Draft (17 October 2021)

**Side-by-side comparison of the 1991 *Broadcasting Act* and sections of other statutes with the provisions of Bill C-10 as presented to the Senate in June 2021**

**(Bill C-10, *An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts* (Introduction and First Reading in the House of Commons, 3 November 2020)**

Forum for Research and Policy in Communications (FRPC)

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**Contents**

Statute Page

*Note: \* Section –* asterisk denotes changes proposed by Bill C-10

[Broadcasting Act 1](#_Toc85394796)

[Section 1 – Short title 1](#_Toc85394797)

[PART I *[Interpretation, Broadcasting Policy, Application]* 1](#_Toc85394798)

[\* Section 2 - Interpretation 1](#_Toc85394799)

[\* Section 3(1) – Broadcasting policy for Canada 5](#_Toc85394800)

[\* Section 4 – application 12](#_Toc85394801)

[\* New section 4.1 – online programming 13](#_Toc85394802)

[PART II *[Objects, powers, hearings, rules]* 14](#_Toc85394803)

[Sections 5(1) - Objects 14](#_Toc85394804)

[\* Section 5(2) – Regulatory policy 15](#_Toc85394805)

[Section 6 – Policy guidelines and statements 17](#_Toc85394806)

[Section 7 – Policy directions 17](#_Toc85394807)

[\* Section 8 – GIC orders 18](#_Toc85394808)

[**\* Section 9 – General powers** 20](#_Toc85394809)

[\* New section 9.1 - CRTC authority re broadcasting 22](#_Toc85394810)

[\* Section 10 – regulations generally 26](#_Toc85394811)

[\* Section 11 - licence fees 28](#_Toc85394812)

[\* Section 12 – inquiries & mandatory orders 30](#_Toc85394813)

[Section 13 – Mandatory order enforcement 32](#_Toc85394814)

[Section 14 - Research 32](#_Toc85394815)

[Section 15 – Reports to GIC 33](#_Toc85394816)

[Section 16 - Hearings 33](#_Toc85394817)

[Section 17 – Questions of fact/law 33](#_Toc85394818)

[\* Section 18 – Hearings and procedure 34](#_Toc85394819)

[Section 19 – Notice of hearing 34](#_Toc85394820)

[Section 20 – Commission panels 35](#_Toc85394821)

[Section 21 – CRTC rules 36](#_Toc85394822)

[Section 22 - Licences 36](#_Toc85394823)

[\* Section 23 Consultation between CRTC & CBC 37](#_Toc85394824)

[\* Section 24 – Suspension & revocation 38](#_Toc85394825)

[\* Section 25 – Reporting CBC contravention 40](#_Toc85394826)

[\* New Sections 25.1 to 25.3(7) CRTC information sharing 41](#_Toc85394827)

[Section 26 – GIC powers 43](#_Toc85394828)

[Section 27 – Free Trade Agreement 44](#_Toc85394829)

[\* Section 28 – GIC (referring back or setting aside) 45](#_Toc85394830)

[\* Section 29 - Petitions 46](#_Toc85394831)

[Section 30 – GIC schedule amendment 47](#_Toc85394832)

[Section 31 – decisions and orders 47](#_Toc85394833)

[\* New section 31.1 - Prohibitions 48](#_Toc85394834)

[\* Section 32 – Offences (‘Broadcasting contrary to Act’) 48](#_Toc85394835)

[\* Section 33 – Offences (regulations/orders) 49](#_Toc85394836)

[\* Section 34 - Limitations 49](#_Toc85394837)

[PART II.1 *[Paper bills]* 49](#_Toc85394838)

[\* Section 34 – Paper bills (new s. 34.2 - Defence] 50](#_Toc85394839)

[New Part II.2 *[AMPs – ss. 33.4 to 34.998]* 50](#_Toc85394840)

[\* New Part II.4 *[Misrepresentation of fact]* 58](#_Toc85394841)

[PART III *[CBC]* 58](#_Toc85394842)

[Section 35 - Definitions 58](#_Toc85394843)

[Section 36 – continuation of CBC 59](#_Toc85394844)

[Section 37 – Oath of office 60](#_Toc85394845)

[\* Section 38 – Directors’ outside interests 60](#_Toc85394846)

[Section 39 – Directors’ responsibility 61](#_Toc85394847)

[Section 40 – CBC accountability to Parliament 61](#_Toc85394848)

[Section 41 – CBC Chairperson 62](#_Toc85394849)

[Section 42 - CBC President 62](#_Toc85394850)

[Section 43 – remuneration 63](#_Toc85394851)

[Section 44 - staff 63](#_Toc85394852)

[Section 45 – Standing committee 64](#_Toc85394853)

[\* Section 46 – CBC objects and powers 65](#_Toc85394854)

[\* Section 46(2) – International service 67](#_Toc85394855)

[\* Section 46(3) – CBC power to act as agent 67](#_Toc85394856)

[Section 47 – Agent of Her Majesty 68](#_Toc85394857)

[Section 48 – Selling property 69](#_Toc85394858)

[Section 49 - Expropriation 70](#_Toc85394859)

[Section 50 – CBC heading office 70](#_Toc85394860)

[Section 51 – CBC by-laws 71](#_Toc85394861)

[Section 52 – Financial provisions 72](#_Toc85394862)

[Section 53 – Financial year (April – March) 73](#_Toc85394863)

[Section 54 – Annual Corporation Plan 73](#_Toc85394864)

[Section 55 – Annual summary of corporation plan 75](#_Toc85394865)

[Section 56 – Treasury Board regs for corporate plan 76](#_Toc85394866)

[Section 57 – CBC's bank accounts 76](#_Toc85394867)

[Section 59 – CBC surplus 78](#_Toc85394868)

[Section 61 – CBC's Auditor 78](#_Toc85394869)

[Section 70 – CBC's subsidiaries 79](#_Toc85394870)

[Section 71 – CBC's annual report to Parliament 79](#_Toc85394871)

[PART IV *[Related & consequential amendments]* 80](#_Toc85394872)

[Amendments to other statutes 84](#_Toc85394873)

[Canada’s Anti-Spam Legislation – CASL 84](#_Toc85394874)

[\* Section 6(7.1) – exception for online undertakings 87](#_Toc85394875)

[\* Section 6(9) – implied consent 87](#_Toc85394876)

[Cannabis Act 88](#_Toc85394877)

[\* Section 23 - publication 88](#_Toc85394878)

[Canadian Radio-television and Telecommunications Commission Act 88](#_Toc85394879)

[\* Section 13 – Annual Report (notices of violation) 88](#_Toc85394880)

[Copyright Act 89](#_Toc85394881)

[\* Section 30.8 - Definitions 89](#_Toc85394882)

[\* Section 31 – Definition of new media retransmitter 90](#_Toc85394883)

[Referendum Act 91](#_Toc85394884)

[\* Section 21 – Free broadcast time 91](#_Toc85394885)

[\* Section 24 – free broadcast time not election expense 92](#_Toc85394886)

[Canada Elections Act 92](#_Toc85394887)

[\* Section 335 – broadcast time to registered parties 92](#_Toc85394888)

[Accessible Canada Act 94](#_Toc85394889)

[\* Section 42 – first accessibility plan 94](#_Toc85394890)

[\* Section 118 – non-application 94](#_Toc85394891)

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| **Note: the attached pages provide a good-faith, best-effort side-by-side comparison of the 1991 *Broadcasting Act* and with changes to the statutes proposed in the first reading of Bill C-10 to the Senate; the Forum does not claim that the comparison is perfect or free of error, or that it constitutes any form of advice or counsel.** |

