



**A window to the world,  
a window for the world,  
and  
a mirror for ourselves:  
a Canadian television policy for 2025**

*Let's Talk TV, Broadcasting Notices of Consultation CRTC 2014-190, -190-1, -190-2, -190-3,-190-4*

*(Ottawa, 24 April 2014)*

**Remarks of the Forum for Research and Policy in Communications**

18 September 2014

Check against delivery

## Introductions

Thank you, Mr. Chairman, and good afternoon, Commissioners, staff and members of the audience.

My name is Sjef Frenken, and I am the Chair of FRPC's Board of Directors. With me today are Robert Soucy and John Harris Stevenson, who are also members of our Board.

Bob was Director of the Canadian Audio-Visual Certification Office for several decades, administering Canada's tax credit system in relation to Canadian content. Bob is also a musician and composer: he is currently on the board of the Canadian Folk Music Awards, and is a vested member of the American Federation of Musicians.

John is completing his doctorate at the Faculty of Information at the University of Toronto - his thesis studies the role of infrastructure in Google's current network neutrality strategy. While his main interests are in internet governance and knowledge systems design, John also worked for many years in Canada's community radio sector, was most recently the co-founder and President of the Community Radio Fund of Canada.

As for myself, I graduated from Ryerson and worked in private radio in Ottawa and Toronto. I was with the CRTC from 1971 to 1995, where I held several management positions, including director of broadcasting policy, and worked on a wide range of broadcast policy files. Since retiring from the Commission I've taught at the University of Ottawa, and have appeared before the Copyright Board to testify with respect to radio and pay television.

We are also joined by FRPC's Executive Director, Monica Auer. Like me, Monica worked at the CRTC, creating among other things the CRTC's first computerized ownership database, and then went on to work at the Corporation. She has also appeared before the Copyright Board as an expert witness and was called to the Ontario Bar in 2006. Her LLM paper measured the CRTC's approach to non-compliant radio broadcasters from 1968 to 2005.

## Introduction

1. The Forum is a not-for-profit, in communications policy. We were today.
2. Our two-volume submission from working document are attached to preference.

CRTC, *The Improvement and Development of Canadian Broadcasting and the Extension of U.S. Television Coverage in Canada* by CATV, Public Announcement (Ottawa, 3 December 1969), at 2:

The Canadian broadcasting system is a response to the CRTC's only if it provides the Canadian population with essential services. It would not make sense to protect a Canadian system based essentially on the retailing of programs "using predominantly non-Canadian creatives and other resources." Certainly Canadians should not be denied access to the best material available from other countries. Any broadcasting system must remain constantly open to ideas coming from other parts of the world. Nevertheless the efforts of Canadians to maintain an independent broadcasting system can be justified only if this system achieves the high expectations established by Parliament in the *Broadcasting Act* of 1968.

## Best and worst options

3. To answer the question before it is asked, the worst of the proposals for Canadians' choice, is the elimination of over-the-air television (#18). The best, for strengthening Canadian programming, is the introduction of a new service income (#10).

## The context of this proceeding

4. It seems to us that the main question before you today is whether Canada's broadcasting system is worth safeguarding. Should the system be protected if it does not provide the

It is hereby declared as the broadcasting policy for Canada that ... the Canadian broadcasting system should ... serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada ....

*Broadcasting Act*, S.C. 1991, c. 11, s. 3(1)(d)(i)

Canadian population with essential services which could not be provided otherwise?

Does it make sense for the Commission to protect a system that essentially retails

programs 'using predominantly non-Canadian and other resources'? Canadians should obviously not be denied access to the best programs from other countries:

broadcasting systems must remain open to ideas from other parts of the world.

Nevertheless, efforts to maintain an independent broadcasting system in Canada can

only be justified if it meets the high expectations set by Parliament in the *Broadcasting Act*.

5. With apologies, the text just entered into the record is taken almost verbatim from the CRTC's first major announcement on cable television, in 1969.
6. The Forum is not saying that Canada's broadcasting policies be anchored by history.
7. We are saying that it is better to learn from the failures of the past, than to repeat them.
8. Some say that Canada's broadcasting system is in fine shape – raising the question of why a good thing should be changed. Well, we have concerns about whether Parliament's policy objectives are being met.
9. The system works very well for the four largest companies that control both ends of the pipe, so to speak - 87% of TV revenues and 81% of BDU revenues. It does not work as well for everyone else - especially citizens.

76 The Canadian television industry, including the distribution of television signals, is a success story. ....  
(Johanne Lemay, Lemay-Yates Associés, CRTC public hearing, Transcript, Vol. 1, 8 Sept. 2014)

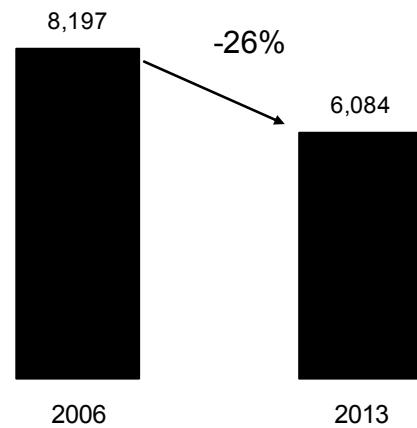
| 2012/13 broadcast year<br>(in \$ millions current) | Local TV<br>(OTA TV) | National TV<br>(pay and specialty<br>services) | Total TV     | Distribution -<br>cable/sat/MDS (br'g,<br>internet, telephony etc.) | Total        |
|--|----------------------|--|--------------|---|--------------|
| Shaw/Corus   | \$418                | \$950  | \$1,368      | \$3,837   | \$6,573      |
| Rogers   | \$273                | \$434  | \$707        | \$3,421   | \$4,835      |
| BCE  | \$776                | \$1,480  | \$2,256      | \$2,118   | \$6,630      |
| Quebecor   | \$249                | \$92   | \$341        | \$2,668   | \$3,350      |
| Subtotal, top 4                                    | \$1,716              | \$2,956  | \$4,672      | \$12,045  | \$21,389     |
| Canada   | \$1,944              | \$3,413  | \$5,357      | \$14,822  | \$25,536     |
| <b>Top 4, as % of Canada</b>                       | <b>88.3%</b>         | <b>86.6%</b>                                   | <b>87.2%</b> | <b>81.3%</b>  | <b>83.8%</b> |

Source: Aggregated financial summaries of major broadcasters, and CRTC *Statistical and Financial Summaries*, 2012/13

10. For example, private over-the-air TV stations have been shedding jobs for many years, 26% since 2006 alone.

11. Independent producers have created new jobs - but if most are in Vancouver, Toronto and Montreal, what opportunities for working in Canada's television system exist everywhere else? Mandating more hours of original, local non-newscast program production will create employment opportunities, improve service to smaller cities and underserved regions, and meet Parliament's local reflection goal.

