the community channel has relied on BDUs across the country providing both the funds for its operation and the infrastructure to support it. This approach finds its genesis in an era where the costs and complexity involved in producing programming were high and BDUs were, by virtue of their reach, in the best position to help ensure Canadians' access to the broadcasting system. It has since become easier for Canadians to access the means of production while the complexity involved in creating content has decreased. Moreover, Canadians now have access to the Canadian broadcasting system in ways they never have before, for example, by uploading their own content on Internet platforms.
35. Consolidation within the distribution sector has led BDUs to centralize their operations, including community channel production and administration, to realize cost efficiencies. Others have implemented a zone-based approach to the provision of community programming. Moreover, many new entrants are licensed on a regional basis and while their community programming should reflect the communities they serve, it is possible that in many cases certain communities will not be exposed to specifically locally relevant or reflective programming through the traditional broadcasting system.
36. The centralization of BDU operations and the consequent regionalization of services has had the additional effect of making it difficult to monitor, particularly for members of the public, whether BDUs are meeting their expenditure and exhibition requirements in each community.

37. The quality and quantity of locally relevant, locally reflective and community access programming provided by the community channel can also be affected by the size of the community served by the BDU. Larger communities will generate more revenue which means, in turn, greater contributions to the community channel.
38. As part of this review, the Commission wishes to explore whether the current approach to community access and the community channel as a whole ensures that the content produced, both by access producers and by licensees, is truly locally relevant and reflective.
39. In light of the technological, cost and market changes for community access programming and the community channel, it is important that the Commission's approach to ensuring access by Canadians to the broadcasting system is forward looking and takes into account new forms of distribution and consumption. Moreover, it must focus on the creation and provision of programming, not necessarily programming services. It is also important that the Commission's approach be reflective of Canada's diversity and responsive to factors that may vary by market size, region, linguistic and cultural diversity and other elements.

Questions

40. The Commission invites parties to respond to the following questions and provide supporting evidence. Parties should make reference to the English- and French-language markets as appropriate:
- Q11. How should access programming be defined?**
- Q12. How should an access producer be defined?**
- Q13. Is access programming on the community channel still necessary? Should the Commission approach linear community channels and community channels offered on video-on-demand services differently?**
- Q14. Are there ways other than the community channel to ensure that access programming is provided in the broadcasting system as a whole, including both on licensed and exempt services?**
- Q15. Are the current access programming requirements for community channels appropriate? Should a different approach to current expenditure and exhibition requirements be taken? Should a different approach for small and large markets be taken? Should there be a different approach for zone-based or regionally licensed services?**
- Q16. How can the Commission ensure that the smaller markets and the communities served by BDUs operating under regional licences or zone-based approaches are provided with appropriate levels of locally relevant and locally reflective programming, including community access programming?**

- Q17. Should BDUs operating in competitive markets or in markets that are close geographically continue to offer distinct technical and production facilities or are there other options to make more efficient use of funding?**
- Q18. What measures should be taken to ensure that programming from diverse linguistic groups including OLMCs and ethnic groups as well as Aboriginal groups is made available and is reflective of the communities BDUs serve?**
- Q19. How should funding for community access programming be allocated from the various existing funding sources to ensure the continued presence of this programming in the Canadian broadcasting system as a whole?**
- Q20. How should the Commission and Canadians measure the success of any framework that is proposed?**

Other matters

41. The Commission is open to considering issues and concerns other than those identified above. However, comments must be limited to matters falling within the Commission's jurisdiction and powers under the Act. Further, parties should discuss the matters that they raise in the context of the various cultural, economic, social and technological policy objectives set out in the Act.

Procedure

42. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, replies, answers of respondents and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "Statutes and Regulations." The *Guidelines on the CRTC Rules of Practice and Procedure*, set out in Broadcasting and Telecom Information Bulletin 2010-959, provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
43. The Commission will hold a public hearing commencing on **25 January 2016 at 9 a.m. at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec**, to address the matters set out in this notice.
44. The Commission invites interventions that address the issues and questions set out above. The Commission will accept interventions that it receives on or before **29 October 2015**.

45. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position but do not wish to appear at the hearing. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the covering letter to be filed by the parties, can be found in Broadcasting Information Bulletin 2010-28-1.
46. Following the public hearing, parties may have an opportunity to file brief final written comments.
47. Parties wishing to appear at the public hearing, either in person or by video conference from one of the Commission's regional offices, and parties requiring communications support must state their request on the first page of their intervention. In addition, the Commission may provide Skype, videoconference or teleconference links to other locations should it receive requests to do so. Parties requesting appearance must provide clear reasons, on the first page of their intervention, as to why the written intervention is not sufficient and why an appearance is necessary. Only those parties whose requests to appear have been granted will be contacted by the Commission and invited to appear at the public hearing.
48. Persons requiring communications support such as assistance listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the public hearing so that the necessary arrangements can be made.
49. The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
50. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
51. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
52. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

53. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that service/filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
54. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
55. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

56. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email 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, email addresses, postal/street addresses, telephone and facsimile numbers, etc.
57. 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.
58. 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.

59. 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.

Availability of documents

60. Electronic versions of the interventions and of other documents referred to in this notice, are available on the Commission's website at www.crtc.gc.ca by visiting the "Participate" section, selecting "Submit Ideas and Comments," and then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.

61. Documents are also available from Commission offices, upon request, during normal business hours.

Location of Commission offices

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

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

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Secretary General

Related documents

- *Filing submissions for Commission proceedings in accessible formats*,
Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015

- *Over-the-air transmission of television signals and local programming*, Broadcasting Regulatory Policy CRTC 2015-24, 29 January 2015
- *Review of the Local Programming Improvement Fund*, Broadcasting Regulatory Policy CRTC 2012-385, 18 July 2012
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for broadcasting policy proceedings*, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010
- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009
- *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999
- *Community channel policy*, Public Notice CRTC 1991-59, 5 June 1991