| **Current statute** | **Bill C-10 (as passed by the House of Commons, 21 June 2021)** | | | | | | | Notes |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Broadcasting Act |  | | | | | | |  |
| *Broadcasting Act* S.C. 1991, c. 11 Assented to 1991-02-01 An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication | *An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts*  As Passed  By the House of Commons  June 21, 2021 | | | | | | |  |
| Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: |  | | | | | | |  |
| Section 1 – Short title |  | | | | | | |  |
| Short Title Marginal note: Short title |  | | | | | | |  |
| 1 This Act may be cited as the Broadcasting Act. |  | | | | | | |  |
| PART I *[Interpretation, Broadcasting Policy, Application]* |  | | | | | | |  |
| General |  | | | | | | |  |
| \* Section 2 - Interpretation |  | | | | | | |  |
| Interpretation |  | | | | | | |  |
| Marginal note: Definitions |  | | | | | | |  |
| 2 (1) In this Act, |  | | | | | | |  |
|  | ***affiliate***, in relation to any person, means any other person who controls that first person, or who is controlled by that first person or by a third person who also controls the first person; (*affilié*) | | | | | | |  |
|  | ***barrier*** has the same meaning as in section 2 of the *Accessible Canada Act*; (*obstacle*) | | | | | | |  |
| broadcasting means any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place; (radiodiffusion) | ***broadcasting*** means any transmission of programs — regardless of whether the transmission is scheduled or on demand or whether the programs are encrypted or not — by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place; (*radiodiffusion*) | | | | | | |  |
| broadcasting receiving apparatus means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting; (récepteur) |  | | | | | | |  |
| broadcasting undertaking includes a distribution undertaking, a programming undertaking and a network; (entreprise de radiodiffusion) | ***broadcasting undertaking*** includes a distribution undertaking, an online undertaking, a programming undertaking and a network; (entreprise de radiodiffusion) | | | | | | |  |
| Commission means the Canadian Radio-television and Telecommunications Commission established by the Canadian Radio-television and Telecommunications Commission Act; (Conseil) |  | | | | | | |  |
|  | ***Community element*** means the participation of members of the community in the content production of community media in the language of their choice, as well as in the day-to-day operations and administration of community media; (élément communautaire) | | | | | | | What are community broadcasters? |
|  | ***control***, in the definition *affiliate*, in subparagraph 9.1(1)(i)(i) and in paragraph 9.1(1)(m), includes control in fact, whether or not through one or more persons; (*contrôle*) | | | | | | |  |
| Corporation means the Canadian Broadcasting Corporation continued by section 36; (Société) |  | | | | | | |  |
| distribution undertaking means an undertaking for the reception of broadcasting and the retransmission thereof by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking; (entreprise de distribution) | ***distribution undertaking*** means an undertaking for the reception of broadcasting and its retransmission by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking, but does not include such an undertaking that is an online undertaking; (entreprise de distribution) | | | | | | |  |
| encrypted means treated electronically or otherwise for the purpose of preventing intelligible reception; (encodage) |  | | | | | | |  |
|  | ***Indigenous peoples*** has the meaning assigned by the definition aboriginal peoples of Canada in subsection 35(2) of the *Constitution Act, 1982*; (peuples autochtones) | | | | | | |  |
| licence means a licence to carry on a broadcasting undertaking issued by the Commission under this Act; (licence) |  | | | | | | |  |
| Minister means such member of the Queen’s Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act; (ministre) |  | | | | | | |  |
| network includes any operation where control over all or any part of the programs or program schedules of one or more broadcasting undertakings is delegated to another undertaking or person; (réseau) | ***network*** includes any operation where control over all or any part of the programs or program schedules of one or more broadcasting undertakings is delegated to another undertaking or person, but does not include such an operation that is an online undertaking; (réseau) | | | | | | |  |
|  | ***online undertaking***means an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus; (entreprise en ligne) | | | | | | |  |
| program means sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text; (émission) |  | | | | | | | Is the key to programming sound? |
|  | ***programming control***means control over the selection of programs for transmission, but does not include control over the selection of a programming service for retransmission; (contrôle de la programmation) | | | | | | |  |
| programming undertaking means an undertaking for the transmission of programs, either directly by radio waves or other means of telecommunication or indirectly through a distribution undertaking, for reception by the public by means of broadcasting receiving apparatus; (entreprise de programmation) | ***programming undertaking*** means an undertaking for the transmission of programs, either directly by radio waves or other means of telecommunication or indirectly through a distribution undertaking, for reception by the public by means of broadcasting receiving apparatus, but does not include such an undertaking that is an online undertaking; (entreprise de programmation) | | | | | | | =>***online undertaking***means an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus; (entreprise en ligne) |
| radio waves means electromagnetic waves of frequencies lower than 3 000 GHz that are propagated in space without artificial guide; (ondes radioélectriques) |  | | | | | | |  |
| temporary network operation means a network operation with respect to a particular program or a series of programs that extends over a period not exceeding sixty days. (exploitation temporaire d’un réseau) |  | | | | | | |  |
|  | **Exclusion — carrying on broadcasting undertaking**  (2.1) A person who uses a social media service to upload programs for transmission over the Internet and reception by other users of the service — and who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — does not, by the fact of that use, carry on a broadcasting undertaking for the purposes of this Act. | | | Would exceptions focussed on the social media service that affect users  9.1 (3.1) Orders made under this section, other than orders made under paragraph (1)(e.2), (i.1) or (j), do not apply in respect of programs that are uploaded to an online undertaking that provides a social media service by a user of the service — if that user is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the service.  9.1(e.2) allows CRTC to impose conditions of broadcasting undertakings re “the **expenditures** to be made by persons carrying on broadcasting undertakings for the purposes set out in subsection 11.1(1)” [re Cancon/public participation]  S. 9.1(i.1) permits CRTC to issue orders re **discoverability of Canadian content creators** to online undertakings that provide social media service(s)  s. 9.1(j) allows CRTC to impose conditions on broadcasting undertakings re “the provision to the Commission, by persons carrying on broadcasting undertakings, of any other information that the Commission considers necessary for the administration of this Act, including  (i) financial or commercial information,  (ii) information related to programming,  (iii) information related to expenditures made under section 11.1,  (iv) information related to audience measurement, other than information that could identify any individual audience member, and  (v) other information related to the provision of broadcasting services. | | | | |
|  | **Exclusion – transmission over the Internet**  (2.2) A person does not carry on a broadcasting undertaking for the purposes of this Act whose transmission of programs over the Internet is  (a) ancillary to a business not primarily engaged in the transmission of programs to the public and is intended to provide information or services to clients;  (b) part of the operations of a primary or secondary school board, college, university or other institution of higher learning, a public library or a museum; or  (c) part of the operations of a theatre, concert hall or other venue for the presentation of live performing arts. | | | | | | |  |
| Marginal note: Meaning of other means of telecommunication |  | | | | | | |  |
| (2) For the purposes of this Act, other means of telecommunication means any wire, cable, radio, optical or other electromagnetic system, or any similar technical system. |  | | | | | | |  |
| Marginal note: Interpretation |  | | | | | | |  |
| (3) This Act shall be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings. | (3) This Act shall be construed and applied in a manner that  (a) is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings; and  (b) supports the commitment of the Government of Canada to enhance the vitality of both official languages and of official language minority communities in Canada. | | | | | | |  |
| 1991, c. 11, s. 21993, c. 38, s. 811995, c. 11, s. 43 |  | | | | | | |  |
| Broadcasting Policy for Canada |  | | | | | | |  |
| \* Section 3(1) – Broadcasting policy for Canada |  | | | | | | |  |
| Marginal note: Declaration |  | | | | | | |  |
| 3 (1) It is hereby declared as the broadcasting policy for Canada that |  | | | | | | |  |
| (a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians; | (a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians, and foreign broadcasting undertakings may also provide programming to Canadians; | | | | | | |  |
|  | (a.1) each broadcasting undertaking shall contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking; | | | | | | |  |
| (b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty; |  | | | | | | |  |
| (c) English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements; | (c) while sharing common aspects, English and French language broadcasting operate under different conditions — in particular, the minority context of French in North America — and may have different requirements; | | | | | | |  |
| (d) the Canadian broadcasting system should |  | | | | | | |  |
| (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada, |  | | | | | | |  |
| (ii) encourage the development of Canadian expression by providing 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, | (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity and by displaying Canadian talent in entertainment and information programming, | | | | | | | See new 3(1)(i)(ii.1) re news:  “… include programs produced by Canadians that cover news and current events — from the local and regional to the international — and that reflect the viewpoints of Canadians, including the viewpoints of Indigenous persons and of Canadians from racialized communities and diverse ethnocultural backgrounds;” |
| (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society, and | (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians — including Canadians from racialized communities and Canadians of diverse ethnocultural backgrounds, socioeconomic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages — and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples within that society, | | | | | | |  |
|  | (iii.1) provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings, and | | | | | | |  |
|  | (iii.2) support the production and broadcasting of original programs in French, | | | | | | |  |
|  | (iii.3) enhance the vitality of official language minority communities and support and assist their development by taking into account their particular needs and interests — in particular that French is a minority language in Canada and that English is a minority language in Quebec — including through supporting the production and broadcasting of original programs by and for those communities, | | | | | | |  |
|  | (iii.4) support community broadcasting that reflects both the diversity of the communities being served and the high engagement and involvement in community broadcasting by members of those communities, including with respect to the languages in use within those communities and to the ethnocultural and Indigenous composition of the communities, | | | | | | |  |
|  | (iii.5) ensure that Canadian independent broadcasting undertakings continue to be able to play a vital role within that system, | | | | | | |  |
|  | (iii.6) serve the needs and interests of official language minority communities by providing them with opportunities to produce and access programming in English or French, and | | | | | | |  |
| (iv) be readily adaptable to scientific and technological change; |  | | | | | | |  |
| (e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming; |  | | | | | | |  |
| (f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources; | (f) each Canadian broadcasting undertaking shall employ and make maximum use, and in no case less than predominant use, of Canadian creative and other human resources in the creation, production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources; | | | | | | |  |
|  | (f.1) each foreign online undertaking shall make the greatest practicable use of Canadian creative and other human resources, and shall contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, in accordance with the objectives of the broadcasting set out in this subsection and taking into account the linguistic duality of the market they serve; | | | | | | | How to interpret “practicable”?  See 3.(1)(i)(ii) Will foreign undertakings be required to provide local etc. news? |
| (g) the programming originated by broadcasting undertakings should be of high standard; | (g) the programming over which a person who carries on a broadcasting undertaking has programming control should be of high standard; | | | | | | |  |
| (h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast; | (h) all persons who carry on broadcasting undertakings have a responsibility for the programs that they broadcast and over which they have programming control; | | | | | | |  |
| (i) the programming provided by the Canadian broadcasting system should |  | | | | | | |  |
| (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes, | (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of all ages, interests and tastes, | | | | | | |  |
|  | (i.1) recognize and support Canada’s linguistic duality by placing significant importance on the creation, production and broadcasting of French language original programs, including those from French linguistic minority communities, | | | | | | | How to define “original”? |
| (ii) be drawn from local, regional, national and international sources, | (ii) be drawn from local, regional, national and international sources, including, at the local level, from community broadcasters who, through collaboration with local organizations and community members, are in the unique position of being able to provide varied programming to meet the needs of specific audiences, | | | | | | | Could community broadcasters replace local programming services? |
|  | (ii.1) include programs produced by Canadians that cover news and current events — from the local and regional to the national and international — and that reflect the viewpoints of Canadians, including the viewpoints of Indigenous persons and of Canadians from racialized communities and diverse ethnocultural backgrounds; | | | | | | | Must every service provide local/regional/ national & international news? |
| (iii) include educational and community programs, |  | | | | | | |  |
| (iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and |  | | | | | | |  |
| (v) include a significant contribution from the Canadian independent production sector; |  | | | | | | |  |
| (j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system; |  | | | | | | |  |
| (k) a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available; | (k) a range of broadcasting services in English and in French shall be progressively extended to all Canadians; | | | | | | |  |
| (l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains; | (l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide broadcasting services incorporating a wide range of programming that informs, enlightens and entertains; | | | | | | |  |
| (m) the programming provided by the Corporation should |  | | | | | | |  |
| (i) be predominantly and distinctively Canadian, |  | | | | | | |  |
| (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions, |  | | | | | | |  |
| (iii) actively contribute to the flow and exchange of cultural expression, |  | | | | | | |  |
| (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities, |  | | | | | | |  |
| (v) strive to be of equivalent quality in English and in French, |  | | | | | | |  |
| (vi) contribute to shared national consciousness and identity, |  | | | | | | |  |
| (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and |  | | | | | | |  |
| (viii) reflect the multicultural and multiracial nature of Canada; |  | | | | | | |  |
| (n) where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it shall be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it shall be resolved in favour of the objectives set out in paragraphs (l) and (m); |  | | | | | | |  |
| (o) programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose; | (o) programming that reflects the Indigenous cultures of Canada and programming that is in Indigenous languages should be provided within the Canadian broadcasting system, including by broadcasting undertakings that are carried on by Indigenous persons and community elements | | | | | | |  |
| (p) programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose; | (p) programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system; | | | | | | | Does this require all programming to be accessible? |
| (q) without limiting any obligation of a broadcasting undertaking to provide the programming contemplated by paragraph (i), alternative television programming services in English and in French should be provided where necessary to ensure that the full range of programming contemplated by that paragraph is made available through the Canadian broadcasting system; | (q) online undertakings that provide the programming services of other broadcasting undertakings should  (i) ensure the discoverability of Canadian programming services and original Canadian content, including French language original content, in an equitable proportion, and  (ii) when programming services are supplied to them by other broadcasting undertakings under contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services; | | | | | | | “equitable” in relation to what?  Does AMPs authority extend to these terms? |
| (r) the programming provided by alternative television programming services should | (r) online undertakings must clearly promote and recommend Canadian programming, in both official languages as well as Indigenous languages, and ensure that any means of control of the programming generates results allowing its discovery; and | | | | | | |  |
| (i) be innovative and be complementary to the programming provided for mass audiences, |  | | | | | | |  |
| (ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences, and include programming devoted to culture and the arts, |  | | | | | | |  |
| (iii) reflect Canada’s regions and multicultural nature, |  | | | | | | |  |
| (iv) as far as possible, be acquired rather than produced by those services, and |  | | | | | | |  |
| (v) be made available throughout Canada by the most cost-efficient means; |  | | | | | | |  |
| (s) private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, |  | | | | | | |  |
| (i) contribute significantly to the creation and presentation of Canadian programming, and |  | | | | | | |  |
| (ii) be responsive to the evolving demands of the public; and |  | | | | | | |  |
| (t) distribution undertakings |  | | | | | | |  |
| (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations, |  | | | | | | |  |
| (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost, |  | | | | | | |  |
| (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and |  | | | | | | |  |
| (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities. |  | | | | | | |  |
| Marginal note: Further declaration |  | | | | | | |  |
| (2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority. |  | | | | | | |  |
| \* Section 4 – application |  | | | | | | |  |
| Application |  | | | | | | |  |
| Marginal note: Binding on Her Majesty |  | | | | | | |  |
| 4 (1) This Act is binding on Her Majesty in right of Canada or a province. |  | | | | | | |  |
| Marginal note: Application generally |  | | | | | | |  |
| (2) This Act applies in respect of broadcasting undertakings carried on in whole or in part within Canada or on board |  | | | | | | |  |
| (a) any ship, vessel or aircraft that is |  | | | | | | |  |
| (i) registered or licensed under an Act of Parliament, or |  | | | | | | |  |
| (ii) owned by, or under the direction or control of, Her Majesty in right of Canada or a province; |  | | | | | | |  |
| (b) any spacecraft that is under the direction or control of |  | | | | | | |  |
| (i) Her Majesty in right of Canada or a province, |  | | | | | | |  |
| (ii) a citizen or resident of Canada, or |  | | | | | | |  |
| (iii) a corporation incorporated or resident in Canada; or |  | | | | | | |  |
| (c) any platform, rig, structure or formation that is affixed or attached to land situated in the continental shelf of Canada. |  | | | | | | |  |
| Marginal note: For greater certainty |  | | | | | | |  |
| (3) For greater certainty, this Act applies in respect of broadcasting undertakings whether or not they are carried on for profit or as part of, or in connection with, any other undertaking or activity. |  | | | | | | |  |
| Marginal note: Idem |  | | | | | | |  |
| (4) For greater certainty, this Act does not apply to any telecommunications common carrier, as defined in the Telecommunications Act, when acting solely in that capacity. |  | | | | | | |  |
| \* New section 4.1 – online programming | ***New section 4.1 was dropped from C-10 by CHPC***  **~~Non-application — certain programs~~** | | See new section 9.1(3.1):  Exception — online undertaking  9.1(3.1) Orders made under this section, other than orders made under paragraph (1)(e.2), (i.1) or (j), do not apply in respect of programs that are uploaded to an online undertaking that provides a social media service by a user of the service — if that user is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the services.  9.1(e.2) allows CRTC to impose conditions of broadcasting undertakings re “the expenditures to be made by persons carrying on broadcasting undertakings for the purposes set out in subsection 11.1(1)” [re Cancon/public participation]  S. 9.1(i.1) permits CRTC to issue orders re discoverability of Canadian content creators to online undertakings that provide social media service(s)  s. 9.1(j) allows CRTC to impose conditions on broadcasting undertakings re “ the provision to the Commission, by persons carrying on broadcasting undertakings, of any other information that the Commission considers necessary for the administration of this Act, including  (i) financial or commercial information,  (ii) information related to programming,  (iii) information related to expenditures made under section 11.1,  (iv) information related to audience measurement, other than information that could identify any individual audience member, and  (v) other information related to the provision of broadcasting services.  9.2 An online undertaking that provides a social media service is deemed not to exercise programming control (programming control means control over the selection of programs for transmission, but does not include control over the selection of a programming service for retransmission; (contrôle de la programmation)) over programs uploaded by any user of the social media service who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them. | | | | | |
|  | **~~4.1~~** ~~(1) This Act does not apply in respect of~~ | |
|  | ~~(a) programs that are uploaded to an online undertaking that provides a social media service by a user of the service — who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the service; and~~ | |
|  | ~~(b) online undertakings whose broadcasting consists only of such programs.~~ | |