**Conventional TV: staff**



Source: CRTC, *Television Statistical and Financial Summaries, 2002-2006*, and *Conventional Television 2009-2013*

12. Much of section 3 also mandates the pre-eminence of Canadian content. Unfortunately, very few data are available about what domestically produced programming is actually being broadcast in Canada today. This makes it difficult to evaluate proposals put forward in the course of this hearing to eliminate Canadian TV content requirements.

13. Suppose, however, that in November 2013 Canada's private TV services broadcast significantly less original Canadian programming and original Canadian drama than in November 2000. If so, shouldn't a new TV policy set clear objectives and measurable goals to ensure that by 2025 Canada's population can access more, not fewer, hours of original Canadian content?

14. As for affordability, making all television services à la carte ignores solid, empirical evidence, including the 2010 study mentioned in our written submission.<sup>1</sup> Using actual prices and viewer preferences in the US, it estimated that à la carte BDU system would *double* the prices subscribers pay for the same or less service, which may be why the US Senate abandoned the pick and pay approach yesterday.<sup>2</sup> Complete à la carte militates against Parliament's requirement that BDU rates be affordable. It should not be implemented.
15. Canadians clearly find BDU rates far too high. Since the CRTC stopped publishing basic rate data in 2005, it is impossible to study variations in these rates across Canada, or to determine if they have risen for any reason other than what the market will bear. Last week we learned, for instance, that some BDUs may be allocating

4160 [Mr. Bibic, Bell] Appendix 3 of our submission shows the proportion of our operating costs represented by the non-mandated channels in our basic package. The numbers are confidential but you could see from that if you just take all else as being equal, and factor in no puts and takes and you just take those channels out and assume that the BDU will therefore save that programming cost, we're not going from \$26 in Quebec or \$36 in Ontario to \$5 in terms of being able to offer a skinny basic package.

4161 **And I use \$5 as an extreme number because it was a number, I think, that I heard yesterday. That's because we still have network costs, call center costs, products, programming, support, sales, marketing, set-top box, et cetera.**

Mirko Bibic, Bell, CRTC public hearing, Transcript, Vol. 3, 10 Sept. 2014), bold font added

<sup>1</sup> Gregory S. Crawford (Department of Economics, University of Warwick and Centre for Economic Policy Research) and Ali Yurukoglu (Graduate School of Business, Stanford University), (April 2011), cited at p. 52, footnote 108 of FRPC submission of 27 June 2014.

<sup>2</sup> Julian Hattem, "Major TV changes go off the air in Senate", *The Hill* (17 September 2014), <http://thehill.com/policy/tech/217968-major-tv-changes-go-off-the-air>:

Lawmakers in the Senate have abandoned plans to overhaul the way people choose which television stations are part of their cable or satellite subscriptions.

The broadcast industry revolted at the Senate Commerce Committee's initial proposal to let people choose which broadcast channels — such as ABC or NBC — they want in their package, a proposal sometimes referred to as "à la carte TV."

Now the panel is set to vote Wednesday on a much narrower set of reforms to the TV market — with the channels proposal notably absent. ...

most or all fixed costs to basic. Has this always been so, and should basic-only subscribers pay the fixed costs of a BDU's entire set of services? In our view, no.

16. Moving on to the implementation of a new TV policy, we take the liberty of adopting words the Chairman mentioned last week – trust, but verify.

### Proposal 1: trust

17. Canadians must be able to trust the CRTC to put their interests first. We define those interests in terms of Parliament's broadcasting law for Canada, which, incidentally,

8981 THE CHAIRPERSON: Right, but you would accept that -- because the guidelines, I think you would agree, is a "Trust Us" -- I always thought trust, but verify is also a very good way of going about it -- that it could escalate into something more binding should the trust be breached?  
(CRTC public hearing Transcript, Vol. 4, 8 Sept. 2014)

does not mention terms such as 'profit margins', or 'viability'.

18. We focus on the *Act* because the Supreme Court's 2012 retransmission decision re-affirmed the CRTC's mandate to implement this cultural policy. Turning off OTA TV transmitters removes choice, and may not even be within the CRTC's mandate or its jurisdiction.

*Reference re Broadcasting Regulatory Policy CRTC 2010-167 and Broadcasting Order CRTC 2010-168*, 2012 SCC 68, [2012] 3 SCR 489 :

...

[22] Policy statements, such as the declaration of Canadian broadcasting policy found in s. 3(1) of *the Broadcasting Act*, are not jurisdiction-conferring provisions. They describe the objectives of Parliament in enacting the legislation and, thus, they circumscribe the discretion granted to a subordinate legislative body (Sullivan, at pp. 387-88 and 390-91). As such, **declarations of policy cannot serve to extend the powers of the subordinate body to spheres not granted by Parliament in jurisdiction-conferring provisions.**

...

[32] This interpretation is consistent with a reading of the *Act* in its entire context. The *Broadcasting Act* has a primarily cultural aim. The other powers enumerated in s. 10(1) deal with such matters as the allocation of broadcasting time and the setting of standards for programs. In addition, **the objectives of the *Broadcasting Act*, declared in s. 3(1), when read together, target “the cultural enrichment of Canada, the promotion of Canadian content, establishing a high standard for original programming, and ensuring that programming is diverse” (ISP Reference, at para. 4). While such declarations of policy may not be invoked as independent**

**grants of power, they should be given due weight in interpreting specific provisions of an Act: Sullivan, at pp. 388 and 390-91. Parliament must be presumed to have empowered the CRTC to work towards implementing these cultural objectives; however, the regulatory means granted to the CRTC to achieve these objectives fall short of creating exclusive control rights.**

[33] In sum, **nowhere in the Act is there a reference to the creation of exclusive control rights over signals or programs. Reading the *Broadcasting Act* in its entire context reveals that the creation of such rights is too great a stretch from the core purposes intended by Parliament and from the powers granted to the CRTC under the Broadcasting Act.**

[bold font added]

## Proposal 2: Verify

19. That said, the decisions from this proceeding must, of course, be verified or at least supported by evidence. Much of this is complex, and key evidence, such as the financial data sought by PIAC for individual TV stations - and whose request the Forum supported in a 9-page letter to the Commission on August 28 - has also been filed in confidence. This secrecy makes verification, and challenging the evidence, impossible.
20. In some cases, of course, evidence is public, such as Bell's simsub study.<sup>3</sup> It uses the method of a 1990 paper written for the Department of Communications to measure the value of simsub,<sup>4</sup> and estimates that dropping simsub today would cost private English-language TV broadcasters as much as \$458 million,<sup>5</sup> or almost 24% of all private TV revenues in 2013.
21. This study raises at least three questions.

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<sup>3</sup> Armstrong Consulting, *The Economic Value of Simultaneous Signal Substitution for English-Language Private Television Broadcasters*, Update to 2012/13 (6-25-2014), App. 5 of Bell submission.

<sup>4</sup> Arthur Donner, *The Financial Impacts of Section 19.1 of the Income Tax Act (Bill C-58) and Simultaneous Substitution* (Department of Communications, 1990). (hereafter the "Donner Study").

<sup>5</sup> Armstrong Consulting, Executive Summary, bullet 3.



22. First, if simsub affected 6% of private TV revenues in 1990,<sup>6</sup> why does it now affect 24% of private TV revenues? A change of this magnitude needs explanation.
23. Second, the 1990 study simply attempted to measure the value of simsub at that time. What this hearing needs, though, is an estimate of the financial and other advantages and disadvantages of eliminating simsub, preferably over time. The Bell study seems to assume that simsub would vanish overnight, and does not discuss the impact of programs that broadcasters would presumably develop and schedule to replace American content.
24. Would it not be more reasonable to assume that broadcasters would begin to include programs as popular as *Vikings* in their schedules, to mitigate the costs of losing simsub?
25. Finally, the study does not address other effects of simsub - such as the impact on our broadcasting system when Canadian broadcasters tie their schedules to those of foreign

8535 Canadians expect and deserve high-quality Canadian content -- the Act demands it. Against tremendous odds, we've delivered and I'm passionate about both our previous and ongoing successes as well as the potential for an even more exciting future.

8536 With the creativity and dedication of our independent production partners, we have never produced a higher quantity or better quality of popular Canadian shows like "Rookie Blue," "Lost Girl," "Continuum," "Vikings," "Top Chef Canada," "Museum Secrets," "Yukon Gold," "Timber Kings." I could go on. Recently, every top 10 program on HGTV over a 20-week period was Canadian -- a terrific accomplishment.

(Barb Williams, Shaw, CRTC public hearing, Transcript, Vol. 4, 11 Sept. 2014)

<sup>6</sup> CAB/ACR, *Review of Regulatory Frameworks for BDUs and Discretionary Programming Services*, submission to the CRTC in response to Notice of Public Hearing 2007-10 by the Canadian Association of Broadcasters (Ottawa, 19 October 2007) at 43, para. 171:

A comprehensive assessment of the economic benefits of simultaneous substitution was provided in a 1990 study commissioned by the Minister of Communications. The study estimated that simultaneous substitution yielded an economic benefit of at least \$67.3 million in net revenues in 1988, based on the methodology used by the author. ...

The CRTC's *Television Statistical and Financial Summaries, 1988-1993* reported at p. 17 total revenue of \$1,198 million for Canadian private television (including the CTV network). \$67.3 million in net revenues represents 5.6% of this amount.

broadcasters, or when they schedule foreign programs to fill holes in their schedules even if this scheduling conflicts with the values set out in broadcaster codes of conduct.

### Proposal 3: Report

26. Third and last, the Forum respectfully asks that the CRTC publish specific and measurable outcomes for Canadian television, in terms of basic service pricing, employment, original Canadian drama and original local content.

27. When so much decision-making today is based on mega-data, it is odd that so much of the data that would enable informed commentary and fact-based policy-making is

15 When we began the "Let's Talk TV" conversation last October, we had new ideas in mind, ones that departed from the way the Commission has viewed television in the past. **We wanted to shift our focus from rules to outcomes**, from constraint to choice, from scheduled to on demand, from channels to programs, from meeting quotas to embracing new opportunities, from domestic to global. (Chair, CRTC public hearing Transcript, 8 Sept. 2014, Vol. 1)

either not being collected, or not being published, by the Commission. None of the 110 tables and figures in this year's monitoring report, for instance, set out the hours of original and repeat Canadian, local and foreign TV programs that are broadcast in Canada, even though broadcasters send this data to the Commission every month.

28. Canadians need this to evaluate progress towards meeting the *Act's* objectives.

### Conclusion

29. Thank you again, Commissioners, for permitting us to appear before you.

30. Your position, Mr Chairman and Commissioners, is not one we envy. It cannot be easy to hear so many divergent views both in and outside this process. You know that some changes have to be made - but no matter what decisions emerge from this proceeding, none of the players within the system will be entirely pleased. And given that we live in an age of litigation and appeal when folks don't get what they want, your decision may be only the first step in the long process of broadcasting *real politik*.

31. No pressure here - but some of the key cultural underpinnings of this country are in your hands. As the old crusader advised seekers of the Holy Grail in that Indiana Jones movie, we urge you to choose wisely.
32. This is why the Forum suggests that the most appropriate course for this Commission, as some of its predecessors have found, is to act within the confines of the CRTC's enabling statutes - and to trust, but verify, and report.

We welcome your questions.