|  | **~~For greater certainty (~~** | |  | | | | | |
|  | ~~2) For greater certainty, subsection (1) does not exclude the application of this Act in respect of a program that is the same as one referred to in paragraph (1)(a) but that is not uploaded as described in that paragraph.~~ | |
| PART II *[Objects, powers, hearings, rules]* |  | | | | | | |  |
| Objects and Powers of the Commission in Relation to Broadcasting |  | | | | | | |  |
| Objects |  | | | | | | |  |
| Sections 5(1) - Objects |  | | | | | | |  |
| Marginal note: Objects |  | | | | | | |  |
| 5 (1) Subject to this Act and the Radiocommunication Act and to any directions to the Commission issued by the Governor in Council under this Act, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, shall have regard to the regulatory policy set out in subsection (2). |  | | | | | | |  |
| \* Section 5(2) – Regulatory policy |  | | | | | | |  |
| Marginal note: Regulatory policy |  | | | | | | |  |
| (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that |  | | | | | | |  |
| (a) is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate; | (a) takes into account the different characteristics of English, French and Indigenous language broadcasting and the different conditions under which broadcasting undertakings that provide English, French or Indigenous language programming operate  — including the minority context of French and Indigenous languages in North America — and the particular needs and interests of official language minority communities; | | | | | | |  |
|  | (a.1) takes into account the nature and diversity of the services provided by broadcasting undertakings, as well as their size, their impact on the Canadian creation and production industry and their contribution to the implementation of Canadian broadcasting policy objectives and any other characteristic that may be relevant in the circumstances; | | | | | | | How to define size? |
|  | (a.2) requires any broadcasting undertaking that cannot make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming to contribute to these Canadian resources in an equitable manner; | | | | | | | Which Canadian resources? |
| (b) takes into account regional needs and concerns; |  | | | | | | |  |
| (c) is readily adaptable to scientific and technological change; |  | | | | | | |  |
| (d) facilitates the provision of broadcasting to Canadians; |  | | | | | | |  |
| (e) facilitates the provision of Canadian programs to Canadians; | (e) facilitates the provision of Canadian programs created and produced in both official languages, including those created and produced by official language minority communities, as well as in Indigenous languages, to Canadians; | | | | | | |  |
|  | (e.1) facilitates the provision of programs that are accessible without barriers to persons with disabilities; | | | | | | |  |
| (f) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians; and | (f) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians | | | | | | |  |
| (g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings. | (g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings, and | | | | | | |  |
|  | (h) takes into account the variety of broadcasting undertakings to which this Act applies and avoids imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). | | | | | | | See section 9(4), which speaks to “significant effect”  Difference between contribution in material manner to implementation, and significant effect on implementation? |
| **Marginal note: Conflict** |  | | | | | | |  |
| (3) The Commission shall give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2). |  | | | | | | |  |
| Marginal note: Employment equity |  | | | | | | |  |
| (4) Where a broadcasting undertaking is subject to the Employment Equity Act, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking. |  | | | | | | |  |
|  | **Official language minority communities**  5.1 In regulating and supervising the Canadian broadcasting system and exercising its powers under this Act, the Commission shall enhance the vitality of official language minority communities and support and assist their development. | | | | | | |  |
|  | **Consultation**  5.2 (1) The Commission shall consult with official language minority communities when making decisions that could adversely affect them. | | | | | | | Only for minority communities?:  Disclose relevant evidence  Meaningfully consult  Openly consult  Reconsideration of decisions & policies |
|  | **Objectives of the consultations**  (2) When engaging in consultations required by subsection (1), the Commission shall  (a) gather information to test its policies, decisions and initiatives;  (b) propose policies, decisions and initiatives that have not been finalized;  (c) seek the opinions of the communities consulted with regard to the policies, decisions or initiatives that are the subject of the consultations;  **(d) provide the communities consulted with all relevant information on which these policies, decisions or initiatives are based;**  **(e) openly and meaningfully consider the opinions provided by the communities consulted;**  **(f) be prepared to alter the policies, decisions or initiatives;**  and  (g) provide feedback to the communities consulted, both during the consultation process and after a decision has been made. | | | | | | |
| Section 6 – Policy guidelines and statements |  | | | | | | |  |
| Marginal note: Policy guidelines and statements |  | | | | | | |  |
| 6 The Commission may from time to time issue guidelines and statements with respect to any matter within its jurisdiction under this Act, but no such guidelines or statements issued by the Commission are binding on the Commission. |  | | | | | | |  |
| Section 7 – Policy directions |  | | | | | | |  |
| Marginal note: Policy directions |  | | | | | | |  |
| 7 (1) Subject to subsection (2) and section 8, the Governor in Council may, by order, issue to the Commission directions of general application on broad policy matters with respect to |  | | | | | | |  |
| (a) any of the objectives of the broadcasting policy set out in subsection 3(1); or |  | | | | | | |  |
| (b) any of the objectives of the regulatory policy set out in subsection 5(2). |  | | | | | | |  |
| Marginal note: Exception |  | | | | | | |  |
| (2) No order may be made under subsection (1) in respect of the issuance of a licence to a particular person or in respect of the amendment, renewal, suspension or revocation of a particular licence. |  | | | | | | | But see new section 7.1 |
| Marginal note: Directions binding |  | | | | | | |  |
| (3) An order made under subsection (1) is binding on the Commission beginning on the day on which the order comes into force and, subject to subsection (4), shall, if it so provides, apply with respect to any matter pending before the Commission on that day. |  | | | | | | |  |
| Marginal note: Exception |  | | | | | | |  |
| (4) No order made under subsection (1) may apply with respect to a licensing matter pending before the Commission where the period for the filing of interventions in the matter has expired unless that period expired more than one year before the coming into force of the order. |  | | | | | | |  |
| Marginal note: Publication and tabling |  | | | | | | |  |
| (5) A copy of each order made under subsection (1) shall be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. |  | | | | | | |  |
| Marginal note: Consultation |  | | | | | | |  |
| (6) The Minister shall consult with the Commission before the Governor in Council makes an order under subsection (1). |  | | | | | | |  |
|  | **For greater certainty**  7.1 For greater certainty, orders may be made under section 7 with respect to the orders made under subsection 9.1(1) or 11.1(2) or the regulations made under subsection 10(1) or 11.1(1). | | | | | | 9.1(1) – orders imposing conditions on broadcasting undertakings to implement broadcasting policy  11.1(2)) – order for expenditures made by specific person carrying on broadcasting undertaking  10(1) – orders re regulations  11.1(1) – program expenditure regulations | |
| \* Section 8 – GIC orders |  | | | | | | |  |
| Marginal note: Procedure for issuance of policy directions |  | | | | | | |  |
| 8 (1) Where the Governor in Council proposes to make an order under section 7, the Minister shall cause the proposed order to be |  | | | | | | |  |
| (a) published by notice in the Canada Gazette, which notice shall invite interested persons to make representations to the Minister with respect to the proposed order; and |  | | | | | | |  |
| (b) laid before each House of Parliament. |  | | | | | | |  |
| Marginal note: Referral to committee | **Representations** | | | | | | |  |
| (2) Where a proposed order is laid before a House of Parliament pursuant to subsection (1), it shall stand referred to such committee thereof as the House considers appropriate to deal with the subject-matter of the order. | (2) The Minister shall  (a) specify in the notice the period — of at least 30 days from the day on which the notice was published under paragraph (1)(a) — during which interested persons may make representations; and  (b) publish, in any manner that the Minister considers appropriate, a report summarizing the representations that are made during that period. (b) publish, in any manner that the Minister considers appropriate, a report summarizing the representations that are made during that period. | | | | | | |  |
| Marginal note: Implementation of proposal | **Implementation of proposal** | | | | | | |  |
| (3) The Governor in Council may, after the expiration of forty sitting days of Parliament after a proposed order is laid before both Houses of Parliament in accordance with subsection (1), implement the proposal by making an order under section 7, either in the form proposed or revised in such manner as the Governor in Council deems advisable. | (3) The Governor in Council may, after the period referred to in paragraph (2)(a) has ended and the proposed order has been laid before each House of Parliament, implement the proposal by making an order under section 7, either in the form proposed or revised in the manner that the Governor in Council considers appropriate. | | | | | | |  |
| Marginal note: Consultation |  | | | | | | |  |
| (4) The Minister shall consult with the Commission before a proposed order is published or is laid before a House of Parliament under subsection (1). |  | | | | | | |  |
| Marginal note: Definition of sitting day of Parliament |  | | | | | | |  |
| (5) In this section, sitting day of Parliament means a day on which either House of Parliament sits. | Repealed | | | | | | |  |
| **\* Section 9 – General powers** |  | | | | | | |  |
| **General Powers** |  | | | | | | |  |
| **Marginal note: Licences, etc.** |  | | | | | | |  |
| 9 (1) Subject to this Part, the Commission may, in furtherance of its objects, |  | | | | | | |  |
| (a) establish classes of licences; | (a) establish classes of licences other than for online undertakings; | | | | | | |  |
| (b) issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee | (b) issue a licence, the term of which may be indefinite or fixed by the Commission; | | | | | | |  |
| (i) as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1), and |  | | | | | | |  |
| (ii) in the case of licences issued to the Corporation, as the Commission deems consistent with the provision, through the Corporation, of the programming contemplated by paragraphs 3(1)(l) and (m); |  | | | | | | |  |
| (c) amend any condition of a licence on application of the licensee or, where five years have expired since the issuance or renewal of the licence, on the Commission’s own motion; | (c) amend a licence as to its term, on the application of the licensee; | | | | | | | CRTC may issue term of any length including forever, but cannot change terms on its own motion |
| (d) issue renewals of licences for such terms not exceeding seven years and subject to such conditions as comply with paragraph (b); | (d) amend a licence other than as to its term, on the application of the licensee or on the Commission’s own motion; | | | | | | |
|  | (e) renew a licence, the term of which may be indefinite or fixed by the Commission; and | | | | | | | Terms can be forever |
| (e) suspend or revoke any licence; | (f) suspend or revoke a licence. | | | | | | |  |
| (f) require any licensee to obtain the approval of the Commission before entering into any contract with a telecommunications common carrier for the distribution of programming directly to the public using the facilities of that common carrier; |  | | | | | | |  |
| (g) require any licensee who is authorized to carry on a distribution undertaking to give priority to the carriage of broadcasting; and |  | | | | | | | Excludes online distribution undertakings; but see 9.1(1)(e.1) that allows CRTC to order online undertaking to carry programming services specified by CRTC |
| (h) require any licensee who is authorized to carry on a distribution undertaking to carry, on such terms and conditions as the Commission deems appropriate, programming services specified by the Commission. |  | | | | | | |  |
| Marginal note: Restrictions re conditions |  | | | | | | |  |
| (2) Notwithstanding subsections (1) and 28(3), no licence of a distribution undertaking may be made subject to a condition that requires the licensee to substitute replacement material for commercial messages carried in a broadcasting signal received by that licensee. |  | | | | | | |  |
| Marginal note: Exception |  | | | | | | |  |
| (3) Subsection (2) does not apply in respect of a condition of a licence renewed after October 4, 1987 where before that date the licensee was complying with such a condition. |  | | | | | | |  |
| **Marginal note: Exemptions** |  | | | | | | |  |
| (4) The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).  1991, c. 11, s. 91994, c. 26, s. 10(F) | (4) The Commission shall, by order, on the terms and conditions that it considers appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part, of an order made under section 9.1 or of a regulation made under this Part if the Commission is satisfied that compliance with those requirements will not have a significant effect on ~~contribute in a material manner to~~ the implementation of the broadcasting policy set out in subsection 3(1). | | | | | | | Broadcasting undertaking defined to include online undertakings – so CRTC can exempt these  9(1)(a) prohibits CRTC from issuing classes of licene for online broadcasting, implying it may issue classes of unlicensed online undertaking  See s. 5(2)(h), which speaks to “material manner”  Difference between contribution in material manner to implementation, and significant effect on implementation? |
|  | **Review**  (5) The Commission shall review the exemption order if it considers compliance with the order to have a significant effect on the implementation of the Canadian broadcasting policy. | | | | | | | Would the evidence of “significant effect” not be speculative? |
| \* New section 9.1 - CRTC authority re broadcasting |  | | | | | | |  |
|  | 9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting | What distinguishes these conditions from regulations made under s. 10?  New s. 7.1 now allows government to issue orders about this section  9.1 (3.1) Orders made under this section, other than orders made under paragraph (1)(e.2), (i.1) or (j), do not apply in respect of programs that are uploaded to an online undertaking that provides a social media service by a user of the service — if that user is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the service. | | | | | | |
|  | (a) the proportion of programs to be broadcast that shall be Canadian programs and the proportion of time that shall be devoted to the broadcasting of Canadian programs; | | | | | | |  |
|  | (a.1) the proportion of Canadian programs to be broadcast that shall be French language original programs, including first-run programs; | | | | | | |  |
|  | (b) the presentation of programs and programming services for selection by the public, including the showcasing and the discoverability of Canadian programs and programming services, such as French-language original programs; | | | | | | | Definition of ‘showcasing’? |
|  | (c) a requirement for a person carrying on a broadcasting undertaking, other than an online undertaking, to obtain the approval of the Commission before entering into any contract with a *telecommunications common carrier*, as defined in the *Telecommunications Act*, for the distribution of programming directly to the public; | | | | | | |  |
|  | (d) a requirement for a person carrying on a distribution undertaking to give priority to the carriage of broadcasting; | | | | | | | Distribution undertaking defined to exclude online BDUs |
|  | (e) a requirement for a person carrying on a distribution undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services specified by the Commission, that are provided by a broadcasting undertaking; | | | | | | |
|  | (e.1) a requirement, without terms or conditions, for a person carrying on an online undertaking to carry programming services, specified by the Commission, that are provided by a broadcasting undertaking; | | | | | | | Why not include online BDUs in distribution definition?  Or is this separate subsection needed because of the “without terms or conditions” req’t?  See 9.1(6) requiring good-faith negotiation |
|  | (e.2) the expenditures to be made by persons carrying on broadcasting undertakings for the purposes set out in subsection 11.1(1); | | | | | | |  |
|  | (f) terms and conditions of service in contracts between distribution undertakings and their subscribers; | | | | | | |  |
|  | (g) access by persons with disabilities to programming, including the identification, prevention and removal of barriers to such access; | | | | | | |  |
|  | (h) the carriage of emergency messages; | | | | | | |  |
|  | (h.1) any change in the ownership or control of a Canadian broadcasting undertaking, that is not an online undertaking, carried on under a licence; | | | | | | | Should the CRTC care when ownership and control of online undertakings changes? |
|  | (i) the provision to the Commission, by licensees or ~~corporations that are licensees or that are~~ persons exempt from the requirement to hold a licence under an order made under subsection 9(4), of information related to  (i) the ownership, governance and control of those licensees or exempt persons ~~corporations~~, and  (ii) the affiliation of those licensees or exempt persons ~~corporations~~ with any affiliates carrying on broadcasting undertakings; and | | | | | | | How does this relate to those the CRTC requires to register?  => relationship to 9.1(1)(j) below? |
|  | (i.1) in relation to online undertakings that provide a social media service, the discoverability of Canadian creators of programs; | | | | | | | See former 4.1  But see 9.1(3.1) &  9.1(3.2) – freedom of expression |
|  | (j) the provision to the Commission, by persons carrying on broadcasting undertakings, of any other information that the Commission considers necessary for the administration of this Act, including  (i) financial or commercial information,  (ii) information related to programming,  (iii) information related to expenditures made under section 11.1,  (iv) information related to audience measurement, other than information that could identify any individual audience member, and  (v) other information related to the provision of broadcasting services. | | | | | | | Why? (Is this being done now?) |
|  | (k) the proportion of programs to be broadcast that shall be original French language programs, while ensuring that these programs represent a significant proportion of Canadian programs; | | | | | | |  |
|  | (l) the proportion of programs to be broadcast that shall be devoted to specific genres in order to ensure the diversity of programming; and | | | | | | |  |
|  | (m) continued Canadian ownership and control by broadcasting undertakings. | | | | | | | Ownership and control of WHAT? |
|  | **Application** | | | | | | |  |
|  | (2) An order made under this section may be made applicable to all persons carrying on broadcasting undertakings, to all persons carrying on broadcasting undertakings of any class established by the Commission in the order or to a particular person carrying on a broadcasting undertaking. | | | | | | |  |
|  | **Non-application** | | | | | | |  |
|  | (3) The *Statutory Instruments Act* does not apply to orders made under this section. | | | | | | | Why? |
|  | **Exception — online undertaking** (3.1) Orders made under this section, other than orders made under paragraph (1)(e.2), (i.1) or (j), do not apply in respect of programs that are uploaded to an online undertaking that provides a social media service by a user of the service — if that user is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the service. | | | | 9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting  (e.2) – s. 11.1(1) expenditures  (i.1) – discover’y of Canadian creators in social media services of online undertakings  (j) – provision of financial information | | | |
|  | **Interpretation** (3.2) For greater certainty, paragraph (1)(i.1) shall be construed and applied in a manner that is consistent with the freedom of expression enjoyed by users of social media services provided by online undertakings. | | | | | | |  |
|  | **Publication and representations** | | | | | | |  |
|  | (4) A copy of each order that the Commission proposes to make under this section shall be published on the Commission’s website and a reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the proposed order. | | | | | | | Should Parliament define ‘reasonable opportunity’ – minimum of 30 calendar days excluding holidays? |
|  | **Publication** | | | | | | |  |
|  | (5) The Commission shall publish each order that is made under this section on its website. | | | | | | |  |
|  | (6) The person carrying on an online undertaking to whom an order made under paragraph (1)(e.1) applies and the person carrying on the broadcasting undertaking whose programming services are specified in the order must negotiate the terms for the carriage of the programming services in good faith. | | | | | | | Breach of this now subject to AMP:  => s. new 33.4(1)(a.1) |
|  | (7) The Commission may facilitate those negotiations at the request of either party to the negotiations. | | | | | | | Any time limit? |
|  | **Programming control — social media service**  9.2 An online undertaking that provides a social media service is deemed not to exercise programming control over programs uploaded by any user of the social media service who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them. | | | | | | |  |
| \* Section 10 – regulations generally |  | | | | | | |  |
| Marginal note: Regulations generally |  | | | | | | |  |
| 10 (1) The Commission may, in furtherance of its objects, make regulations |  | | | | | | | Government may now issue orders under s. 7.1  Could a foreign online undertaking offer partisan political character content during a Canadian election?  Does new section 10(1)(i) enable the CRTC to decide its own jurisdiction?  Does registration matter if failure to register is not an offence? (Or will the CRTC order broadcasting undertakings to register? |
| (a) respecting the proportion of time that shall be devoted to the broadcasting of Canadian programs~~;~~ | [Repealed] | | | | | | |
| (b) prescribing what constitutes a Canadian program for the purposes of this Act; |  | | | | | | |
| (c) respecting standards of programs and the allocation of broadcasting time for the purpose of giving effect to the broadcasting policy set out in subsection 3(1); | (c) respecting standards for programs over which a person carrying on a broadcasting undertaking has programming control and the allocation of broadcasting time, for the purpose of giving effect to the broadcasting policy set out in subsection 3(1); | | | | | | |
| (d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising; |  | | | | | | |
| (e) respecting the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates; | (e) respecting, in relation to a broadcasting undertaking other than an online undertaking, the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates; | | | | | | |
| (f) prescribing the conditions for the operation of programming undertakings as part of a network and for the broadcasting of network programs, and respecting the broadcasting times to be reserved for network programs by any such undertakings; |  | | | | | | |
| (g) respecting the carriage of any foreign or other programming services by distribution undertakings; |  | | | | | | |
| (h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings; |  | | | | | | |
| (i) requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify; | [Note that new section 9.1(1)(j) empowers CRTC to order licensees or those exempted from licensing to submit certain information]  **(i) respecting the registration of broadcasting undertakings with the Commission;** | | | | | | |
| (j) respecting the audit or examination of the records and books of account of licensees by the Commission or persons acting on behalf of the Commission; and | (j) respecting the audit or examination of records and books of account of persons carrying on broadcasting undertakings by the Commission or persons acting on behalf of the Commission; and | | | | | | |
| (k) respecting such other matters as it deems necessary for the furtherance of its objects. |  | | | | | | |
| **Marginal note: Application** |  | | | | | | |  |
| (2) A regulation made under this section may be made applicable to all persons holding licences or to all persons holding licences of one or more classes. | (2) A regulation made under this section may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation. | | | | | | | Note that |
| Marginal note: Publication of proposed regulation | **Publication and representations** | | | | | | |  |
| (3) A copy of each regulation that the Commission proposes to make under this section shall be published in the Canada Gazette and a reasonable opportunity shall be given to licensees and other interested persons to make representations to the Commission with respect thereto. | (3) A copy of each regulation that the Commission proposes to make under this section shall be published in the *Canada Gazette* and a reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. | | | | | | | Can these regulations be appealed? |
| \* Section 11 - licence fees |  | | | | | | |  |
| **Marginal note: Regulations respecting licence fees** |  | | | | | | |  |
| 11 (1) The Commission may make regulations |  | | | | | | | New s. 7.1 now allows government to issue orders about this section  Allows classes of broadcasting undertaking  [9(1)(a) allows CRTC to establish classes of licences other than for online undertakings;] |
| (a) with the approval of the Treasury Board, establishing schedules of fees to be paid by licensees of any class; | (a) with the approval of the Treasury Board, establishing schedules of fees to be paid by persons carrying on broadcasting undertakings of any class; | | | | | | |
| (b) providing for the establishment of classes of licensees for the purposes of paragraph (a); | (b) providing for the establishment of classes of broadcasting undertakings for the purposes of paragraph (a); | | | | | | |
| (c) providing for the payment of any fees payable by a licensee, including the time and manner of payment; | (c) providing for the payment of any fees payable by a person carrying on a broadcasting undertaking, including the time and manner of payment; | | | | | | |
| (d) respecting the interest payable by a licensee in respect of any overdue fee; and | (d) respecting the interest payable by such a person in respect of any overdue fee; and | | | | | | |
| (e) respecting such other matters as it deems necessary for the purposes of this section. |  | | | | | | |
| **Marginal note: Criteria** |  | | | | | | |  |
| (2) Regulations made under paragraph (1)(a) may provide for fees to be calculated by reference to any criteria that the Commission deems appropriate, including by reference to | (2) Regulations made under paragraph (1)(a) may provide for fees to be calculated by reference to any criteria that the Commission considers appropriate, including by reference to | | | | | | |  |
| (a) the revenues of the licensees; | (a) the revenues of the persons carrying on broadcasting undertakings | | | | | | |  |
| (b) the performance of the licensees in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and | (b) the performance of the persons carrying on broadcasting undertakings in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and | | | | | | |  |
| (c) the market served by the licensees. | (c) the market served by the persons carrying on broadcasting undertakings. | | | | | | |  |
| Marginal note: Exceptions |  | | | | | | |  |
| (3) No regulations made under subsection (1) shall apply to the Corporation or to licensees carrying on programming undertakings on behalf of Her Majesty in right of a province. | (3) No regulations made under subsection (1) shall apply to the Corporation or to persons carrying on programming undertakings on behalf of Her Majesty in right of a province. | | | | | | | Impact on proposed penalties for CBC non-compliance? |
|  | (3.1) The only fees that may be established with respect to a broadcasting undertaking that may be carried on without a licence shall be fees that relate to the recovery of the costs of the Commission’s activities under this Act. | | | | | | |  |
| Marginal note: Debt due to Her Majesty |  | | | | | | |  |
| (4) Fees payable by a licensee under this section and any interest thereon constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction. | (4) Fees payable under this section and any interest in respect of them constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction. | | | | | | |  |
| Marginal note: Publication of proposed regulations |  | | | | | | |  |
| (5) A copy of each regulation that the Commission proposes to make under this section shall be published in the Canada Gazette and a reasonable opportunity shall be given to licensees and other interested persons to make representations to the Commission with respect thereto. | (5) A copy of each regulation that the Commission proposes to make under this section shall be published in the *Canada Gazette* and a reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. | | | | | | |  |
|  | 11.1 (1) The Commission may make regulations respecting expenditures to be made by persons carrying on broadcasting undertakings for the purposes of | | | | | | | New s. 7.1 now allows government to issue orders about this section |
|  | (a) developing, financing, producing or promoting Canadian audio or audio-visual programs for broadcasting by broadcasting undertakings; | | | | | | |
|  | (b) supporting, promoting or training Canadian creators of audio or audio-visual programs for broadcasting by broadcasting undertakings; or | | | | | | |
|  | (c) supporting participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under this Act. | | | | | | |
|  | **Order — particular broadcasting undertaking** | | | | | | |  |
|  | (2) The Commission may make an order respecting expenditures to be made by a particular person carrying on a broadcasting undertaking for any of the purposes set out in paragraphs (1)(a) to (c). | | | | | | | New s. 7.1 now allows government to issue orders about this section |
|  | Application of regulations | | | | | | |  |
|  | (3) A regulation made under this section may be made applicable to all persons carrying on broadcasting under- takings or to all persons carrying on broadcasting under takings of any class established by the Commission in the regulation. | | | | | | |  |
|  | **Recipients** | | | | | | |  |
|  | (4) Regulations and orders made under this section may provide that an expenditure is to be paid to any person or organization, other than the Commission, or into any fund, other than a fund administered by the Commission. | | | | | | |  |
|  | **Criteria** | | | | | | |  |
|  | (5) Regulations and orders made under this section may provide for expenditures to be calculated by reference to any criteria that the Commission considers appropriate, including by reference to | | | | | | |  |
|  | (a) the revenues of the persons carrying on broadcasting undertakings | | | | | | |  |
|  | (b) the performance of the persons carrying on broadcasting undertakings in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and | | | | | | |  |
|  | (c) the market served by the persons carrying on broadcasting undertakings. | | | | | | |  |
|  | **Publication and representations** | | | | | | |  |
|  | (6) A copy of each regulation that the Commission proposes to make under this section shall be published in the Canada Gazette and a copy of each proposed order shall be published on the Commission’s website. A reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation or order. | | | | | | |  |
|  | **Non-application** | | | | | | |  |
|  | (7) The Statutory Instruments Act does not apply to orders made under subsection (2). | | | | | | | Why not? |
| \* Section 12 – inquiries & mandatory orders |  | | | | | | |  |
| Marginal note: Inquiries |  | | | | | | |  |
| 12 (1) Where it appears to the Commission that | 12 (1) The Commission may inquire into, hear and determine a matter if it appears | | | | | | |  |
| (a) any person has failed to do any act or thing that the person is required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part, or has done or is doing any act or thing in contravention of this Part or of any such regulation, licence, decision or order, | (a) any person is contravening or has contravened this Part or any regulation, licence, decision or order made or issued by the Commission under this Part; | | | | | | |  |
| (a.1) any person has done or is doing any act or thing in contravention of section 34.1, | (b) any person is contravening or has contravened section 34.1; | | | | | | |  |
| (a.2) any person has failed to do any act or thing that the person is required to do under sections 42 to 44 of the Accessible Canada Act or has done or is doing any act or thing in contravention of any of those sections, or |  | | | | | | |  |
| (b) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part, |  | | | | | | |  |
|  | (c) any person is contravening or has contravened sections 42 to 44 of the *Accessible Canada Act*; or | | | | | | |  |
| the Commission may inquire into, hear and determine the matter. | (d) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part. | | | | | | |  |
| Marginal note: Mandatory orders |  | | | | | | |  |
| (2) The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part, under any regulation, licence, decision or order made or issued by the Commission under this Part or under any of sections 42 to 44 of the Accessible Canada Act and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order, to section 34.1 or to any of sections 42 to 44 of the Accessible Canada Act. |  | | | | | | |  |
| Marginal note: Referral to Commission |  | | | | | | |  |
| (3) Where an inquiry under subsection (1) is heard by a panel established under subsection 20(1) and the panel issues an order pursuant to subsection (2) of this section, any person who is affected by the order may, within thirty days after the making thereof, apply to the Commission to reconsider any decision or finding made by the panel, and the Commission may rescind or vary any order or decision made by the panel or may re-hear any matter before deciding it. |  | | | | | | |  |
| Section 13 – Mandatory order enforcement |  | | | | | | |  |
| Marginal note: Enforcement of mandatory orders |  | | | | | | |  |
| 13 (1) Any order made under subsection 12(2) may be made an order of the Federal Court or of any superior court of a province and is enforceable in the same manner as an order of the court. |  | | | | | | |  |
| Marginal note: Procedure |  | | | | | | |  |
| (2) To make an order under subsection 12(2) an order of a court, the usual practice and procedure of the court in such matters may be followed or, in lieu thereof, the Commission may file with the registrar of the court a certified copy of the order, and thereupon the order becomes an order of the court. |  | | | | | | |  |
| Marginal note: Effect of variation or rescission |  | | | | | | |  |
| (3) Where an order that has been made an order of a court is rescinded or varied by a subsequent order of the Commission, the order of the court shall be deemed to have been cancelled and the subsequent order may, in the same manner, be made an order of the court. |  | | | | | | |  |
| Section 14 - Research |  | | | | | | |  |
| Marginal note: Research |  | | | | | | |  |
| 14 (1) The Commission may undertake, sponsor, promote or assist in research relating to any matter within its jurisdiction under this Act and in so doing it shall, wherever appropriate, utilize technical, economic and statistical information and advice from the Corporation or departments or agencies of the Government of Canada. |  | | | | | | |  |
| Marginal note: Review of technical matters |  | | | | | | |  |
| (2) The Commission shall review and consider any technical matter relating to broadcasting referred to the Commission by the Minister and shall make recommendations to the Minister with respect thereto. |  | | | | | | |  |
|  |  | | | | | | |  |
| Section 15 – Reports to GIC |  | | | | | | |  |
| Marginal note: Hearings and reports |  | | | | | | |  |
| 15 (1) The Commission shall, on request of the Governor in Council, hold hearings or make reports on any matter within the jurisdiction of the Commission under this Act. |  | | | | | | |  |
| Marginal note: Consultation |  | | | | | | |  |
| (2) The Minister shall consult with the Commission with regard to any request proposed to be made by the Governor in Council under subsection (1). |  | | | | | | |  |
| Section 16 - Hearings |  | | | | | | |  |
| Marginal note: Powers respecting hearings |  | | | | | | |  |
| 16 The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record. |  | | | | | | |  |
| Section 17 – Questions of fact/law |  | | | | | | |  |
| Section 17 – Questions of fact or law |  | | | | | | |  |
| Marginal note: Authority re questions of fact or law |  | | | | | | |  |
| 17 The Commission has authority to determine questions of fact or law in relation to any matter within its jurisdiction under this Act. |  | | | | | | |  |
| \* Section 18 – Hearings and procedure |  | | | | | | |  |
| Hearings and Procedure |  | | | | | | |  |
| Marginal note: Where public hearing required |  | | | | | | |  |
| 18 (1) Except where otherwise provided, the Commission shall hold a public hearing in connection with |  | | | | | | |  |
| (a) the issue of a licence, other than a licence to carry on a temporary network operation; |  | | | | | | |  |
| (b) the suspension or revocation of a licence; |  | | | | | | |  |
| (c) the establishing of any performance objectives for the purposes of paragraph 11(2)(b); and | (c) the establishing of any performance objectives for the purposes of paragraphs 11(2)(b) and 11.1(5)(b); and | | | | | | |  |
| (d) the making of an order under subsection 12(2). |  | | | | | | |  |
| Marginal note: Idem |  | | | | | | |  |
| (2) The Commission shall hold a public hearing in connection with the amendment or renewal of a licence unless it is satisfied that such a hearing is not required in the public interest. |  | | | | | | |  |
| Marginal note: Where public hearing in Commission’s discretion |  | | | | | | |  |
| (3) The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so. |  | | | | | | |  |
| Marginal note: Place of hearing |  | | | | | | |  |
| (4) A public hearing under this section may be held at such place in Canada as the Chairperson of the Commission may designate. |  | | | | | | |  |
| Section 19 – Notice of hearing |  | | | | | | |  |
| Marginal note: Notice of hearing |  | | | | | | |  |
| 19 The Commission shall cause notice of |  | | | | | | |  |
| (a) any application received by it for the issue, amendment or renewal of a licence, other than a licence to carry on a temporary network operation, |  | | | | | | |  |
| (b) any decision made by it to issue, amend or renew a licence, and |  | | | | | | |  |
| (c) any public hearing to be held by it under section 18 |  | | | | | | |  |
| to be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the application, decision or matter to which the public hearing relates. |  | | | | | | |  |
| Section 20 – Commission panels |  | | | | | | |  |
| Marginal note: Panels of Commission |  | | | | | | |  |
| 20 (1) The Chairperson of the Commission may establish panels, each consisting of not fewer than three members of the Commission, to deal with, hear and determine any matter on behalf of the Commission. |  | | | | | | |  |
| Marginal note: Powers |  | | | | | | |  |
| (2) A panel that is established under subsection (1) has and may exercise all the powers and may perform all the duties and functions of the Commission in relation to any matter before the panel. |  | | | | | | |  |
| Marginal note: Decision |  | | | | | | |  |
| (3) A decision of a majority of the members of a panel established under subsection (1) is a decision of the panel. |  | | | | | | |  |
| Marginal note: Consultation |  | | | | | | |  |
| (4) The members of a panel established under subsection (1) shall consult with the Commission, and may consult with any officer of the Commission, for the purpose of ensuring a consistency of interpretation of the broadcasting policy set out in subsection 3(1), the regulatory policy set out in subsection 5(2) and the regulations made by the Commission under sections 10 and 11. |  | | | | | | |  |
| Section 21 – CRTC rules |  | | | | | | |  |
| Marginal note: Rules |  | | | | | | |  |
| 21 The Commission may make rules |  | | | | | | |  |
| (a) respecting the procedure for making applications for licences, or for the amendment, renewal, suspension or revocation thereof, and for making representations and complaints to the Commission; and |  | | | | | | |  |
| (b) respecting the conduct of hearings and generally respecting the conduct of the business of the Commission in relation to those hearings. |  | | | | | | |  |
| Section 22 - Licences |  | | | | | | |  |
| Licences |  | | | | | | |  |
| Marginal note: Conditions governing issue, amendment and renewal |  | | | | | | |  |
| 22 (1) No licence shall be issued, amended or renewed under this Part |  | | | | | | |  |
| (a) if the issue, amendment or renewal of the licence is in contravention of a direction to the Commission issued by the Governor in Council under subsection 26(1); and |  | | | | | | |  |
| (b) subject to subsection (2), unless the Minister of Industry certifies to the Commission that the applicant for the issue, amendment or renewal of the licence |  | | | | | | |  |
| (i) has satisfied the requirements of the Radiocommunication Act and the regulations made under that Act, and |  | | | | | | |  |
| (ii) has been or will be issued a broadcasting certificate with respect to the radio apparatus that the applicant would be entitled to operate under the licence. |  | | | | | | |  |
| Marginal note: Exception |  | | | | | | |  |
| (2) The requirement set out in paragraph (1)(b) does not apply in respect of radio apparatus, or any class thereof, prescribed under paragraph 6(1)(m) of the Radiocommunication Act. |  | | | | | | |  |
| Marginal note: Suspension or revocation of broadcasting certificate |  | | | | | | |  |
| (3) No licence is of any force or effect during any period when the broadcasting certificate issued under the Radiocommunication Act with respect to the radio apparatus that the holder of the licence is entitled to operate under that Act is suspended or revoked. |  | | | | | | |  |
| Marginal note: Issue, etc., contravening this section |  | | | | | | |  |
| (4) Any licence issued, amended or renewed in contravention of this section is of no force or effect. |  | | | | | | |  |
| \* Section 23 Consultation between CRTC & CBC |  | | | | | | |  |
| **Marginal note: Consultation between Commission and Corporation** |  | | | | | | |  |
| 23 (1) The Commission shall, at the request of the Corporation, consult with the Corporation with regard to any conditions that the Commission proposes to attach to any licence issued or to be issued to the Corporation. | 23 (1) The Commission shall, at the request of the Corporation, consult with the Corporation with regard to any conditions that the Commission proposes to impose under subsection 9.1(1) — or with regard to any regulation or order that the Commission proposes to make under section 11.1 — that would apply with respect to the Corporation. | | | | | | |  |
| **Marginal note: Reference to Minister** |  | | | | | | |  |
| (2) If, notwithstanding the consultation provided for in subsection (1), the Commission attaches any condition to a licence referred to in subsection (1) that the Corporation is satisfied would unreasonably impede the Corporation in providing the programming contemplated by paragraphs 3(1)(l) and (m), the Corporation may, within thirty days after the decision of the Commission, refer the condition to the Minister for consideration. | (2) If, despite the consultation provided for in subsection (1), the Commission imposes any condition, or makes any regulation or order, referred to in subsection (1) that the Corporation is satisfied would unreasonably impede the Corporation in providing the programming contemplated by paragraphs 3(1)(l) and (m), the Corporation may, within 30 days after the condition is imposed or the regulation or order is made, refer the condition, regulation or order to the Minister for consideration. | | | | | | |  |
| **Marginal note: Ministerial directive** |  | | | | | | |  |
| (3) Subject to subsection (4), the Minister may, within ninety days after a condition is referred to the Minister under subsection (2), issue to the Commission a written directive with respect to the condition and the Commission shall comply with any such directive issued by the Minister. | (3) Subject to subsection (4), the Minister may, within 90 days after a condition, regulation or order is referred to the Minister under subsection (2), issue to the Commission a written directive with respect to the condition, regulation or order and the Commission shall comply with any such directive issued by the Minister. | | | | | | |  |
| **Marginal note: Consultation** |  | | | | | | |  |
| (4) The Minister shall consult with the Commission and with the Corporation before issuing a directive under subsection (3). |  | | | | | | |  |
| **Marginal note: Publication and tabling of directive** |  | | | | | | |  |
| (5) A directive issued by the Minister under subsection (3) shall be published forthwith in the Canada Gazette and shall be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the directive is issued. |  | | | | | | |  |
| \* Section 24 – Suspension & revocation |  | | | | | | |  |
| **Marginal note: Conditions governing suspension and revocation** |  | | | | | | |  |
| 24 (1) No licence shall be suspended or revoked under this Part unless the licensee applies for or consents to the suspension or revocation or, in any other case, unless, after a public hearing in accordance with section 18, the Commission is satisfied that |  | | | | | | |  |
| (a) the licensee has contravened or failed to comply with any condition of the licence or with any order made under subsection 12(2) or any regulation made under this Part; or | (a) the licensee has contravened any order made under subsection 9.1(1), 11.1(2) or 12(2) or any regulation made under this Part; or | | | | | => 9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting ….  => 11.1(2) The Commission may make an order respecting expenditures to be made by a particular person carrying on a broadcasting undertaking for any of the purposes set out in paragraphs (1)(a) to (c).  => 12(2) The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part, under any regulation, licence, decision or order made or issued by the Commission under this Part or under any of sections 42 to 44 of the Accessible Canada Act and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order, to section 34.1 or to any of sections 42 to 44 of the Accessible Canada Act. | | |
| (b) the licence was, at any time within the two years immediately preceding the date of publication in the Canada Gazette of the notice of the public hearing, held by a person to whom the licence could not have been issued at that time by virtue of a direction to the Commission issued by the Governor in Council under this Act. |  | | | | | | |  |
| Marginal note: Licences of Corporation |  | | | | | | |  |
| (2) No licence issued to the Corporation that is referred to in the schedule may be suspended or revoked under this Part except on application of or with the consent of the Corporation. |  | | | | | | |  |
| Marginal note: Publication of decision |  | | | | | | |  |