**Appendix to Broadcasting Notice of Consultation CRTC 2014-190-3**

**WORKING DOCUMENT FOR DISCUSSION** Date modified by CRTC 2014-08-21 (modified by FRPC on 18 Sept 2014)

| Theme and Proposal   | What this means for Canadians  | FRPC's position and comments   |
|--|--|--|
| <p><b>1. Small Basic</b><br/> <b>Option A:</b> Broadcasting distribution undertakings (BDUs) would be required to offer a small basic service that includes only: local Canadian stations, all 9(1)(h) services, educational services, and, if offered, the community channel and the provincial legislature.<br/>                     The small basic service would be promoted in an equivalent manner to other packages.</p>  | <p>Canadians would be able to purchase a small basic cable or satellite package that includes a limited number of Canadian-only channels.<br/>                     This package would include their local stations, and if offered, a community channel and a provincial legislature channel. It would also include Canadian channels that fulfill important policy objectives under the <i>Broadcasting Act</i>.<br/>                     It wouldn't be necessary to buy any other channels.</p> | <p>FRPC supports Option A, but would prefer that the interests of people with low or fixed incomes be protected through rate regulation, as in Option B, below.</p>  |
| <p><b>Option B:</b> BDUs would be required to offer a basic service that would include: local Canadian stations, all 9(1)(h) services, educational services, and, if offered, the community channel and the provincial legislature, and any other services selected by the BDU.<br/>                     The retail price of basic would be capped at one of the following prices:<br/>                     \$20<br/>                     \$25<br/>                     \$30<br/>                     The basic service would be promoted in an equivalent manner to other packages.</p> | <p>Canadians would be able to purchase an affordable basic cable or satellite package for a set price between \$20 and \$30. This package would include their local stations, and if offered, a community channel and a provincial legislature channel. It would also include Canadian channels that fulfill important policy objectives under the <i>Broadcasting Act</i>, as well as any other channels that their cable or satellite provider chooses to offer.</p>                             | <p>FRPC supports Option B, at a price of \$20 (and preferably lower) as a price cap would protect the interests of people with low or fixed incomes.</p> <p>Option B does not explain the way in which BDUs would be able to add channels to the basic package, or whether they would then be able to raise the rate of this package. FRPC strongly recommends that the CRTC ensure, either through conditions of licence or a regulation, that mandated rates only be allowed to change following an application process.</p> <p>FRPC also urges the Commission to ensure that fixed costs be allocated to the basic service strictly in proportion to the revenues that basic revenues generate. In other words, if basic service generates half of a licensee's BDU revenues, the basic service should only pay half of the BDU fixed costs of that licensee.</p> |
| <p><b>2. Pick and Pay</b></p>  | <p>Canadians would be able to choose the discretionary</p>   | <p>FRPC's concern is that the research studies that are part of</p>  |

| Theme and Proposal  | What this means for Canadians   | FRPC's position and comments  |
|---|---|---|
| <p>BDUs would be required to allow subscribers to select all discretionary services on a standalone (pick-and-pay) basis.</p>   | <p>television channels they receive from their cable or satellite television providers on an individual basis.</p>  | <p>the evidence of this proceeding conclude that complete pick-and-pay BDU service could double BDU subscribers' monthly rates. FRPC therefore opposes a regulatory framework in which all television services would be available strictly à la carte.</p> <p>If the CRTC declines to regulate the wholesale rates charged by television programming, FRPC would also be very concerned that low- and fixed-income Canadians will be priced out of the television system that exists to serve them.</p> <p>That said, FRPC supports a system in which all Canadians receive key Canadian television services, and have options to choose bundles of services and stand-alone services, provided that the final package they receive is predominantly Canadian (50% +1).</p> |
| <p><b>3. Build-your-own package</b><br/>BDUs would be required to allow subscribers to build their own custom packages of discretionary programming services (BYOP).<br/>BDUs could still offer pre-assembled packages.</p> | <p>Canadians would be able to build their own packages made up of channels that they choose.<br/>Canadians who like the convenience of pre-assembled packages could continue to benefit from this option.</p> | <p>FRPC supports this option, provided the final set of services that Canadian obtain is predominantly Canadian (50% + 1)</p>   |
| <p><b>4. Simultaneous Substitution</b><br/><b>Option A:</b> BDUs would no longer be permitted to perform simultaneous substitution.</p>   | <p>Canadians would be able to watch all non-Canadian programs, such as the Super Bowl, with American advertisements.</p>  | <p>FRPC supports this option, but only if it were implemented gradually over time. The CRTC implemented simultaneous substitution 43 years ago in 1971 (<i>Canadian Broadcasting: "A Single System" - Policy Statement on Cable Television</i>, 16 July 1971) at 26-29. It would be impossible, if not foolhardy, to attempt to eliminate ss</p>  |
| <p><b>Option B:</b> BDUs would not be permitted to perform simultaneous substitution for live event</p>   | <p>Canadians would be able to watch live events, including sporting events such as the Super Bowl, with American</p>  | <p>FRPC does not support this option, as it maintains Canadian broadcasters' dependence on US broadcasters'</p>   |