| (3) A copy of a decision of the Commission relating to the suspension or revocation of a licence, together with written reasons for the decision, shall, forthwith after the making of the decision, be forwarded by prepaid registered mail to all persons who were heard at or made any oral representations in connection with the hearing held under subsection (1), and a summary of the decision and of the reasons for the decision shall, at the same time, be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the decision. |  | | | | | | |  |
| \* Section 25 – Reporting CBC contravention |  | | | | | | |  |
| Marginal note: Report of alleged contravention or non-compliance by Corporation | **Report of contravention by Corporation** | | | | | | |  |
| 25 (1) Where the Commission is satisfied, after a public hearing on the matter, that the Corporation has contravened or failed to comply with any condition of a licence referred to in the schedule, any order made under subsection 12(2) or any regulation made under this Part, the Commission shall forward to the Minister a report setting out the circumstances of the alleged contravention or failure, the findings of the Commission and any observations or recommendations of the Commission in connection ~~therewith~~. | 25 (1) If the Commission is satisfied, after a public hearing on the matter, that the Corporation has contravened section 31.1, any order made under subsection 9.1(1), 11.1(2) or 12(2) or any regulation made under this Part, the Commission shall forward to the Minister a report setting out the circumstances of the contravention, the findings of the Commission and any observations or recommendations of the Commission in connection with the contravention. | => 9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting ….  => 11.1(2) The Commission may make an order respecting expenditures to be made by a particular person carrying on a broadcasting undertaking for any of the purposes set out in paragraphs (1)(a) to (c).  => 12(2) The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part, under any regulation, licence, decision or order made or issued by the Commission under this Part or under any of sections 42 to 44 of the Accessible Canada Act and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order, to section 34.1 or to any of sections 42 to 44 of the Accessible Canada Act. | | | | | | |
| Marginal note: Report to be tabled |  | | | | | | |  |
| (2) The Minister shall cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is received by the Minister. |  | | | | | | |  |
| \* New Sections 25.1 to 25.3(7) CRTC information sharing |  | | | | | | |  |
|  | Provision of Information by Commission | | | | | | |  |
|  | **Minister or Chief Statistician** | | | | | | |  |
|  | 25.1 The Commission shall, on request, provide the Minister or the Chief Statistician of Canada with any information submitted to the Commission in respect of a broadcasting undertaking. | | | | | | |  |
|  | **Access to information** | | | | | | |  |
|  | 25.2 Subject to section 25.3, the Commission shall make available for public inspection any information submitted to the Commission in the course of proceedings before it. | | | | | | |  |
|  | **Confidential information** | | | | | | |  |
|  | 25.3 (1) A person who submits any of the following information to the Commission may designate it as confidential: | | | | | | | See 25.3(4) re public interest |
|  | (a) information that is a trade secret; | | | | | | |  |
|  | (b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or | | | | | | |  |
|  | (c) information the disclosure of which could reasonably be expected | | | | | | |  |
|  | (i) to result in material financial loss or gain to any person, | | | | | | |  |
|  | (ii) to prejudice the competitive position of any person, or | | | | | | |  |
|  | (iii) to affect contractual or other negotiations of any person. | | | | | | |  |
|  | **Information not to be disclosed** | | | | | | |  |
|  | (2) Subject to subsections (4), (5) and (7), if a person designates information as confidential and the designation is not withdrawn by that person, no person described in subsection (3) shall knowingly disclose the information, or knowingly allow it to be disclosed, to any other person in any manner that is intended or likely to make it available for the use of any person who may benefit from the information or use it to the detriment of any person to whose business or affairs the information relates. | | | | | | |  |
|  | **Persons who shall not disclose information** | | | | | | |  |
|  | (3) Subsection (2) applies to any person referred to in any of the following paragraphs who comes into possession of designated information while holding the office or employment described in that paragraph, whether or not the person has ceased to hold that office or be so employed: | | | | | | |  |
|  | (a) a member of, or a person employed by, the Commission; | | | | | | |  |
|  | (b) in respect of information disclosed under paragraph (4)(b) or (5)(b), the Commissioner of Competition appointed under the *Competition Act* or a person whose duties involve the carrying out of that Act and who is referred to in section 25 of that Act; | | | | | | |  |
|  | (c) in respect of information provided under section 25.1, the Minister, the Chief Statistician of Canada or an agent of or a person employed in the federal public administration. | | | | | | |  |
|  | **Disclosure of information submitted in proceedings** | | | | | | |  |
|  | (4) If designated information is submitted in the course of proceedings before the Commission, the Commission may | | | | | | |  |
|  | (a) disclose the information or require its disclosure if the Commission determines, after considering any representations from interested persons, that the disclosure is in the public interest; and | | | | | | |  |
|  | (b) disclose the information or require its disclosure to the Commissioner of Competition on the Commissioner’s request if the Commission determines that the information is relevant to competition issues being considered in the proceedings. | | | | | | |  |
|  | **Disclosure of other information** | | | | | | |  |
|  | (5) If designated information is submitted to the Commission otherwise than in the course of proceedings before it, the Commission may | | | | | | |  |
|  | (a) disclose the information or require its disclosure if, after considering any representations from interested persons, the Commission considers that the information is relevant to a matter arising in the exercise of its powers or the performance of its duties and functions and determines that the disclosure is in the public interest; and | | | | | | |  |
|  | (b) disclose the information or require its disclosure to the Commissioner of Competition, on the Commissioner’s request, if the Commission considers that the information is relevant to competition issues that are related to such a matter. | | | | | | |  |
|  | (6) Neither the Commissioner of Competition nor any person whose duties involve the administration and enforcement of the *Competition Act* and who is referred to in section 25 of that Act shall use information that is disclosed | | | | | | |  |
|  | (a) under paragraph (4)(b) other than to facilitate the Commissioner’s participation in proceedings referred to in subsection (4); or | | | | | | |  |
|  | (b) under paragraph (5)(b) other than to facilitate the Commissioner’s participation in a matter referred to in subsection (5). | | | | | | |  |
|  | **Information inadmissible** | | | | | | |  |
|  | (7) Designated information that is not disclosed or required to be disclosed under this section is not admissible in evidence in any judicial proceedings except proceedings for failure to submit information required to be submitted under this Act or for forgery, perjury or false declaration in relation to the submission of the information. | | | | | | |  |
| Section 26 – GIC powers |  | | | | | | |  |
| General Powers of the Governor in Council |  | | | | | | |  |
| Marginal note: Directions |  | | | | | | |  |
| 26 (1) The Governor in Council may, by order, issue directions to the Commission |  | | | | | | |  |
| (a) respecting the maximum number of channels or frequencies for the use of which licences may be issued within a geographical area designated in the order; |  | | | | | | |  |
| (b) respecting the reservation of channels or frequencies for the use of the Corporation or for any special purpose designated in the order; |  | | | | | | |  |
| (c) respecting the classes of applicants to whom licences may not be issued or to whom amendments or renewals thereof may not be granted; and |  | | | | | | |  |
| (d) prescribing the circumstances in which the Commission may issue licences to applicants that are agents of a province and are otherwise ineligible to hold a licence, and the conditions on which those licences may be issued. |  | | | | | | |  |
| Marginal note: Idem |  | | | | | | |  |
| (2) Where the Governor in Council deems the broadcast of any program to be of urgent importance to Canadians generally or to persons resident in any area of Canada, the Governor in Council may, by order, direct the Commission to issue a notice to licensees throughout Canada or throughout any area of Canada, of any class specified in the order, requiring the licensees to broadcast the program in accordance with the order, and licensees to whom any such notice is addressed shall comply with the notice. |  | | | | | | |  |
| Marginal note: Publication and tabling |  | | | | | | |  |
| (3) An order made under subsection (1) or (2) shall be published forthwith in the Canada Gazette and a copy thereof shall be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. |  | | | | | | |  |
| Marginal note: Consultation |  | | | | | | |  |
| (4) The Minister shall consult with the Commission with regard to any order proposed to be made by the Governor in Council under subsection (1). |  | | | | | | |  |
| Section 27 – Free Trade Agreement |  | | | | | | |  |
| Marginal note: Directions – Free Trade Agreement |  | | | | | | |  |
| 27 (1) The Governor in Council may, on the recommendation of the Minister, issue directions |  | | | | | | |  |
| (a) requiring the Commission to implement paragraphs 1 and 4 of Annex 15-D of the Agreement and specifying the manner in which, and the date on or before which, those paragraphs are to be implemented; |  | | | | | | |  |
| (b) respecting the manner in which the Commission shall apply or interpret paragraph 3 of that Annex; and |  | | | | | | |  |
| (c) requiring the Commission to cancel any measure taken by the Commission in the implementation of paragraph 4 of that Annex on the date the Agreement ceases to have effect, or such later date as the Governor in Council may specify. |  | | | | | | |  |
| Marginal note: Consultation |  | | | | | | |  |
| (2) The Minister shall consult with the Commission with regard to any direction proposed to be issued by the Governor in Council under subsection (1). |  | | | | | | |  |
| Marginal note: Directions binding |  | | | | | | |  |
| (3) A direction issued under subsection (1) is binding on the Commission from the time it comes into force. |  | | | | | | |  |
| Marginal note: Definition of Agreement |  | | | | | | |  |
| (4) In this section, Agreement has the same meaning as in section 2 of the Canada–United States–Mexico Agreement Implementation Act. |  | | | | | | |  |
| \* Section 28 – GIC (referring back or setting aside) |  | | | | | | |  |
| Marginal note: Setting aside or referring decisions back to Commission |  | | | | | | |  |
| 28 (1) Where the Commission makes a decision to issue, amend or renew a licence, the Governor in Council may, within ninety days after the date of the decision, on petition in writing of any person received within forty-five days after that date or on the Governor in Council’s own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1). | 28 (1) If the Commission makes a decision under section 9 to issue, amend or renew a licence, the Governor in Council may, within 180 days after the date of the decision, on petition in writing of any person received within 45 days after that date or on the Governor in Council’s own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1). | | | | | | |  |
| Marginal note: Order on reference back |  | | | | | | |  |
| (2) An order made under subsection (1) that refers a decision back to the Commission for reconsideration and hearing shall set out the details of any matter that, in the opinion of the Governor in Council, may be material to the reconsideration and hearing. |  | | | | | | |  |
| Marginal note: Powers on reference back |  | | | | | | |  |
| (3) Where a decision is referred back to the Commission under this section, the Commission shall reconsider the matter and, after a hearing as provided for by subsection (1), may |  | | | | | | |  |
| (a) rescind the decision or the issue, amendment or renewal of the licence; |  | | | | | | |  |
| ~~(b) rescind the issue of the licence and issue a licence on the same or different conditions to another person; or~~ | (b) rescind the issue of the licence and issue a licence to another person; or | | | | | | |  |
| (c) confirm, either with or without change, variation or alteration, the decision or the issue, amendment or renewal of the licence. |  | | | | | | |  |
| Marginal note: Setting aside after confirmation |  | | | | | | |  |
| (4) Where, pursuant to paragraph (3)(c), the Commission confirms a decision or the issue, amendment or renewal of a licence, the Governor in Council may, within sixty days after the confirmation, on petition in writing of any person received within thirty days after that date or on the Governor in Council’s own motion, by order, set aside the decision or the issue, amendment or renewal, if the Governor in Council is satisfied as to any of the matters referred to in subsection (1). | Repealed | | | | | | |  |
| Marginal note: Reasons |  | | | | | | |  |
| (5) An order made under subsection (4) to set aside a decision or the issue, amendment or renewal of a licence shall set out the reasons of the Governor in Council therefor. | Repealed | | | | | | |  |
| \* Section 29 - Petitions |  | | | | | | |  |
| Marginal note: Filing of petitions |  | | | | | | |  |
| 29 (1) Every person who petitions the Governor in Council under subsection 28(1) or (4) shall at the same time send a copy of the petition to the Commission. | 29 (1) Every person who petitions the Governor in Council under subsection 28(1) shall at the same time send a copy of the petition to the Commission. | | | | | | |  |
| Marginal note: Notice |  | | | | | | |  |
| (2) On receipt of a petition under subsection (1), the Commission shall forward a copy of the petition by prepaid registered mail to all persons who were heard at or made any oral representation in connection with the hearing held in the matter to which the petition relates. |  | | | | | | |  |
| Marginal note: Register |  | | | | | | |  |
| (3) The Commission shall establish and maintain a public register in which shall be kept a copy of each petition received by the Commission under subsection 28(1) or (4). | (3) The Commission shall establish and maintain a public register in which shall be kept a copy of each petition received by the Commission. | | | | | | |  |
| Section 30 – GIC schedule amendment |  | | | | | | |  |
| **Marginal note: Amendment of schedule** |  | | | | | | |  |
| 30 The Governor in Council may, on the recommendation of the Minister made on the request of the Commission and with the consent of the Corporation, amend the schedule. |  | | | | | | |  |
| Section 31 – decisions and orders |  | | | | | | |  |
| Decisions and Orders |  | | | | | | |  |
| **Marginal note: Decisions and orders final** |  | | | | | | |  |
| 31 (1) Except as provided in this Part, every decision and order of the Commission is final and conclusive. |  | | | | | | | What about regulations? |
| **Marginal note: Appeal to Federal Court of Appeal** |  | | | | | | |  |
| (2) An appeal lies from a decision or order of the Commission to the Federal Court of Appeal on a question of law or a question of jurisdiction if leave therefor is obtained from that Court on application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court under special circumstances allows. |  | | | | | | |  |
| Marginal note: Entry of appeal |  | | | | | | |  |
| (3) No appeal lies after leave therefor has been obtained under subsection (2) unless it is entered in the Federal Court of Appeal within sixty days after the making of the order granting leave to appeal. |  | | | | | | |  |
| Marginal note: Document deemed decision or order |  | | | | | | |  |
| (4) Any document issued by the Commission in the form of a decision or order shall, if it relates to the issue, amendment, renewal, revocation or suspension of a licence, be deemed for the purposes of this section to be a decision or order of the Commission. |  | | | | | | |  |
| \* New section 31.1 - Prohibitions |  | | | | | | |  |
|  | **Prohibition** | | | | | | |  |
|  | **Carrying on broadcasting undertaking** | | | | | | |  |
|  | 31.1 (1) A person shall not carry on a broadcasting undertaking unless | | | | | | | So okay to broadcast online without registering with CRTC?  Can CRTC regulations under s. 10(1)(i) override this section? |
|  | (a) they do so in accordance with a licence issued to them; or | | | | | | |
|  | (b) they are exempt, under an order made under subsection 9(4), from the requirement to hold a licence. | | | | | | |
|  | Exception — online undertaking | | | | | | |
|  | (2) Despite subsection (1), a person may carry on an online undertaking without a licence and without being so exempt. | | | | | | |
| \* Section 32 – Offences (‘Broadcasting contrary to Act’) |  | | | | | | |  |
| Marginal note: Broadcasting without or contrary to licence | **Broadcasting contrary to Act** | | | | | | |  |
| 32 (1) Every person who~~, not being exempt from the requirement to hold a licence, carries on a broadcasting undertaking without a licence therefor~~ is guilty of an offence punishable on summary conviction and is liable | 32 Every person who contravenes section 31.1 is guilty of an offence punishable on summary conviction and is liable | | | | | | |  |
| (a) in the case of an individual, to a fine not exceeding twenty thousand dollars for each day that the offence continues; or | (a) in the case of an individual, to a fine of not more than $25,000 for each day that the offence continues; or | | | | | | |  |
| (b) in the case of a corporation, to a fine not exceeding two hundred thousand dollars for each day that the offence continues. | (b) in the case of a corporation, to a fine of not more than $250,000 for each day that the offence continues. | | | | | | |  |
| Marginal note: Contravention of regulation or order |  | | | | | | |  |
| (2) Every person who contravenes or fails to comply with any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable |  | | | | | | |  |
| (a) in the case of an individual, to a fine not exceeding twenty-five thousand dollars for a first offence and not exceeding fifty thousand dollars for each subsequent offence; or |  | | | | | | |  |
| (b) in the case of a corporation, to a fine not exceeding two hundred and fifty thousand dollars for a first offence and not exceeding five hundred thousand dollars for each subsequent offence. |  | | | | | | |  |
| \* Section 33 – Offences (regulations/orders) |  | | | | | | |  |
| **Marginal note: Contravention of conditions of licence** | **Contravention of regulation or order** | | | | | | |  |
| 33 Every person who contravenes or fails to comply with any condition of a licence issued to the person is guilty of an offence punishable on summary conviction. | 33 Every person who contravenes any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable | | | | | | |  |
|  | (a) in the case of an individual, to a fine of not more than $25,000 for a first offence and of not more than $50,000 for each subsequent offence; or | | | | | | |  |
|  | (b) in the case of a corporation, to a fine of not more than $250,000 for a first offence and of not more than $500,000 for each subsequent offence. | | | | | | |  |
|  | Defence | | | | | | |  |
|  | 33.1 A person is not to be found guilty of an offence under section 32 or 33 if they establish that they exercised due diligence to prevent the commission of the offence. | | | | | | |  |
| \* Section 34 - Limitations |  | | | | | | |  |
| **Marginal note: Limitation** |  | | | | | | |  |
| 34 Proceedings for an offence under subsection 32(2) or section 33, may be instituted within, but not after, two years after the time when the subject-matter of the proceedings arose. | 34 Proceedings in respect of an offence under section 33 may be instituted within, but not after, two years after the day on which the subject matter of the proceedings arose. | | | | | | | 2-year limitation for breaches of regulation, order; 3-year limitation for AMP proceedings (see s. 34.97(1)) |
| PART II.1 *[Paper bills]* |  | | | | | | |  |
| \* Section 34 – Paper bills (new s. 34.2 - Defence] |  | | | | | | |  |
| Offence  — Paper Bill |  | | | | | | |  |
| Marginal note: Prohibition |  | | | | | | |  |
| 34.1 No person who carries on a broadcasting undertaking shall charge a subscriber for providing the subscriber with a paper bill. |  | | | | | | |  |
| 2014, c. 39, s. 192 |  | | | | | | |  |
| Marginal note: Offence |  | | | | | | |  |
| 34.2 Every person who contravenes section 34.1 is guilty of an offence punishable on summary conviction and is liable |  | | | | | | |  |
| (a) in the case of an individual, to a fine not exceeding $25,000 for a first offence and not exceeding $50,000 for each subsequent offence; or |  | | | | | | |  |
| (b) in the case of a corporation, to a fine not exceeding $250,000 for a first offence and not exceeding $500,000 for each subsequent offence. |  | | | | | | |  |
|  | Defence | | | | | | |  |
|  | 34.21 A person is not to be found guilty of an offence under section 34.2 if they establish that they exercised due diligence to prevent the commission of the offence. | | | | | | |  |
| Marginal note: Limitation |  | | | | | | |  |
| 34.3 No proceedings for an offence under section 34.2 are to be instituted more than two years after the time when the subject-matter of the proceedings arose. 2014, c. 39, s. 192 |  | | | | | | |  |
| New Part II.2 *[AMPs – ss. 33.4 to 34.998]* |  | | | | | | |  |
|  | Part II.2 | | | | | | |  |
|  | Administrative Monetary Penalties | | | | | | |  |
|  | **Violations** | | | | | | |  |
|  | **33.4(1)** Subject to a regulation made under paragraph 34.995(a), a person commits a violation if they | | | | | | |  |
|  | (a) contravene a regulation or order made under Part II; | | | | | | |  |
|  | (a.1) contravene the requirement to negotiate in good faith under subsection 9.1(6); | | | | | | | And the evidence will be ….? |
|  | (b) carry on a broadcasting undertaking in contravention of section 31.1; | | | | | | | Broadcasting without a licence or without being exempted except if an online undertaking |
|  | (c) charge a subscriber for providing the subscriber with a paper bill in contravention of section 34.1; | | | | | | |  |
|  | (d) contravene an undertaking that they entered into under section 34.9; | | | | | | |  |
|  | (f) fail to submit information in accordance with a notice issued under section 34.996 to a person designated under paragraph 34.7(a) that the designated person requires by the notice; | | | | | | | Due diligence defence does not apply to this section: see 34.94(1) |
|  | (f) knowingly make a material misrepresentation of fact in contravention of section 34.997; or | | | | | | |  |
|  | (g) contravene any of subsections 42(1) to (4) and (7), 43(1) to (3) and 44(1) to (3) and (6) of the *Accessible Canada Act* . | | | | | | |  |
|  | **Continued violation (2)** A violation that is continued on more than one day constitutes a separate violation in respect of each day on which it is continued. | | | | | | |  |
|  | **Maximum administrative monetary penalty** | | | | | | |  |
|  | **34.5(1)** A person who commits a violation is liable to an administrative monetary penalty | | | | | | | A separate financial penalty for each separate violation |
|  | (a) in the case of an individual, of not more than $25,000 for a first violation and of not more than $50,000 for each subsequent violation; or | | | | | | |  |
|  | (b) in any other case, of not more than $10 million for a first violation and of not more than $15 million for each subsequent violation. | | | | | | |  |
|  | **Criteria for penalty** | | | | | | |  |
|  | (2) The amount of the penalty is to be determined by taking into account the following factors: | | | | | | | Are these factors ranked? |
|  | (a) the nature and scope of the violation; | | | | | | |  |
|  | (b) the history of compliance by the person who committed the violation with this Act, the regulations and the decisions and orders made by the Commission under this Act; | | | | | | |  |
|  | (c) the person’s history with respect to any previous undertaking entered into under section 34.9; | | | | | | |  |
|  | (d) any benefit that the person obtained from the commission of the violation; | | | | | | |  |
|  | (e) the person’s ability to pay the penalty; | | | | | | |  |
|  | (f) any factors established by regulation; | | | | | | | Due diligence? 34.94(1) |
|  | (g) the purpose of the penalty, which is to promote compliance with this Act — or, in the case of a penalty imposed for a violation referred to in paragraph 34.4(1)(g), compliance with the *Accessible Canada Act* — and not to punish; and | | | | | | |  |
|  | (h) any other relevant factor. | | | | | | | Due diligence?  See 34.94(1) |
|  | **Purpose of penalty** | | | | | | |  |
|  | (3) The purpose of the penalty is to promote compliance with this Act — or, in the case of a penalty imposed for a violation referred to in paragraph 34.4(1)(g), compliance with the *Accessible Canada Act* — and not to punish. | | | | | | |  |
|  | **Procedures** | | | | | | |  |
|  | **34.6(1)** Despite subsection 34.8(1), the Commission may impose a penalty in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed by a person other than the person who entered in to an undertaking under section 34.9 in connection with the same act or omission giving rise to the violation. | | | | | | | 34.99(1) mandates public hearing if CRTC proposes to impose penalty on CBC |
|  | **For greater certainty** | | | | | | |  |
|  | (2) For greater certainty, the Commission is not to impose a penalty under subsection (1) on a person who has not been given the opportunity to be heard. | | | | | | | Opportunity to be heard |
|  | **Designation** | | | | | | | CRTC may delegate authority to issue notices of violations or to accept undertakings (under s. 34.9) |
|  | 34.7 The Commission may | | | | | | |
|  | (a) designate persons or classes of persons who are authorized to issue notices of violation or to accept an undertaking under section 34.9; and | | | | | | |
|  | (b) establish, in respect of each violation, a short-form description to be used in notices of violation. | | | | | | |
|  | **Notice of violation** | | | | | | |  |
|  | 34.8(1)A person who is authorized to issue notices of violation may, if they believe on reasonable grounds that another person has committed a violation, issue a notice of violation and cause it to be served on that other person. | | | | | | |  |
|  | **Contents** | | | | | | |  |
|  | (2) The notice of violation shall set out | | | | | | |  |
|  | (a) the name of the person who is believed to have committed a violation; | | | | | | |  |
|  | (b) the act or omission giving rise to the violation, as well as a reference to the provision that is at issue; | | | | | | |  |
|  | (c) the administrative monetary penalty that the person is liable to pay, as well as the time and manner in which the person may pay the penalty; | | | | | | | CRTC’s delegates to set AMP amounts? |
|  | (d) a statement informing the person that they may pay the penalty or make representations to the Commission with respect to the violation and the penalty and informing them of the time and manner for making such representations; and | | | | | | |  |
|  | (e) a statement informing the person that, if they do not pay the penalty or make representations in accordance with the notice, they will be deemed to have committed the violation and the penalty may be imposed. | | | | | | |  |
|  | **Undertaking** | | | | | | |  |
|  | 34.9(1)A person may enter into an undertaking at any time. The undertaking is valid upon its acceptance by the Commission or, if it is entered into by a person other than the Corporation, upon its acceptance by the Commission or the person designated to accept an undertaking. | | | | | | | If CRTC accepts undertakings it need not make them public (see 34.98) |
|  | **Requirements** | | | | | | |  |
|  | (2) An undertaking referred to in subsection (1) | | | | | | |  |
|  | (a) shall set out every act or omission that is covered by the undertaking; | | | | | | |  |
|  | (b) shall set out every provision that is at issue; | | | | | | |  |
|  | (c) may contain any conditions that the Commission or the person designated to accept the undertaking considers appropriate; and | | | | | | |  |
|  | (d) may include a requirement to pay a specified amount. | | | | | | |  |
|  | **Before notice of violation** | | | | | | |  |
|  | (3) If a person enters into an undertaking, a notice of violation shall not be served on them in connection with any act or omission referred to in the undertaking. | | | | | | |  |
|  | **After notice of violation** | | | | | | |  |
|  | (4) If a person enters into an undertaking after a notice of violation is served on them, the proceeding that is commenced by the notice of violation is ended in respect of that person in connection with any act or omission referred to in the undertaking. | | | | | | |  |
|  | **Powers respecting hearings** | | | | | | |  |
|  | 34.91 For greater certainty, the Commission has all the powers, rights and privileges referred to in section 16 if, in a proceeding in respect of a violation, it holds a public hearing under subsection 18(3). | | | | | | |  |
|  | **Payment of penalty** | | | | | | |  |
|  | **34.92(1)** If a person who is served with a notice of violation pays the penalty set out in the notice, they are deemed to have committed the violation and the proceedings in respect of it are ended. | | | | | | |  |
|  | **Representations to Commission and decision** | | | | | | |  |
|  | (2) If a person who is served with a notice of violation makes representations in accordance with the notice, the Commission shall decide, on a balance of probabilities, after considering any other representations that it considers appropriate, whether the person committed the violation. If the Commission decides that the person com- mitted the violation, it may | | | | | | |  |
|  | (a) impose the administrative monetary penalty set out in the notice, a lesser penalty or no penalty; and | | | | | | |  |
|  | (b) suspend payment of the administrative monetary penalty subject to any conditions that the Commission considers necessary to ensure compliance with this Act. | | | | | | |  |
|  | **Penalty** | | | | | | |  |
|  | (3) If a person who is served with a notice of violation neither pays the penalty nor makes representations in accordance with the notice, the person is deemed to have committed the violation and the Commission may im- pose the penalty. | | | | | | |  |
|  | **Copy of decision and notice of rights** | | | | | | |  |
|  | (4) The Commission shall cause a copy of any decision made under subsection (2) or (3) to be issued and served on the person together with a notice of the person’s right to apply for leave to appeal under section 31. | | | | | | |  |
|  | **Evidence** | | | | | | |  |
|  | 34.93 In a proceeding in respect of a violation, a notice purporting to be served under subsection 34.8(1) or a copy of a decision purporting to be served under subsection 34.92(4) is admissible in evidence without proof of the signature or official character of the person appearing to have signed it. | | | | | | |  |
|  | **Defence** | | | | | | |  |
|  | 34.94(1) A person is not to be found liable for a violation, other than a violation under paragraph 34.4(1)(f), if they establish that they exercised due diligence to prevent its commission. | | | | | | | Due diligence defence |
|  | **Common law principles** | | | | | | |  |
|  | (2) Every rule and principle of the common law that makes any circumstance a justification or excuse in relation to a charge for an offence applies in respect of a violation to the extent that it is not inconsistent with this Act | | | | | | |  |
|  | **Directors, officers, etc., of corporations** | | | | | | |  |
|  | 34.95 An officer, director or agent or mandatary of a corporation other than the Canadian Broadcasting Corporation, that commits a violation is liable for the violation if they directed, authorized, assented to, acquiesced in or participated in the commission of the violation, whether or not the corporation is proceeded against. | | | | | | | CBC/Radio-Canada management not liable for violations |
|  | **Vicarious liability** | | | | | | |  |
|  | 34.96 A person, other than the Corporation, is liable for a violation that is committed by their employee acting within the scope of their employment or their agent or mandatary acting within the scope of their authority, whether or not the employee or agent or mandatary is identified or proceeded against. | | | | | | | CBC/Radio-Canada not liable for employee violations |
|  | **Limitation or prescription period** | | | | | | |  |
|  | **34.97(1)** Proceedings in respect of a violation may be instituted within, but not after, three years after the day on which the subject matter of the proceedings became known to the Commission. | | | | | | | 3-year limitation period for AMP proceedings (2-year limitation period for breaches of regulations or orders – see s. 34) |
|  | **Certificate** | | | | | | |  |
|  | **(2)** A document that appears to have been issued by the secretary to the Commission, certifying the day on which the subject matter of any proceedings became known to the Commission, is admissible in evidence without proof of the signature or official character of the person who appears to have signed the document and is, in the absence of evidence to the contrary, proof of the matter asserted in it. | | | | | | |  |
|  | **Information may be made public** | | | | | | |  |
|  | 34.98 The Commission may make public | | | | | | |  |
|  | (a) the name of a person who enters into an undertaking under section 34.9, the nature of the undertaking including the acts or omissions and provisions at issue, the conditions included in the undertaking and the amount payable under it, if any; or | | | | | | |  |
|  | (b) the name of a person who is deemed, or is found by the Commission or on appeal, to have committed a violation, the acts or omissions and provisions at issue and the amount of the penalty imposed, if any. | | | | | | |  |
|  | **Special case concerning the Corporation — public hearing** | | | | 34.6(1) Despite subsection 34.8(1), the Commission may impose a penalty in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed by a person other than the person who entered in to an undertaking under section 34.9 in connection with the same act or omission giving rise to the violation.  (2) If a person who is served with a notice of violation makes representations in accordance with the notice, the Commission shall decide, on a balance of probabilities, after considering any other representations that it considers appropriate, whether the person committed the violation. If the Commission decides that the person com- mitted the violation, it may  (a) impose the administrative monetary penalty set out in the notice, a lesser penalty or no penalty; and  (b) suspend payment of the administrative monetary penalty subject to any conditions that the Commission considers necessary to ensure compliance with this Act.  Penalty  (3) If a person who is served with a notice of violation neither pays the penalty nor makes representations in accordance with the notice, the person is deemed to have committed the violation and the Commission may im- pose the penalty. | | | |
|  | 34.99(1) Despite subsections 34.6(1) and 34.92(2) and (3), the Commission shall not impose a penalty under any of those subsections on the Corporation for a violation other than the one referred to in paragraph 34.4(1)(g) without holding a public hearing on the matter. | | | |
|  | **Place of hearing** | | | | | | |  |
|  | (2) A public hearing under subsection (1) may be held at any place in Canada designated by the Chairperson of the Commission. | | | | | | |  |
|  | **Notice of hearing** | | | | | | |  |
|  | (3) The Commission shall cause notice of any public hearing to be held by it under subsection (1) to be published in the Canada Gazette and in one or more news- papers of general circulation within any area affected or likely to be affected by the matter to which the public hearing relates. | | | | | | |  |
|  | **Powers respecting hearings** | | | | | | |  |
|  | (4) The Commission has, in respect of any hearing under subsection (1), with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents and other matters necessary or proper in relation to the hearing, all of the powers, rights and privileges that are vested in a superior court of record. | | | | | | |  |
|  | **For greater certainty** | | | | | | |  |
|  | (5) For greater certainty, sections 17, 20 and 21 apply in respect of public hearings under subsection (1). | | | | | | |  |
|  | **Report of violation** | | | | | | |  |
|  | 34.991 (1) If the Commission is satisfied, after holding a public hearing on the matter, that the Corporation has committed a violation referred to in any of paragraphs 34.4(1)(a) to (f), the Commission shall forward to the Minister a report setting out the circumstances of the violation, the findings of the Commission, the amount of any penalty imposed, and any observations or recommendations of the Commission in connection with the violation. | | | | | | | Public hearing for CBC |
|  | **Report to be tabled** | | | | | | |  |
|  | **(2)** The Minister shall cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first 15 days on which that House is sitting after the report is received by the Minister. | | | | | | |  |
|  | **Violation or offence** | | | | | | |  |
|  | 34.992 (1)If an act or omission can be proceeded with either as a violation or as an offence under this Act, proceeding in one manner precludes proceeding in the other | | | | | | |  |
|  | **For greater certainty** | | | | | | |  |
|  | **(2)** For greater certainty, a violation is not an offence and, accordingly, section 126 of the *Criminal Code* does not apply. | | | | | | |  |
|  | **Receiver General** | | | | | | |  |
|  | 34.993An administrative monetary penalty paid or re- covered in relation to a violation is payable to the Receiver General | | | | | | |  |
|  | **Debt due to Her Majesty** | | | | | | |  |
|  | 34.994 **(1)** The following amounts are debts due to Her Majesty in right of Canada that may be recovered in the Federal Court: | | | | | | |  |
|  | (a) the amount of the penalty imposed by the Com- mission in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed; | | | | | | |  |
|  | (b) the amount payable under an undertaking entered into under section 34.9, beginning on the day specified in the undertaking or, if no day is specified, beginning on the day on which the undertaking is accepted; | | | | | | |  |
|  | (c) the amount of the penalty set out in a notice of violation, beginning on the day on which it is required to be paid in accordance with the notice, unless representations are made in accordance with the notice; | | | | | | |  |
|  | (d) if representations are made, either the amount of the administrative monetary penalty that is imposed by the Commission or on appeal, as the case may be, beginning on the day specified by the Commission or the court or, if no day is specified, beginning on the day on which the decision is made; and | | | | | | |  |
|  | (e) the amount of any reasonable expenses incurred in attempting to recover an amount referred to in any of paragraphs (a) to (d). | | | | | | |  |
|  | **Limitation period or prescription** | | | | | | |  |
|  | (2) Proceedings to recover a debt may be instituted within, but not after, three years after the day on which the debt becomes payable. | | | | | | |  |
|  | **Certificate of default** | | | | | | |  |
|  | (3) The Commission may issue a certificate for the un- paid amount of any debt referred to in subsection (1). | | | | | | |  |
|  | **Effect of registration** | | | | | | |  |
|  | (4) Registration of a certificate in the Federal Court has the same effect as a judgment of that Court for a debt of the amount set out in the certificate and all related registration costs. | | | | | | |  |
|  | **Regulations** | | | | | | |  |
|  | 34.995 The Governor in Council may make regulations providing for exceptions to any of paragraphs 34.4(1)(a) to (g); | | | | | | |  |
|  | (a) for the purpose of paragraph 34.5(2)(f), establishing other factors to be considered in determining the amount of the penalty; | | | | | | |  |
|  | (b) respecting undertakings referred to in section 34.9; | | | | | | |  |
|  | (c) respecting the service of documents required or authorized to be served under this Part, including the manner and proof of service and the circumstances under which documents are to be considered to be served; and | | | | | | |  |
|  | (d) generally, for carrying out the purposes and provisions of this Part. | | | | | | |  |
| \* New Part II.4 *[Misrepresentation of fact]* |  | | | | | | |  |
|  | **PART II.4** | | | | | | |  |
|  | Offence — Material | | | | | | |  |
|  | Misrepresentation of Fact | | | | | | |  |
|  | **Prohibition** | | | | | | |  |
|  | 34.997 It is prohibited for any person to knowingly make a material misrepresentation of fact to a person designated under paragraph 34.7(a). | | | | | | |  |
|  | **Offence** | | | | | | |  |
|  | 34.998 (1) Every person who contravenes section 34.997 is guilty of an offence punishable on summary conviction and is liable | | | | | | |  |
|  | (a) in the case of an individual, to a fine of not more than $10,000 for a first offence or and of not more than $25,000 for each subsequent offence; or | | | | | | |  |
|  | (b) in any other case, to a fine of not more than $100,000 for a first offence and of not more than $250,000 for each subsequent offence. | | | | | | |  |
|  | **Limitation** | | | | | | |  |
|  | (2) Proceedings in respect of an offence under subsection (1) may be instituted within, but not after, two years after the day on which the subject matter of the proceedings arose. | | | | | | |  |
| PART III *[CBC]* |  | | | | | | |  |
| **Canadian Broadcasting Corporation** |  | | | | | | |  |
| **Interpretation** |  | | | | | | |  |
| Section 35 - Definitions |  | | | | | | |  |
| **Marginal note: Definitions** |  | | | | | | |  |
| 35 (1) In this Part, |  | | | | | | |  |
| auditor means the auditor of the Corporation; (vérificateur) |  | | | | | | |  |
| Board means the Board of Directors of the Corporation; (conseil d’administration) |  | | | | | | |  |
| Chairperson means the Chairperson of the Board; (président du conseil) |  | | | | | | |  |
| director means a director of the Corporation; (administrateur) |  | | | | | | |  |
| President means the President of the Corporation; (président-directeur général) |  | | | | | | |  |
| wholly-owned subsidiary has the same meaning as in Part X of the Financial Administration Act. (filiale à cent pour cent) |  | | | | | | |  |
| **Marginal note: Interpretation** |  | | | | | | |  |
| (2) This Part shall be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers. |  | | | | | | |  |
| Section 36 – continuation of CBC |  | | | | | | |  |
| **Continuation of Corporation** |  | | | | | | |  |
| **Marginal note: Corporation continued** |  | | | | | | |  |
| 36 (1) The corporation known as the Canadian Broadcasting Corporation is hereby continued and shall consist of those directors who from time to time compose the Board. |  | | | | | | |  |
| **Marginal note: Board of Directors** |  | | | | | | |  |
| (2) There shall be a Board of Directors of the Corporation consisting of twelve directors, including the Chairperson and the President, to be appointed by the Governor in Council. |  | | | | | | |  |
| **Marginal note: Tenure** |  | | | | | | |  |
| (3) A director shall be appointed to hold office during good behaviour for a term not exceeding five years and may be removed at any time by the Governor in Council for cause. |  | | | | | | |  |
| **Marginal note: Re-appointment** |  | | | | | | |  |
| (4) Subject to section 38, the Chairperson and the President are eligible for re-appointment on the expiration of any term of office but any other director who has served two consecutive terms is not, during the twelve months following the completion of the second term, eligible for appointment, except as Chairperson or President. |  | | | | | | |  |
| **Marginal note: Continuation in office** |  | | | | | | |  |
| (5) Notwithstanding subsections (3) and (4), if a director is not appointed to take office on the expiration of the term of office of an incumbent director, the incumbent director continues in office until a successor is appointed. |  | | | | | | |  |
| Section 37 – Oath of office |  | | | | | | |  |
| **Marginal note: Oath of office** |  | | | | | | |  |
| 37 Every director shall, before entering on the director’s duties, take and subscribe, before the Clerk of the Privy Council, an oath or solemn affirmation, which shall be filed in the office of the Clerk, in the following form: |  | | | | | | |  |
| I, blank line, do solemnly swear (or affirm) that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of blank line. (Add, in the case where an oath is taken, “So help me God”.) |  | | | | | | |  |
| \* Section 38 – Directors’ outside interests |  | | | | | | |  |
| **Marginal note: Outside interests of directors** |  | | | | | | |  |
| 38 (1) A person is not eligible to be appointed or to continue as a director if the person is not a Canadian citizen who is ordinarily resident in Canada or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, the person |  | | | | | | |  |
| (a) is engaged in the operation of a broadcasting undertaking; | (a) is engaged in the operation of a broadcasting undertaking described in subsection (3); | | | | | | |  |
| (b) has any pecuniary or proprietary interest in a broadcasting undertaking; or | (b) has any pecuniary or proprietary interest in such a broadcasting undertaking; or | | | | | | |  |
| (c) is principally engaged in the production or distribution of program material that is primarily intended for use by a broadcasting undertaking. | (c) is principally engaged in the production or distribution of program material that is primarily intended for use by such a broadcasting undertaking. | | | | | | |  |
| Marginal note: Disposing of interest |  | | | | | | |  |
| (2) A director in whom any interest prohibited by subsection (1) vests by will or succession for the director’s own benefit shall, within three months thereafter, absolutely dispose of that interest. |  | | | | | | |  |
|  | **Application** | | | | | | |  |
|  | (3) Subsection (1) applies with respect to a broadcasting undertaking that | | | | | | |  |
|  | (a) must be carried on under a licence; | | | | | | |  |
|  | (b) is carried on by a person who is exempt from the requirement to hold a licence, under an order made under subsection 9(4); or | | | | | | |  |
|  | (c) must be registered with the Commission under regulations made under paragraph 10(1)(i). | | | | | | |  |
|  |  | | | | | | |  |
| Section 39 – Directors’ responsibility |  | | | | | | |  |
| Marginal note: Responsibility of directors |  | | | | | | |  |
| 39 Subject to this Part, the Board is responsible for the management of the businesses, activities and other affairs of the Corporation. |  | | | | | | |  |
| Section 40 – CBC accountability to Parliament |  | | | | | | |  |
| **Marginal note: Accountability of Corporation to Parliament** |  | | | | | | |  |
| 40 The Corporation is ultimately accountable, through the Minister, to Parliament for the conduct of its affairs. |  | | | | | | |  |
| Section 41 – CBC Chairperson |  | | | | | | |  |
| **Chairperson** |  | | | | | | |  |
| **Marginal note: Powers, duties and functions** |  | | | | | | |  |
| 41 (1) The Chairperson shall preside at meetings of the Board and may exercise such powers and shall perform such other duties and functions as are assigned to the Chairperson by the by-laws of the Corporation. |  | | | | | | |  |
| **Marginal note: Part-time** |  | | | | | | |  |
| (2) The Chairperson shall perform the duties and functions of the office on a part-time basis. |  | | | | | | |  |
| **Marginal note: Absence, incapacity or vacancy of office** |  | | | | | | |  |
| (3) If the Chairperson is absent or incapacitated or if the office of Chairperson is vacant, the President shall act as Chairperson, and if both are absent or incapacitated or if both those offices are vacant, the Board may authorize a director to act as Chairperson, but no person so authorized by the Board has authority to act as Chairperson for a period exceeding sixty days without the approval of the Governor in Council. |  | | | | | | |  |
| Section 42 - CBC President |  | | | | | | |  |
| **President** |  | | | | | | |  |