| Theme and Proposal   | What this means for Canadians   | FRPC's position and comments  |
|--|---|---|
| programming (e.g., a sporting event or an awards show).  | advertisements.   | scheduling practices, and because people who want to watch American advertisements in major sports events may, to the best of our knowledge, watch these online.  |
| <p><b>5. Preponderance</b><br/> <b>Option A:</b> BDUs would be required to ensure that each subscriber <i>receives</i> a preponderance of Canadian services.</p>   | Subscribers to cable or satellite television providers would have to receive more Canadian channels than non-Canadian channels.   | FRPC supports this option as we believe it meets the objectives of the <i>Broadcasting Act</i> , specifically ss. 3(1)(t)(i), 3(1)(f) and 3(1)(a).  |
| <p><b>Option B:</b> BDUs would be required to <i>offer</i> a preponderance of Canadian services</p>  | Cable and satellite television providers would have to offer more Canadian than non-Canadian channels. However, subscribers would ultimately choose how many Canadian or non-Canadian channels to which they subscribe.   | FRPC strongly opposes this option, as we believe it contravenes ss. 3(1)(t)(i), 3(1)(f) and 3(1)(a) of the <i>Broadcasting Act</i> .  |
| <b>BDU-PROGRAMMER RELATIONSHIP "A healthy and dynamic wholesale market"</b>  |   |   |
| <p><b>6. Affiliation agreement issues that impact the ability of BDUs to offer more choice</b><br/>                     The Vertical Integration Code of Conduct (VI Code) would be expanded to prohibit certain provisions that impede a BDU's ability to offer a pick and pay option on an affordable basis, i.e., unreasonable penetration-based rate cards, requirements to distribute a service on the same terms as at a prior date, most favored nation (MFN) provisions.</p> | This would ensure that negotiations between television providers and Canadian programmers are conducted fairly so that Canadians are able to choose only the discretionary television channels that they want.  | <p>FRPC does not support changes to a code of conduct that will disadvantage independent programming services.</p> <p>We consider, however, that the current regime has not protected BDU subscribers' interests, either by minimizing prices (as it appears that some BDUs may be marking up programming service rates by 100% or more on the sole ground that the market will bear such increases) or ensuring diversity of programming (as it appears that many valuable services licensed by the CRTC are unable to launch at all, because BDUs choose not carry the services).</p> |
| <p><b>7. Access for non-vertically integrated (VI) programming services</b><br/>                     The VI Code would be expanded to include provisions that would ensure access for non-VI services to the system, i.e., BDUs would have to</p>  | This would ensure that negotiations between large broadcasting companies and independent broadcasters are conducted fairly so that Canadians would continue to have access to the diverse array of programming that independent television channels bring to the Canadian | <p>FRPC supports this proposal as it is one way to ensure more diversity in the range of Canadian programming services available to Canadians.</p> <p>We believe, however, that it would be more efficient for</p>  |

| Theme and Proposal  | What this means for Canadians   | FRPC's position and comments  |
|---|---|---|
| <p>facilitate and not impose unreasonable conditions on the ability of independent programming services to pursue multi-platform programming strategies. For every two related services that it distributes, a VI BDU would have to distribute at least one non-VI service in the same language (2:1 linkage).</p>  | <p>broadcasting system.</p>   | <p>the CRTC to hearing applications for wholesale rates, and impose these by condition of licence.</p>  |
| <p><b>8. Dispute resolution and the VI Code</b><br/>All VI undertakings would have to abide by the VI Code as a regulatory requirement. If they have not renewed an affiliation agreement with a non-VI service within 120 days of its expiry, VI undertakings would be required to submit to dispute resolution.</p>   | <p>This is another measure to ensure that Canadians continue to have access to the diverse array of programming that independent broadcasters bring to the Canadian broadcasting system.</p>  | <p>FRPC supports this proposal, but believe that it would be more efficient for the CRTC to hearing applications for wholesale rates, and impose these by condition of licence.</p> |
| <p><b>9. Distribution of non-Canadian programming services</b><br/>The current approach to authorizing non-Canadian services for distribution in Canada would be maintained. As a condition of authorization, non-Canadian services would have to agree to abide by the VI Code and submit to the Commission's dispute resolution mechanisms, including undue preference.</p> | <p>Canadians would continue to have access to non-Canadian channels, as they do now.</p>  | <p>FRPC supports this proposal, but does not support an open-entry approach to authorizing non-Canadian services.</p>   |
| <p><b>CANADIAN PROGRAMMING "A renewed national programming strategy"</b></p>  |   |   |
| <p><b>10. Redefining broadcasting revenues (French and English markets)</b><br/>The definition of broadcasting revenues for licensees would be revised to include revenues from programming offered online or on other exempt</p>   | <p>For the first time, broadcasters would be allowed to count what they spend on original programming that they produce for the Internet towards what they are required to spend on Canadian programming overall. This would encourage broadcasters to make more Canadian content</p> | <p>FRPC supports this proposal.</p>   |

| Theme and Proposal   | What this means for Canadians  | FRPC's position and comments  |
|--|--|---|
| <p>platforms.<br/>Broadcasters would be allowed to count towards Canadian programming expenditures (CPE) their expenditures on original online only programming.</p>   | <p>online.</p>   |   |
| <p><b>11. Programs of National Interest (PNI) (French and English markets)</b><br/>The percentage of revenues dedicated to the funding of PNI would be maintained.<br/>For the largest private broadcast groups:</p> <ul style="list-style-type: none"> <li>• PNI contributions range from a minimum of 5% to up to 9% of revenues;</li> <li>• 75% of PNI must be allocated to independent production</li> </ul> <p>CBC English-language television would continue to broadcast a minimum of nine hours per week of PNI in prime time, averaged over the broadcast year. Given the specific circumstances of the French-language market, existing requirements regarding the level of PNI would be maintained at current levels and would be re-examined during the licensees' licence renewal.<br/>Children's programming would be included in the definition of PNI.</p> | <p>Broadcasters would still have to spend a portion of their revenues on certain types of Canadian programs such as dramas like <i>Orphan Black</i>, <i>Lost Girl</i>, <i>Unité 9</i> and <i>La Galère</i>, long-form documentaries such as <i>W5</i> and <i>Museum Secrets</i>, as well as music and variety shows. They would also be encouraged to spend a portion of this revenue on children's programming. This policy would ensure that consumers have access to programming for Canadians made by Canadians.</p> | <p>FRPC generally supports this proposal, but urges the Commission to consider instead consistent and predictable - rather than studied - increases in PNI levels when each licence is renewed.</p>   |
| <p><b>12. Programming requirements (French and English markets)</b><br/>All licensed television stations and specialty and pay services would be subject to CPE requirements. The group-based licensing approach would be maintained and CPE levels would be adjusted initially to maintain the current level of dollar expenditures. CPE would increase over the licence</p>  | <p>All licensed TV stations and specialty and pay channels would contribute financially to the production of Canadian programs. However, they could continue to take advantage of the efficiencies available by being members of a large broadcasting group.<br/>Their financial contributions to Canadian programs would increase over time.<br/>Requirements to show Canadian programs during the day</p>  | <p>Although FRPC does not oppose this proposal, no evidence clearly establishes that the group-licensing approach has increased the level of funding for Canadian programming, or that it has resulted in the development and scheduling of more hours of original Canadian programs.</p> |



| Theme and Proposal  | What this means for Canadians  | FRPC's position and comments  |
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| <p>term. CPE levels would be determined at licence renewal.<br/>Exhibition requirements for the broadcast day would be eliminated, but evening period requirements would be maintained.</p>   | <p>would be lifted. Canadian programs must still be shown in the evening. This means that Canadian programs would still be available during the time of day when most Canadians watch television while reducing program repeats.</p>   |   |
| <p>13. <b>Genre protection (French and English markets)</b><br/>The genre exclusivity policy and protections for Category A pay and specialty services would be eliminated. Specialty services would no longer have a regulated nature of service, but would be fully competitive and subject to standard requirements. These services would no longer have access rights.</p>  | <p>Consumers would be able to choose from a number of Canadian channels that cater to specific tastes on a variety of topics from various sources. This would help ensure that programming is created to appeal to consumers' varied interests, and give creators the flexibility to come up with innovative and entertaining content.</p> | <p>FRPC does not support this proposal, as it effectively defeats the purpose of having 'specialty' channels.<br/><br/>Broadcasters that would prefer to offer general-interest services have always been and remain free to apply for conventional television licences - but generally have not.<br/><br/>In our view, the abandonment of genre protection will provide less diverse programming to Canadians, and does not serve their interests.</p> |
| <p>14. <b>Licensing criteria for Category C national news services</b><br/>In addition to the current licensing criteria for Category C news specialty services, the Commission would introduce new obligations in order to ensure high-quality news programming. The obligations would include the following:</p> <ul style="list-style-type: none"> <li>• An average of 16 hours per day of original news coverage 7 days a week;</li> <li>• A commitment that programming would be drawn exclusively from news and current affairs programming.</li> </ul> <p>In addition, applicants would have to demonstrate that:</p> <ul style="list-style-type: none"> <li>• They have a proven track record in</li> </ul> | <p>The Commission would introduce criteria that an applicant would have to meet to be licensed as a national news channel. This would ensure that Canadians have access to quality news programming that provides them with a reasonable opportunity to be exposed to the expression of differing views on matters of public concern.</p>  | <p>FRPC supports these criteria, but only if the CRTC monitors and reports on how Category C national news services meet these criteria, in its annual <i>Communications Monitoring Reports</i>.</p>  |

| Theme and Proposal  | What this means for Canadians   | FRPC's position and comments  |
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| <ul style="list-style-type: none"> <li>producing high quality news programming;</li> <li>There is evidence of demand in the market for an additional national news service; and</li> <li>The proposed service would bring additional programming diversity to the national news landscape.</li> </ul>   |   |   |
| <p>15. <b>Audience Measurements</b><br/>The industry would be required to establish a working group to work cooperatively to develop a set-top box (STB) based audience measurement system, which would include technical standards, privacy protections, governance structure and cost sharing.<br/>The working group would be established within 3 months of the date of the decision on the Let's Talk TV proceeding and report back to the Commission within eight months with a progress report. The report would set out the working group's accomplishments (including a concrete model for the establishment of an STB-based audience measurement system which addresses, among other things, the data to be collected, a governance structure, privacy protocols and a system for addressing the funding and cost recovery).</p> | <p>By having more information about what programs are being watched, broadcasters would be able to better serve Canadian viewers through the programming that they offer.<br/>This would be done with due regard to the privacy of Canadians.</p> | <p>FRPC supports the establishment of a working group, provided it includes representatives from privacy-rights organizations and public interest groups.</p>   |
| <b>LOCAL PROGRAMMING "A viable local presence"</b>  |   |   |
| <p>16. <b>Licensing regime for over-the-air stations</b><br/>Local stations would be permitted to shut down transmitters.<br/>Service areas would be designated according to the</p>  | <p>Local stations would no longer have to operate transmitters. This would reduce some costs for struggling local stations so that they can continue to offer Canadians a local presence in their communities.</p>                                | <p>FRPC strongly opposes this proposal, as the evidence on the record is that any proposed savings will be substantially outweighed by new BDU subscription costs for Canadians. There is also no evidence to explain how</p> |

| Theme and Proposal   | What this means for Canadians   | FRPC's position and comments  |
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| <p>contours of the former transmitter. Local stations without transmitters would continue to be distributed on the basic service and be subject to the current weekly local programming requirements. BDUs would not be required to pay a wholesale fee for these local stations. Local stations without transmitters would continue to be allowed to share CPE and PNI within the same licence group.</p> |   | <p>the Commission will be able to ensure that any alleged savings actually are transferred to local station programming. Finally, it is unclear whether the Commission has the legal jurisdiction to so fundamentally alter Canada's broadcasting landscape by allowing now-free over-the-air television stations to convert into BDU-delivered services that will immediately or afterwards begin to charge subscription fees for their service.</p> |
| <p>17. <b>Community programming</b><br/>The current regulatory requirements for community programming would continue to apply. As set out in its three-year plan, the CRTC would assess the ongoing effectiveness of the Community Television Policy in 2015-16.</p>   | <p>Canadians would be provided with the same level and quality of community programming as they are now.</p>  | <p>FRPC supports this proposal.</p>   |
| <p><b>TELEVISION PROGRAMMING AVAILABLE TO ALL CANADIANS “Accessible and diverse content for all Canadians”</b></p>   |   |   |
| <p>18. <b>Official language minority communities</b><br/>The current requirement for all licensed terrestrial BDUs to distribute one minority-language discretionary service, where licensed, for every ten majority-language services they distribute would be maintained. This rule would be extended to direct-to-home (DTH) providers.</p>   | <p>Canadians living in official language minority communities would continue to have access to television channels in their official language.</p>  | <p>FRPC supports this proposal.</p>   |
| <p>19. <b>Third-language services</b><br/>The buy-through requirement with respect to Category A third-language services would be eliminated. BDUs would be required to offer one Canadian</p>   | <p>Currently, consumers must first subscribe to Fairchild TV, Teletatino, Talentvision, Asian Television Network or Odyssey if they want to subscribe to any other Canadian or non-Canadian channel in the same language, i.e., Cantonese, Italian, Spanish, Mandarin, Hindi and Greek.</p> | <p>FRPC believes that this proposal should be considered in a separate ethnic broadcasting proceeding.ss</p>  |