| **Marginal note: Powers, duties and functions** |  | | | | | | |  |
| 42 (1) The President is the chief executive officer of the Corporation and has supervision over and direction of the work and staff of the Corporation and may exercise such powers and shall perform such other duties and functions as are assigned to the President by the by-laws of the Corporation. |  | | | | | | |  |
| Marginal note: Full-time |  | | | | | | |  |
| (2) The President shall perform the duties and functions of the office on a full-time basis. |  | | | | | | |  |
| Marginal note: Absence, incapacity or vacancy of office |  | | | | | | |  |
| (3) If the President is absent or incapacitated or if the office of President is vacant, the Board may authorize an officer of the Corporation to act as President, but no person so authorized by the Board has authority to act as President for a period exceeding sixty days without the approval of the Governor in Council. |  | | | | | | |  |
| Section 43 – remuneration |  | | | | | | |  |
| **Remuneration** |  | | | | | | |  |
| **Marginal note: Chairperson’s and President’s remuneration** |  | | | | | | |  |
| 43 (1) The Chairperson and the President shall be paid by the Corporation remuneration at the rate fixed by the Governor in Council. |  | | | | | | |  |
| **Marginal note: Fees of other directors** |  | | | | | | |  |
| (2) Each director, other than the Chairperson and the President, shall be paid by the Corporation such fees for attendance at meetings of the Board or any committee of directors as are fixed by the by-laws of the Corporation. |  | | | | | | |  |
| **Marginal note: Expenses** |  | | | | | | |  |
| (3) Each director is entitled to be paid by the Corporation such travel and living expenses incurred by the director in the performance of the duties of that director as are fixed by the by-laws of the Corporation. |  | | | | | | |  |
| Section 44 - staff |  | | | | | | |  |
| Staff |  | | | | | | |  |
| Marginal note: Employment of staff |  | | | | | | |  |
| 44 (1) The Corporation may, on its own behalf, employ such officers and employees as it considers necessary for the conduct of its business. |  | | | | | | |  |
| Marginal note: Terms, etc., of employment |  | | | | | | |  |
| (2) The officers and employees employed by the Corporation under subsection (1) shall, subject to any by-laws made under section 51, be employed on such terms and conditions and at such rates of remuneration as the Board deems fit. |  | | | | | | |  |
| Marginal note: Not servants of Her Majesty |  | | | | | | |  |
| (3) The officers and employees employed by the Corporation under subsection (1) are not officers or servants of Her Majesty. |  | | | | | | |  |
| Section 45 – Standing committee |  | | | | | | |  |
| Standing Committees |  | | | | | | |  |
| Marginal note: English and French language broadcasting committees |  | | | | | | |  |
| 45 (1) The Board shall establish a standing committee of directors on English language broadcasting and a standing committee of directors on French language broadcasting, each consisting of the Chairperson, the President and such other directors as the Board may appoint. |  | | | | | | |  |
| Marginal note: Chairperson or President shall preside |  | | | | | | |  |
| (2) The Chairperson, or in the absence of the Chairperson, the President, shall preside at meetings of each standing committee established pursuant to subsection (1). |  | | | | | | |  |
| Marginal note: Absence of Chairperson and President |  | | | | | | |  |
| (3) In respect of each standing committee established pursuant to subsection (1), the Chairperson shall designate one of the directors to preside at meetings thereof in the event of the absence of both the Chairperson and the President. |  | | | | | | |  |
| Marginal note: Duties of committees |  | | | | | | |  |
| (4) The standing committee on English language broadcasting shall perform such duties in relation to English language broadcasting, and the standing committee on French language broadcasting shall perform such duties in relation to French language broadcasting, as are delegated to the committee by the by-laws of the Corporation. |  | | | | | | |  |
| \* Section 46 – CBC objects and powers |  | | | | | | |  |
| Objects and Powers |  | | | | | | |  |
| Marginal note: Objects and powers |  | | | | | | |  |
| 46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), in accordance with the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, and for that purpose the Corporation may | 46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), subject to any applicable orders and regulations of the Commission, and for that purpose the Corporation may | | | | | | |  |
| (a) establish, equip, maintain and operate broadcasting undertakings; |  | | | | | | |  |
| (b) make operating agreements with licensees for the broadcasting of programs; | (b) make agreements with persons carrying on broadcasting undertakings for the broadcasting of programs; | | | | | | |  |
| (c) originate programs, secure programs from within or outside Canada by purchase, exchange or otherwise and make arrangements necessary for their transmission; |  | | | | | | |  |
| (d) make contracts with any person, within or outside Canada, in connection with the production or presentation of programs originated or secured by the Corporation; |  | | | | | | |  |
| (e) make contracts with any person, within or outside Canada, for performances in connection with the programs of the Corporation; |  | | | | | | |  |
| (f) with the approval of the Governor in Council, make contracts with any person for the provision by the Corporation of consulting or engineering services outside Canada; |  | | | | | | |  |
| (g) with the approval of the Governor in Council, distribute or market outside Canada programming services originated by the Corporation; |  | | | | | | |  |
| (h) with the approval of the Minister, act as agent for or on behalf of any person in providing programming to any part of Canada not served by any other licensee; |  | | | | | | |  |
| (i) collect news relating to current events in any part of the world and establish and subscribe to news agencies; |  | | | | | | |  |
| (j) publish, distribute and preserve, whether for a consideration or otherwise, such audio-visual material, papers, periodicals and other literary matter as may seem conducive to the attainment of the objects of the Corporation; |  | | | | | | |  |
| (k) produce, distribute and sell such consumer products as may seem conducive to the attainment of the objects of the Corporation; |  | | | | | | |  |
| (l) acquire copyrights and trademarks; |  | | | | | | |  |
| (m) acquire and use any patent, patent rights, licences or concessions that the Board considers useful for the purposes of the Corporation; |  | | | | | | |  |
| (n) make arrangements or agreements with any organization for the use of any rights, privileges or concessions that the Board considers useful for the purposes of the Corporation; |  | | | | | | |  |
| (o) acquire broadcasting undertakings either by lease or by purchase; |  | | | | | | |  |
| (p) make arrangements or agreements with any organization for the provision of broadcasting services; |  | | | | | | |  |
| (q) subject to the approval of the Governor in Council, acquire, hold and dispose of shares of the capital stock of any company or corporation that is authorized to carry on any business incidental or conducive to the attainment of the objects of the Corporation; and |  | | | | | | |  |
| (r) do all such other things as the Board deems incidental or conducive to the attainment of the objects of the Corporation. |  | | | | | | |  |
| \* Section 46(2) – International service |  | | | | | | |  |
| Marginal note: International service | **International service** | | | | | | |  |
| (2) The Corporation shall, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, provide an international service in accordance with such directions as the Governor in Council may issue. | (2) The Corporation shall, subject to any applicable orders and regulations of the Commission, provide an international service in accordance with any directions that the Governor in Council may issue. | | | | | | |  |
| \* Section 46(3) – CBC power to act as agent |  | | | | | | |  |
| Marginal note: Power to act as agent |  | | | | | | |  |
| (3) The Corporation may, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, act as an agent of Her Majesty in right of Canada or a province in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out. | (3) The Corporation may, subject to any applicable orders and regulations of the Commission, act as an agent of Her Majesty in right of Canada, or as an agent or mandatary of Her Majesty in right of a province, in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out. | | | | | | |  |
| Marginal note: Extension of services |  | | | | | | |  |
| (4) In planning extensions of broadcasting services, the Corporation shall have regard to the principles and purposes of the Official Languages Act. |  | | | | | | |  |
| Marginal note: Independence |  | | | | | | |  |
| (5) The Corporation shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence. |  | | | | | | |  |
| 1991, c. 11, s. 462014, c. 20, s. 366(E) |  | | | | | | |  |
| Previous Version |  | | | | | | |  |
| Marginal note: Debt obligations |  | | | | | | |  |
| 46.1 (1) The Corporation may, with the approval of the Minister of Finance, borrow money by any means, including the issuance and sale of bonds, debentures, notes and any other evidence of indebtedness of the Corporation. |  | | | | | | |  |
| Marginal note: Loans to the Corporation |  | | | | | | |  |
| (2) At the request of the Corporation, the Minister of Finance may, out of the Consolidated Revenue Fund, lend money to the Corporation on such terms and conditions as that Minister may fix. |  | | | | | | |  |
| Marginal note: Total indebtedness |  | | | | | | |  |
| (3) The total indebtedness outstanding in respect of borrowings under subsections (1) and (2) shall not exceed |  | | | | | | |  |
| (a) $220,000,000; or |  | | | | | | |  |
| (b) such greater amount as may be authorized for the purposes of this subsection by Parliament under an appropriation Act. |  | | | | | | |  |
| Section 47 – Agent of Her Majesty |  | | | | | | |  |
| Agent of Her Majesty |  | | | | | | |  |
| Marginal note: Corporation an agent of Her Majesty |  | | | | | | |  |
| 47 (1) Except as provided in subsections 44(1) and 46(2), the Corporation is, for all purposes of this Act, an agent of Her Majesty, and it may exercise its powers under this Act only as an agent of Her Majesty. |  | | | | | | |  |
| Marginal note: Contracts |  | | | | | | |  |
| (2) The Corporation may, on behalf of Her Majesty, enter into contracts in the name of Her Majesty or in the name of the Corporation. |  | | | | | | |  |
| Marginal note: Property |  | | | | | | |  |
| (3) Property acquired by the Corporation is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Corporation. |  | | | | | | |  |
| Marginal note: Proceedings |  | | | | | | |  |
| (4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Corporation in the name of the Corporation in any court that would have jurisdiction if the Corporation were not an agent of Her Majesty. |  | | | | | | |  |
| Section 48 – Selling property |  | | | | | | |  |
| Marginal note: Acquisition and disposition of property |  | | | | | | |  |
| 48 (1) Subject to subsection (2), the Corporation may purchase, lease or otherwise acquire any real or personal property that the Corporation deems necessary or convenient for carrying out its objects and may sell, lease or otherwise dispose of all or any part of any property acquired by it. |  | | | | | | |  |
| Marginal note: Restriction |  | | | | | | |  |
| (2) The Corporation shall not, without the approval of the Governor in Council, enter into |  | | | | | | |  |
| (a) any transaction for the acquisition of any real property or the disposition of any real or personal property, other than program material or rights therein, for a consideration in excess of four million dollars or such greater amount as the Governor in Council may by order prescribe; or |  | | | | | | |  |
| (b) a lease or other agreement for the use or occupation of real property involving an expenditure in excess of four million dollars or such greater amount as the Governor in Council may by order prescribe. |  | | | | | | |  |
| Marginal note: Retaining proceeds |  | | | | | | |  |
| (3) Subject to subsection (4), the Corporation may retain and use all of the proceeds of any transaction for the disposition of real or personal property. |  | | | | | | |  |
| Marginal note: Idem |  | | | | | | |  |
| (4) In the case of a transaction for the disposition of real or personal property requiring the approval of the Governor in Council under subsection (2), the Corporation may retain and use all or any part of the proceeds therefrom unless otherwise directed by the Governor in Council. |  | | | | | | |  |
| Section 49 - Expropriation |  | | | | | | |  |
| Marginal note: Expropriation |  | | | | | | |  |
| 49 (1) Where, in the opinion of the Corporation, the taking or acquisition of any land or interest therein by the Corporation without the consent of the owner is required for the purpose of carrying out its objects, the Corporation shall so advise the appropriate Minister in relation to Part I of the Expropriation Act. |  | | | | | | |  |
| Marginal note: Application of Expropriation Act |  | | | | | | |  |
| (2) For the purposes of the Expropriation Act, any land or interest therein that, in the opinion of the Minister referred to in subsection (1), is required for the purpose of carrying out the objects of the Corporation shall be deemed to be land or an interest therein that, in the opinion of the Minister, is required for a public work or other public purpose and, in relation thereto, a reference to the Crown in that Act shall be construed as a reference to the Corporation. |  | | | | | | |  |
| Section 50 – CBC heading office |  | | | | | | |  |
| Head Office and Meetings |  | | | | | | |  |
| Marginal note: Head office |  | | | | | | |  |
| 50 (1) The head office of the Corporation shall be in the National Capital Region as described in the schedule to the National Capital Act or at such other place in Canada as the Governor in Council may specify. |  | | | | | | |  |
| Marginal note: Meetings |  | | | | | | |  |
| (2) The Board shall meet at least six times in each year. |  | | | | | | |  |
| Marginal note: Telephone conferences |  | | | | | | |  |
| (3) A director may, subject to the by-laws of the Corporation, participate in a meeting of the Board or a committee of directors by means of such telephone or other communication facilities as permit all persons participating in the meeting to hear each other, and a director who participates in such a meeting by those means is deemed for the purposes of this Part to be present at the meeting. |  | | | | | | |  |
| Section 51 – CBC by-laws |  | | | | | | |  |
| By-laws |  | | | | | | |  |
| Marginal note: By-laws |  | | | | | | |  |
| 51 (1) The Board may make by-laws |  | | | | | | |  |
| (a) respecting the calling of meetings of the Board; |  | | | | | | |  |
| (b) respecting the conduct of business at meetings of the Board, the establishment of special and standing committees of directors, the delegation of duties to special and standing committees of directors, including the committees referred to in section 45, and the fixing of quorums for meetings thereof; |  | | | | | | |  |
| (c) fixing the fees to be paid to directors, other than the Chairperson and the President, for attendance at meetings of the Board or any committee of directors, and the travel and living expenses to be paid to directors; |  | | | | | | |  |
| (d) respecting the duties and conduct of the directors, officers and employees of the Corporation and the terms and conditions of employment and of termination of employment of officers and employees of the Corporation, including the payment of any gratuity to those officers and employees or any one or more of them, whether by way of retirement allowance or otherwise; |  | | | | | | |  |
| (e) respecting the establishment, management and administration of a pension fund for the directors, officers and employees of the Corporation and their dependants, the contributions thereto to be made by the Corporation and the investment of the pension fund moneys thereof; and |  | | | | | | |  |
| (f) generally for the conduct and management of the affairs of the Corporation. |  | | | | | | |  |
| Marginal note: Certain by-laws subject to Minister’s approval |  | | | | | | |  |
| (2) No by-law made under paragraph (1)(c) or (e), and no by-law made under paragraph (1)(d) that provides for the payment of any gratuity referred to in that paragraph, has any effect unless it is approved by the Minister. |  | | | | | | |  |
| Section 52 – Financial provisions |  | | | | | | |  |
| Financial Provisions |  | | | | | | |  |
| Marginal note: Independence of the Corporation |  | | | | | | |  |
| 52 (1) Nothing in sections 53 to 70 shall be interpreted or applied so as to limit the freedom of expression or the journalistic, creative or programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers. |  | | | | | | |  |
| Marginal note: Idem |  | | | | | | |  |
| (2) Without limiting the generality of subsection (1), and notwithstanding sections 53 to 70 or any regulation made under any of those sections, the Corporation is not required to |  | | | | | | |  |
| (a) submit to the Treasury Board or to the Minister or the Minister of Finance any information the provision of which could reasonably be expected to compromise or constrain the journalistic, creative or programming independence of the Corporation; or |  | | | | | | |  |
| (b) include in any corporate plan or summary thereof submitted to the Minister pursuant to section 54 or 55 any information the provision of which could reasonably be expected to limit the ability of the Corporation to exercise its journalistic, creative or programming independence. |  | | | | | | |  |
| Marginal note: Part VII of Financial Administration Act not to apply |  | | | | | | |  |
| 52.1 Notwithstanding the Financial Administration Act, Part VII of that Act does not apply to a debt incurred by the Corporation. |  | | | | | | |  |
| 1994, c. 18, s. 19 |  | | | | | | |  |
| Section 53 – Financial year (April – March) |  | | | | | | |  |
| Marginal note: Financial year |  | | | | | | |  |
| 53 The financial year of the Corporation is the period beginning on April 1 in one year and ending on March 31 in the next year, unless the Governor in Council otherwise directs. |  | | | | | | |  |
| Section 54 – Annual Corporation Plan |  | | | | | | |  |
| Marginal note: Corporate plan |  | | | | | | |  |
| 54 (1) The Corporation shall annually submit a corporate plan to the Minister. |  | | | | | | |  |
| Marginal note: Scope of corporate plan |  | | | | | | |  |
| (2) The corporate plan of the Corporation shall encompass all the businesses and activities, including investments, of the Corporation and its wholly-owned subsidiaries, if any. |  | | | | | | |  |
| Marginal note: Contents of corporate plan |  | | | | | | |  |
| (3) The corporate plan of the Corporation shall include |  | | | | | | |  |
| (a) a statement of |  | | | | | | |  |
| (i) the objects for which the Corporation is incorporated, as set out in this Act, |  | | | | | | |  |
| (ii) the Corporation’s objectives for the next five years and for each year in that period and the strategy the Corporation intends to employ to achieve them, and |  | | | | | | |  |
| (iii) the Corporation’s expected performance for the year in which the plan is submitted as compared to its objectives for that year, as set out in the last corporate plan; |  | | | | | | |  |
| (b) the capital budget of the Corporation for the next following financial year of the Corporation; |  | | | | | | |  |
| (c) an operating budget for the next following financial year of the Corporation; and |  | | | | | | |  |
| (d) where the Corporation intends to borrow money in the next financial year, a general indication of the borrowing plans and strategies of the Corporation for that year. |  | | | | | | |  |
| Marginal note: Approval of Minister of Finance |  | | | | | | |  |
| (3.1) Where the Corporation includes a general indication of its plans to borrow money in its corporate plan, the Corporation shall submit that part of its corporate plan to the Minister of Finance for that Minister’s approval. |  | | | | | | |  |
| Marginal note: Capital budgets |  | | | | | | |  |
| (4) The Corporation shall submit the capital budget to the Minister in a corporate plan pursuant to paragraph (3)(b) for the approval of the Treasury Board. |  | | | | | | |  |
| Marginal note: Notification of business activity |  | | | | | | |  |
| (5) Where the Corporation or a wholly-owned subsidiary of the Corporation proposes to carry out a substantial change to business activities in any period in a manner that is not consistent with the last corporate plan of the Corporation in respect of that period, the Corporation shall forthwith notify the Minister in writing of the inconsistency in the manner of carrying on the business activity. |  | | | | | | |  |
| Marginal note: Scope of budgets |  | | | | | | |  |
| (6) The budgets of the Corporation referred to in paragraphs (3)(b) and (c) shall encompass all the businesses and activities, including investments, of the Corporation and its wholly-owned subsidiaries, if any. |  | | | | | | |  |
| Marginal note: Form of budgets |  | | | | | | |  |
| (7) The budgets of the Corporation referred to in paragraphs (3)(b) and (c) shall be prepared in a form that clearly sets out information according to the major businesses or activities of the Corporation and its wholly-owned subsidiaries, if any. |  | | | | | | |  |
| Marginal note: Approval of multi-year items |  | | | | | | |  |
| (8) The Treasury Board may approve any item in a capital budget submitted pursuant to paragraph (3)(b) for any financial year or years following the financial year for which the budget is submitted. |  | | | | | | |  |
| 1991, c. 11, s. 541994, c. 18, s. 20 |  | | | | | | |  |
| Section 55 – Annual summary of corporation plan |  | | | | | | |  |
| Marginal note: Summary of plan |  | | | | | | |  |
| 55 (1) The Corporation shall submit to the Minister, in respect of each financial year, a summary of the corporate plan submitted pursuant to section 54 that summarizes the information referred to in subsection 54(3), modified so as to be based on the financial resources proposed to be allocated to the Corporation as set out in the Estimates for that financial year that have been tabled in the House of Commons. |  | | | | | | |  |
| Marginal note: Scope of summary |  | | | | | | |  |
| (2) A summary shall encompass all the businesses and activities, including investments, of the Corporation and its wholly-owned subsidiaries, if any, and shall set out the major business decisions taken with respect thereto. |  | | | | | | |  |
| Marginal note: Form of summary |  | | | | | | |  |
| (3) A summary shall be prepared in a form that clearly sets out information according to the major businesses or activities of the Corporation and its wholly-owned subsidiaries, if any. |  | | | | | | |  |
| Marginal note: Tabling in Parliament |  | | | | | | |  |
| (4) The Minister shall cause a copy of every summary received pursuant to this section to be laid before each House of Parliament. |  | | | | | | |  |
| Marginal note: Reference to committee |  | | | | | | |  |
| (5) A summary laid before a House of Parliament pursuant to subsection (4) stands permanently referred to such committee of that House or of both Houses of Parliament as may be designated or established to review matters relating to the business and activities of the Corporation. |  | | | | | | |  |
| Section 56 – Treasury Board regs for corporate plan |  | | | | | | |  |
| Marginal note: Regulations |  | | | | | | |  |
| 56 The Treasury Board may make regulations prescribing the form in which corporate plans and summaries required pursuant to sections 54 and 55 shall be prepared, the information to be included therein, the information to accompany corporate plans and the time at, before or within which they are to be submitted and summaries are to be laid before each House of Parliament. |  | | | | | | |  |
| Section 57 – CBC's bank accounts |  | | | | | | |  |
| Marginal note: Bank accounts |  | | | | | | |  |
| 57 (1) The Corporation shall maintain in its own name one or more accounts with |  | | | | | | |  |
| (a) any member of the Canadian Payments Association; |  | | | | | | |  |