| Theme and Proposal  | What this means for Canadians   | FRPC's position and comments  |
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| <p>third-language service (if one exists) for each non-Canadian third-language service it offers. The licensing of ethnic and third-language services would be streamlined by the creation of one type of licence for both Category A and B ethnic and third-language services and by harmonizing the requirements, including CPE requirements.</p>   | <p>Eliminating this requirement would make all types of ethnic and third-language channels generally more accessible and affordable for Canadians. Canadians, especially members of multicultural communities, would have access to more programming of particular relevance to them.</p> |   |
| <p>20. <b>Availability of Described Video (DV)</b><br/>The amount of DV would be increased through a requirement that by the end of the next licence term:</p> <ul style="list-style-type: none"> <li>• Broadcasters that are currently subject to DV requirements, as well as those that are part of a VI group, are required to provide DV for programming aired between 7 p.m. and 11 p.m. (prime time) that could be described based on existing program categories for DV.</li> <li>• All licensed broadcasters, including educational broadcasters, are required to provide four hours of DV per week, consistent with the existing DV requirement.</li> </ul> <p>As part of this approach, the obligation to ensure that two of the four hours of DV are original to the service would be eliminated. Exempt services that are not part of a VI group would not be subject to the new DV requirements.</p> | <p>Availability of described video would be ramped up to encompass all suitable programming during prime time (7 p.m. to 11 p.m.).</p>  | <p>FRPC supports this proposal, but notes that as currently presented it will not ensure fully accessible television programming for Canadians until beyond 2020. It is unconscionable to delay the availability of accessible television content past the first two decades of the 21st century.</p> |
| <p>21. <b>Accessibility of hardware</b><br/>BDUs' compliance with existing customer service requirements with respect to accommodating subscribers with disabilities would be assessed. In addition, BDUs would be required to ensure that:</p>   | <p>Set top boxes that are accessible to users (e.g., those who are blind or partially sighted) would be offered as they become available. The Commission would review customer service practices to ensure that all Canadians are well served.</p>  | <p>FRPC respectfully submits that reviewing customer service practices will be insufficient to ensure that television-related hardware is fully accessible in our lifetimes. The CRTC should establish a working group with accessibility organizations, whose mandate would be to propose a</p>      |

| Theme and Proposal  | What this means for Canadians  | FRPC's position and comments  |
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| <ul style="list-style-type: none"> <li>subscribers are able to identify programming with DV in the electronic programming guide; and</li> <li>set-top boxes, where available for procurement, are accessible to subscribers with vision and fine motor skill disabilities. These should include accessibility features such as set and forget, and activation of DV with a single button click.</li> </ul>  |  | <p>deadline for full compliance basic accessibility standards, as well as sanctions for non-compliance. As for sanctions, 'nuclear' options are not required to ensure compliance. If an organization such as Bell or Rogers were called to public hearings on a quarterly basis to report their progress, it is likely that their shareholders would begin to pressure the company to implement changes to avoid continued public embarrassment.</p> |
| <p>22. <b>Closed Captioning (CC) online</b><br/>Broadcasters would be expected to ensure that, when linear programming that includes CC is broadcast over digital media, the CC is included in the non-linear version.<br/>The existing approach with respect to the quality of CC would be maintained. Members of the French- and English-language working groups would be asked to report on the status of their ongoing work related to quality standards and the timing of their new proposals.</p> | <p>More content aired with closed captioning on television would be accessible online.<br/>Ongoing developments by the closed captioning working groups would be examined to ensure that users of closed captioning are being well served.</p> | <p>The existing approach should be changed as accessibility organizations have suggested.</p>   |

**CONSUMER INFORMATION AND RECOURSE “An informed and empowered consumer”**

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| <p>23. <b>BDU Code</b><br/>A new BDU Code would govern the relationship between BDUs and their subscribers, consistent with applicable provisions of the Wireless Code such as contract clarity, notice of changes to contract terms, and cancellation fees.<br/>The BDU Code would also ensure that subscribers are notified of changes in the packaging and genres of the programming services to which they</p> | <p>Canadians would benefit from more consistent customer service. They would be equipped with greater knowledge about their contracts and bills and how to make complaints. As a result, they would be able to make more informed choices about the channels they receive.</p> | <p>FRPC supports the principle of excellent public service for BDU, and other, subscribers. The proposed Code may be useful in this regard. The CRTC should clearly state, however, that BDU prices are unlikely to be affected by the implementation of a BDU Code. The CRTC should also establish a mechanism for reviewing the implementation of such a Code, as well as the criteria that would be used to evaluate the degree to which the Code is achieving its objectives. Changes in the level of complaints, for</p> |
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| Theme and Proposal  | What this means for Canadians  | FRPC's position and comments  |
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| <p>subscribe.<br/>The BDU Code would also be consistent with the provisions of the Cable Television Customer Service Standards and the Digital Competitive Services Standards (for DTH undertakings) relating to customer service standards and complaints procedures.</p>  |  | <p>instance, would be irrelevant to evaluating BDU subscriber satisfaction, as complaints may decrease simply because a marketing campaign advising Canadians about the Code is unsuccessful.</p>               |
| <p><b>24. Ombudsman</b><br/>In addition to companies' internal ombudsmen, an industry-wide ombudsman would be appointed to adjudicate the BDU Code.</p>   | <p>The ombudsman would oversee the BDU Code and make sure that it is followed. Consumers would be able to take their complaints to this ombudsman.</p>   | <p>FRPC does not oppose this proposal, but recommends that the Commission clearly state that the Ombudsman will lack any authority to address BDU pricing.</p>  |
| <p><b>STREAMLING THE REGULATORY REGIME "A forward-looking regulatory regime"</b></p>  |  |   |
| <p><b>25. Expanding the BDU exemption order</b><br/>The exemption order for terrestrial BDUs would be broadened to allow BDUs with fewer than 20,000 subscribers to enter and compete in markets with licensed BDUs.<br/>Undertakings that qualify for exemption would be required to notify the Commission by letter no later than three months prior to commencing operations in the new service area. This letter, which would be posted on the Commission's website, would contain relevant information regarding the operation of the undertaking, including a distribution grid(s).</p> | <p>This would allow more distributors to compete in larger markets without first having to get a licence, thereby providing Canadians with a greater choice of television providers.</p>                                 | <p>FRPC supports this proposal, provided the Commission is able to collect the information from exempted services necessary to evaluate BDU subscriber rates, and the diversity of services being provided.</p> |
| <p><b>26. Eliminating rules with respect to analog distribution</b><br/>The rules regarding the distribution of BDUs' programming services on an analog basis would be streamlined by eliminating existing rules and</p>  | <p>Canadians that wish to receive analog cable service would be able to do so for the foreseeable future.<br/>The vast majority of Canadians do not receive their television services through this older technology.</p> | <p>FRPC supports Option A, with the understanding that the services that BDU subscribers receive is also predominantly Canadian.</p>  |

| Theme and Proposal  | What this means for Canadians  | FRPC's position and comments   |
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| <p>replacing them with:<br/> <b>Option A:</b> an overall requirement to distribute predominantly Canadian services.<br/> <b>Option B:</b> an obligation to distribute on the basic service only those Canadian priority services currently being carried on an analog basis.<br/> <b>Option C:</b> a provision that grandfathers the distribution of services currently carried on basic.</p>   |  |  |
| <p>27. <b>Discretionary programming services exemption orders</b><br/>                     The exemption order related to third-language programming services would be expanded to eliminate exclusions for particular languages. The Category B exemption order would be expanded to include all discretionary services that serve fewer than 200,000 subscribers.</p>   | <p>Currently, most third-language channels do not require a broadcasting licence. The exemption order would be expanded to include <i>all</i> third-language channels. Expanding the exemption orders would make it easier for broadcasters to launch new discretionary channels in English, French and many other languages to serve consumers.</p> | <p>FRPC considers that this proposal should be considered within a review of the ethnic broadcasting policy.</p>   |
| <p>28. <b>Consolidation of programming services licences</b><br/>                     The following new programming service categories would be established, based on their distribution by BDUs:</p> <ul style="list-style-type: none"> <li>• Basic services (current television stations and provincial educational services).</li> <li>• Discretionary services (current specialty and pay Category A, B and C services. Services granted a 9(1)(h) order requiring their distribution on basic would continue to be offered on basic, but would be licensed as discretionary services).</li> <li>• On-demand services (current video-on-demand and pay-per-view services).</li> </ul> | <p>Programming service licences would now be divided into three distinct categories. This would simplify the regulation of these channels but won't affect the programming.</p>  | <p>FRPC generally supports this proposal, except that the class of basic service should be defined to establish that services being delivered by over-the-air television transmitters are also free.</p> |

| Theme and Proposal   | What this means for Canadians  | FRPC's position and comments  |
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| <p><b>Other matters</b></p> <p>29. <b>Implementation</b> The regulatory framework set out above would come into force on 15 December 2015.</p> | <p>Canadians would know exactly when these new rules will come into force.</p> | <p>FRPC generally supports this proposal, and recommends that the CRTC also publish a timeline and seek comments about the criteria needed to evaluate the impact of the framework.</p> |



FRPC's preferences regarding the working proposals, ranked by importance (with 1 being an issue that requires immediate attention, and 30 being an issue that does not require attention at this time)

| FRPC ranking | Working document options, in order of appearance  |
|--------------|---|
| 1.           | <b>1.Option B:</b> BDUs would be required to offer a \$20 basic service that would include: local Canadian stations, all 9(1)(h) services, educational services, and, if offered, the community channel and the provincial legislature, and any other services selected by the BDU. |
| 2.           | <b>10 Redefining broadcasting revenues (French and English markets).</b>  |
| 3.           | <b>4 Simultaneous Substitution</b><br><b>Option A:</b> BDUs would no longer be permitted to perform simultaneous substitution.  |
| 4.           | <b>5 Preponderance</b><br><b>Option A:</b> BDUs would be required to ensure that each subscriber <i>receives</i> a preponderance of Canadian services.  |
| 5.           | <b>3 Build-your-own package</b>   |
| 6.           | <b>7 Access for non-vertically integrated (VI) programming services</b>   |
| 7.           | <b>8 Dispute resolution and the VI Code</b>   |
| 8.           | <b>6 Affiliation agreement issues that impact the ability of BDUs to offer more choice</b>  |
| 9.           | <b>13 Genre protection (French and English markets) (maintained)</b>  |
| 10.          | <b>14 Licensing criteria for Category C national news services</b>  |
| 11.          | <b>9 Distribution of non-Canadian programming services (current approach maintained)</b>  |
| 12.          | <b>11 Programs of National Interest (PNI) (French and English markets)</b>  |
| 13.          | <b>12 Programming CPE requirements (French and English markets)</b>   |
| 14.          | <b>20 Availability of Described Video (DV)</b>  |
| 15.          | <b>21 Accessibility of hardware</b>   |
| 16.          | <b>22 Closed Captioning (CC) online</b>   |
| 17.          | <b>15 Audience Measurements</b>   |
| 18.          | <b>17 Community programming</b>   |
| 19.          | <b>18 Official language minority communities</b>  |
| 20.          | <b>19 Third-language services</b>   |
| 21.          | <b>25 Expanding the BDU exemption order</b>   |
| 22.          | <b>23 BDU Code</b>  |

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**FRPC's preferences regarding the working proposals, ranked by importance (with 1 being an issue that requires immediate attention, and 30 being an issue that does not require attention at this time)**

| <b>FRPC ranking</b> | <b>Working document options, in order of appearance</b>                    |
|---------------------|--|
| <b>23.</b>          | <b>24 Ombudsman for BDU code</b>   |
| <b>24.</b>          | <b>29 Other matters - 15 December 2015 implementation</b>                  |
| <b>25.</b>          | <b>26 Eliminating rules with respect to analog distribution - Option A</b> |
| <b>26.</b>          | <b>27 Discretionary programming services exemption orders</b>              |
| <b>27.</b>          | <b>28 Consolidation of programming services licences</b>                   |
| <b>28.</b>          | <b>16 Licensing regime for over-the-air stations</b>                       |
| <b>29.</b>          | <b>2 Pick and Pay</b>  |