| (b) any local Cooperative Credit Society that is a member of a Central Cooperative Credit Society having membership in the Canadian Payments Association; and |  | | | | | | |  |
| (c) subject to the approval of the Minister of Finance, any financial institution outside Canada. |  | | | | | | |  |
| Marginal note: Administration of Corporation funds |  | | | | | | |  |
| (2) All money received by the Corporation through the conduct of its operations or otherwise shall be deposited to the credit of the accounts established pursuant to subsection (1) and shall be administered by the Corporation exclusively in the exercise of its powers and the performance of its duties and functions. |  | | | | | | |  |
| Marginal note: Investments |  | | | | | | |  |
| (3) The Corporation may invest any money administered by it in bonds or other securities of, or guaranteed by, the Government of Canada. |  | | | | | | |  |
| Marginal note: Proprietor’s Equity Account |  | | | | | | |  |
| (4) The Corporation shall, in its books of account, establish a Proprietor’s Equity Account and shall credit thereto the amount of all money paid to the Corporation for capital purposes out of parliamentary appropriations. |  | | | | | | |  |
| Marginal note: Receiver General account |  | | | | | | |  |
| 58 (1) The Corporation shall, if so directed by the Minister of Finance with the concurrence of the Minister, and may, if the Minister of Finance and the Minister approve, pay or cause to be paid all or any part of the money of the Corporation or of a wholly-owned subsidiary of the Corporation to the Receiver General to be paid into the Consolidated Revenue Fund and credited to a special account in the accounts of Canada in the name of the Corporation or subsidiary, and the Receiver General, subject to such terms and conditions as the Minister of Finance may prescribe, may pay out, for the purposes of the Corporation or subsidiary, or repay to the Corporation or subsidiary, all or any part of the money credited to the special account. |  | | | | | | |  |
| Marginal note: Interest |  | | | | | | |  |
| (2) Interest may be paid in respect of money credited to a special account pursuant to subsection (1), in accordance with and at rates fixed by the Minister of Finance with the approval of the Governor in Council. |  | | | | | | |  |
| Section 59 – CBC surplus |  | | | | | | |  |
| Marginal note: Payment over surplus money |  | | | | | | |  |
| 59 Subject to any other Act of Parliament, where the Minister and the Minister of Finance, with the approval of the Governor in Council, so direct, the Corporation shall pay or cause to be paid to the Receiver General so much of the money of the Corporation or of a wholly-owned subsidiary of the Corporation as those Ministers consider to be in excess of the amount that is required for the purposes of the Corporation or subsidiary, and any money so paid may be applied toward the discharge of any obligation of the Corporation or subsidiary to the Crown or may be applied as revenues of Canada. |  | | | | | | |  |
| 60 (1) to (6) [Repealed, 2005, c. 30, s. 41] |  | | | | | | |  |
| Marginal note: Reports to Minister |  | | | | | | |  |
| (7) The Board shall make to the Minister such reports of the financial affairs of the Corporation as the Minister requires. |  | | | | | | |  |
| Section 61 – CBC's Auditor |  | | | | | | |  |
| Marginal note: Auditor of the Corporation |  | | | | | | |  |
| 61 The Auditor General of Canada is the auditor of the Corporation. |  | | | | | | |  |
| 62 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 63 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 64 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 65 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 66 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 67 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 68 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| 69 [Repealed, 2005, c. 30, s. 42] |  | | | | | | |  |
| Section 70 – CBC's subsidiaries |  | | | | | | |  |
| Marginal note: Report on wholly-owned subsidiaries |  | | | | | | |  |
| 70 The Corporation shall forthwith notify the Minister and the President of the Treasury Board of the name of any corporation that becomes or ceases to be a wholly-owned subsidiary of the Corporation. |  | | | | | | |  |
| Section 71 – CBC's annual report to Parliament |  | | | | | | |  |
| Report to Parliament |  | | | | | | |  |
| Marginal note: Annual report |  | | | | | | |  |
| 71 (1) The Corporation shall, as soon as possible after, but in any case within three months after, the end of each financial year, submit an annual report on the operations of the Corporation in that year concurrently to the Minister and to the President of the Treasury Board, and the Minister shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it. |  | | | | | | |  |
| Marginal note: Reference to committee |  | | | | | | |  |
| (2) An annual report laid before a House of Parliament pursuant to subsection (1) stands permanently referred to such committee of that House or of both Houses of Parliament as may be designated or established to review matters relating to the business and activities of the Corporation. |  | | | | | | |  |
| Marginal note: Form and contents |  | | | | | | |  |
| (3) The annual report of the Corporation shall include |  | | | | | | |  |
| (a) the financial statements of the Corporation referred to in subsection 131(4) of the Financial Administration Act, |  | | | | | | |  |
| (b) the annual auditor’s report referred to in section 132 of the Financial Administration Act, |  | | | | | | |  |
| (c) a statement on the extent to which the Corporation has met its objectives for the financial year, |  | | | | | | |  |
| (d) quantitative information respecting the performance of the Corporation, including its wholly-owned subsidiaries, if any, relative to the Corporation’s objectives, and |  | | | | | | |  |
| (e) such other information in respect of the financial affairs of the Corporation as is required by this Part or by the Minister to be included therein, |  | | | | | | |  |
| and shall be prepared in a form that clearly sets out information according to the major businesses or activities of the Corporation and its wholly-owned subsidiaries, if any. |  | | | | | | |  |
| PART IV *[Related & consequential amendments]* |  | | | | | | |  |
| Related and Consequential Amendments, Repeal, Transitional and Coming into Force |  | | | | | | |  |
| Related and Consequential Amendments |  | | | | | | |  |
| 72 to 88 [Amendments] |  | | | | | | |  |
| Repeal |  | | | | | | |  |
| 89 [Repeal] |  | | | | | | |  |
| Transitional |  | | | | | | |  |
| Marginal note: Definitions |  | | | | | | |  |
| 90 (1) In this section, |  | | | | | | |  |
| Executive Committee means the Executive Committee of the Commission, as it existed on the day immediately before the coming into force of section 80; (bureau) |  | | | | | | |  |
| former Act means the Broadcasting Act, chapter B-9 of the Revised Statutes of Canada, 1985. (loi abrogée) |  | | | | | | |  |
| Marginal note: Pending proceedings |  | | | | | | |  |
| (2) Any proceedings pending before the Commission or Executive Committee on the day immediately before the coming into force of this subsection shall be taken up and continued before the Commission under and in conformity with this Act. |  | | | | | | |  |
| Marginal note: Continuation of previous orders, etc. |  | | | | | | |  |
| (3) Every decision, order, rule and regulation issued, rendered or made under the former Act by the Commission or Executive Committee that is in force on the coming into force of this subsection and that is not inconsistent with this Act or any other Act of Parliament shall be deemed to have been issued, rendered or made by the Commission under this Act. |  | | | | | | |  |
| Marginal note: Continuation of directions |  | | | | | | |  |
| (4) Every direction issued to the Commission by the Governor in Council under the former Act that is in force on the day immediately preceding the coming into force of this subsection and that is not inconsistent with this Act or any other Act of Parliament shall be deemed to have been issued by the Governor in Council under this Act. |  | | | | | | |  |
| Marginal note: Continuation of licences |  | | | | | | |  |
| (5) Every broadcasting licence authorizing the carrying on of a broadcasting undertaking issued under the former Act and in effect on the day immediately preceding the coming into force of this subsection shall continue in effect for the unexpired portion of its term as if it were a licence authorizing the carrying on of a broadcasting undertaking issued under this Act and may be amended, renewed, suspended or revoked in the manner provided in this Act. |  | | | | | | |  |
| Marginal note: Full-time members of Commission |  | | | | | | |  |
| 91 (1) Every person holding office as Chairman, Vice-Chairman or full-time member of the Commission immediately before the coming into force of section 76 shall continue in office and be deemed to have been appointed under section 3 of the Canadian Radio-television and Telecommunications Commission Act, as amended by this Act, to hold office for the remainder of the term for which the person had been appointed before the coming into force of section 76. |  | | | | | | |  |
| Marginal note: Part-time members of Commission |  | | | | | | |  |
| (2) The part-time members of the Commission holding office immediately before the coming into force of section 76 shall cease to hold office on the coming into force of that section. |  | | | | | | |  |
| Marginal note: Directors of Corporation |  | | | | | | |  |
| 92 Every person holding office as a director of the Corporation immediately before the coming into force of section 36 shall continue in office and be deemed to have been appointed under that section to hold office for the remainder of the term for which the person had been appointed before the coming into force of that section. |  | | | | | | |  |
| Coming into Force |  | | | | | | |  |
| Marginal note: Coming into force |  | | | | | | |  |
| Footnote\*93 This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council. |  | | | | | | |  |
| Return to footnote\*[Note: Act in force June 4, 1991, see SI/91-86.] |  | | | | | | |  |
| SCHEDULE |  | | | | | | |  |
| (Sections 24, 25 and 30) |  | | | | | | |  |
| 1 Any licence issued pursuant to C.R.T.C. Decision No. 87-140 of February 23, 1987. |  | | | | | | |  |
| 2 Any licence issued pursuant to C.R.T.C. Decision No. 88-181 of March 30, 1988. |  | | | | | | |  |
| 3 Any licence issued in connection with the operation of any radio or television station owned and operated by the Corporation. |  | | | | | | |  |
| RELATED PROVISIONS |  | | | | | | |  |
| — 1995, c. 29, s. 5 |  | | | | | | |  |
| Directors cease to hold office |  | | | | | | |  |
| 5 Notwithstanding subsection 36(5) of the Act, every person who was a director of the Canadian Broadcasting Corporation immediately before the coming into force of section 4 of this Act by reason of that subsection shall cease to hold office on the coming into force of section 4 of this Act. |  | | | | | | |  |
| Amendments to other statutes |  | | | | | | |  |
|  | **Related Amendments** | | | | | | |  |
| Canada’s Anti-Spam Legislation – CASL |  | | | | | | |  |
| *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act* |  | | | | | | |  |
| Application |  | | | | | | |  |
| Marginal note: Broadcasting excluded | **Broadcasting excluded** | | | | | | |  |
| 5 This Act does not apply in respect of broadcasting by a broadcasting undertaking, as those terms are defined in subsection 2(1) of the Broadcasting Act. | 5 This Act does not apply in respect of *broadcasting* by a *broadcasting undertaking,* other than an *online undertaking*, as those terms are defined in subsection 2(1) of the *Broadcasting Act*. | | | | | | |  |
| Unsolicited electronic messages |  | | | | | | |  |
| 6 (1) It is prohibited to send or cause or permit to be sent to an electronic address a commercial electronic message unless  (a) the person to whom the message is sent has consented to receiving it, whether the consent is express or implied; and  (b) the message complies with subsection (2).  Marginal note: Contents of message  (2) The message must be in a form that conforms to the prescribed requirements and must  (a) set out prescribed information that identifies the person who sent the message and the person — if different — on whose behalf it is sent;  (b) set out information enabling the person to whom the message is sent to readily contact one of the persons referred to in paragraph (a); and  (c) set out an unsubscribe mechanism in accordance with subsection 11(1).  Marginal note: Period of validity of contact information  (3) The person who sends the commercial electronic message and the person — if different — on whose behalf the commercial electronic message is sent must ensure that the contact information referred to in paragraph (2)(b) is valid for a minimum of 60 days after the message has been sent.  Marginal note: Interpretation  (4) For the purposes of subsection (1)  (a) an electronic message is considered to have been sent once its transmission has been initiated; and  (b) it is immaterial whether the electronic address to which an electronic message is sent exists or whether an electronic message reaches its intended destination.  Marginal note: Exception  (5) This section does not apply to a commercial electronic message  (a) that is sent by or on behalf of an individual to another individual with whom they have a personal or family relationship, as defined in the regulations;  (b) that is sent to a person who is engaged in a commercial activity and consists solely of an inquiry or application related to that activity; or  (c) that is of a class, or is sent in circumstances, specified in the regulations.  Marginal note: Exception  (6) Paragraph (1)(a) does not apply to a commercial electronic message that solely  (a) provides a quote or estimate for the supply of a product, goods, a service, land or an interest or right in land, if the quote or estimate was requested by the person to whom the message is sent;  (b) facilitates, completes or confirms a commercial transaction that the person to whom the message is sent previously agreed to enter into with the person who sent the message or the person — if different — on whose behalf it is sent;  (c) provides warranty information, product recall information or safety or security information about a product, goods or a service that the person to whom the message is sent uses, has used or has purchased;  (d) provides notification of factual information about  (i) the ongoing use or ongoing purchase by the person to whom the message is sent of a product, goods or a service offered under a subscription, membership, account, loan or similar relationship by the person who sent the message or the person — if different — on whose behalf it is sent, or  (ii) the ongoing subscription, membership, account, loan or similar relationship of the person to whom the message is sent;  (e) provides information directly related to an employment relationship or related benefit plan in which the person to whom the message is sent is currently involved, is currently participating or is currently enrolled;  (f) delivers a product, goods or a service, including product updates or upgrades, that the person to whom the message is sent is entitled to receive under the terms of a transaction that they have previously entered into with the person who sent the message or the person — if different — on whose behalf it is sent; or  (g) communicates for a purpose specified in the regulations.  Marginal note:Exception  (7) This section does not apply to a telecommunications service provider merely because the service provider provides a telecommunications service that enables the transmission of the message. |  | | | | | | |  |
| \* Section 6(7.1) – exception for online undertakings |  | | | | | | |  |
|  | **Exception** | | | | | | |  |
|  | 6(7.1) This section does not apply to a commercial electronic message that is sent or caused or permitted to be sent by an *online undertaking*, as defined in subsection (1) of the *Broadcasting Act*, if  (a) the person to whom the message is sent has expressly or implicitly consented to the transmission of a program, as defined in that subsection, from that online undertaking to an electronic address; and  (b) the message is or forms part of that program or is sent in the course of the transmission of that program to the electronic address to which that program is transmitted. | | | | | | |  |
| Marginal note:Exception  6(8) This section does not apply to a commercial electronic message  (a) that is, in whole or in part, an interactive two-way voice communication between individuals;  (b) that is sent by means of a facsimile to a telephone account; or  (c) that is a voice recording sent to a telephone account. |  | | | | | | |  |
| \* Section 6(9) – implied consent |  | | | | | | |  |
| **Implied consent — section 6** |  | | | | | | |  |
| 6(9) Consent is implied for the purpose of section 6 only if  (a) the person who sends the message, the person who causes it to be sent or the person who permits it to be sent has an existing business relationship or an existing non-business relationship with the person to whom it is sent; …. | 6(9) For the purpose of section 6, except subsection 6(7.1), consent is implied only if  …. | | | | | | |  |
| Cannabis Act |  | | | | | | |  |
| \* Section 23 - publication |  | | | | | | |  |
| Publication, etc. of prohibited promotions |  | | | | | | |  |
| 23 (1) It is prohibited to publish, broadcast or otherwise disseminate, on behalf of another person, with or without consideration, any promotion that is prohibited by any of sections 17 to 22. |  | | | | | | |  |
| Marginal note: Exception |  | | | | | | |  |
| (2) Subsection (1) does not apply |  | | | | | | |  |
| (a) in respect of the distribution for sale of an imported publication; |  | | | | | | |  |
| (b) in respect of broadcasting, as defined in subsection 2(1) of the Broadcasting Act, by a distribution undertaking, as defined in that subsection 2(1), that is lawful under that Act, other than the broadcasting of a promotion that is inserted by the distribution undertaking; and | (b) in respect of *broadcasting*, as defined in subsection 2(1) of the *Broadcasting Act*, by  (i) a *distribution undertaking*, as defined in that subsection 2(1), that is lawful under that Act, other than the broadcasting of a promotion that is inserted by the undertaking, or  (ii) an *online undertaking*, as defined in that subsection 2(1), that is lawful under that Act, in respect of the retransmission of programs over the Internet, other than the broadcasting of a promotion that is inserted by the undertaking; and | | | | | | |  |
| (c) in respect of a person that disseminates a promotion if they did not know, at the time of the dissemination, that it includes a promotion that is prohibited under any of sections 17 to 22. |  | | | | | | |  |
| Canadian Radio-television and Telecommunications Commission Act | | | | | | | | | |
| \* Section 13 – Annual Report (notices of violation) |  | | | | | | |  |
| **Annual report** |  | | | | | | |  |
| **13** **(1)** The Commission shall, within three months after the end of each fiscal year, submit to the Minister a report, in such form as the Minister may direct, on the activities of the Commission for that fiscal year, and the Minister shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it. |  | | | | | | |  |
| **Marginal note:** [***Broadcasting Act***](https://laws.justice.gc.ca/eng/acts/B-9.01) |  | | | | | | |  |
| **(2)** The report must include information about the following in respect of the fiscal year, including their number: |  | | | | | | |  |
| **(a)** inquiries conducted under subsection 12(1) of the [*Broadcasting Act*](https://laws.justice.gc.ca/eng/acts/B-9.01) in relation to the identification, prevention and removal of barriers; |  | | | | | | |  |
| **(b)** inquiries conducted under that subsection in relation to sections 42 to 44 of the [*Accessible Canada Act*](https://laws.justice.gc.ca/eng/acts/A-0.6); |  | | | | | | |  |
| **(c)** orders made under subsection 12(2) of the [*Broadcasting Act*](https://laws.justice.gc.ca/eng/acts/B-9.01) in relation to the identification, prevention and removal of barriers; ~~and~~ |  | | | | | | |  |
| **(d)** orders made under that subsection in relation to sections 42 to 44 of the [*Accessible Canada Act*](https://laws.justice.gc.ca/eng/acts/A-0.6). |  | | | | | | |  |
|  | (e) notices of violation issued under section 34.8 of the *Broadcasting Act* in relation to contraventions of a regulation or order made under Part II of that Act in relation to the identification, prevention and removal of barriers; and | | | | | | |  |
|  | (f) notices of violation issued under section 34.8 of the *Broadcasting Act* in relation to contraventions of any of subsections 42(1) to (4) and (7), 43(1) to (3) and 44(1) to (3) and (6) of the *Accessible Canada Act*. | | | | | | |  |
| Copyright Act |  | | | | | | |  |
| \* Section 30.8 - Definitions |  | | | | | | |  |
| **Ephemeral recordings** |  | | | | | | |  |
| **30.8** **(1)** It is not an infringement of copyright for a programming undertaking to fix or reproduce in accordance with this section a performer’s performance or work, other than a cinematographic work, that is performed live or a sound recording that is performed at the same time as the performer’s performance or work, if the undertaking  **(a)** is authorized to communicate the performer’s performance, work or sound recording to the public by telecommunication;  **(b)** makes the fixation or the reproduction itself, for its own broadcasts;  **(c)** does not synchronize the fixation or reproduction with all or part of another recording, performer’s performance or work; and  **(d)** does not cause the fixation or reproduction to be used in an advertisement intended to sell or promote, as the case may be, a product, service, cause or institution. |  | | | | | | |  |
| ***~~Definition of programming undertaking~~*** | ***Definition of programming undertaking*** | | | | | | |  |
| ~~(11) In this section, programming undertaking means~~ | (11) In this section, ***programming undertaking*** means | | | | | | |  |
| ~~(a) a programming undertaking as defined in subsection 2(1) of the Broadcasting Act;~~ | (a) a *programming undertaking*, as defined in subsection 2(1) of the *Broadcasting Act*, that is carried on lawfully under that Act; | | | | | | |  |
| ~~(b) a programming undertaking described in paragraph (a) that originates programs within a network, as defined in subsection 2(1) of the Broadcasting Act; or~~ | (b) a programming undertaking described in paragraph (a) that originates programs within a *network*, as defined in subsection 2(1) of the *Broadcasting Act*; | | | | | | |  |
| ~~(c) a distribution undertaking as defined in subsection 2(1) of the Broadcasting Act, in respect of the programs that it originates.~~ | (c) a *distribution undertaking*, as defined in subsection 2(1) of the *Broadcasting Act*, that is carried on lawfully under that Act, in respect of the programs that it originates; or | | | | | | |  |
| (d) an *online undertaking*, as defined in subsection 2(1) of the *Broadcasting Act*, that is carried on lawfully under that Act, in respect of the programs that it originates. | | | | | | |  |
| ~~The undertaking must hold a broadcasting licence issued by the Canadian Radio-television and Telecommunications Commission under the Broadcasting Act, or be exempted from this requirement by the Canadian Radio-television and Telecommunications Commission.~~ |  | | | | | | |  |
| \* Section 31 – Definition of new media retransmitter |  | | | | | | |  |
| **Retransmission** |  | | | | | | |  |
| Marginal note: Interpretation |  | | | | | | |  |
| 31 (1) In this section, ~~new media retransmitter means a person whose retransmission is lawful under the Broadcasting Act only by reason of the Exemption Order for New Media Broadcasting Undertakings issued by the Canadian Radio-television and Telecommunications Commission as Appendix A to Public Notice CRTC 1999-197, as amended from time to time; (retransmetteur de nouveaux médias)~~ | Bill C-10, s. 47 Subsections 34(2) to (4) come into force on a day to be fixed by order of the Governor in Council.  [Bill C-10, s. 34(2)]:  31(1)  ***new media retransmitter*** means a person whose retransmission would be lawful under the *Broadcasting Act* — as that Act read immediately before the day on which section 31.1 of that Act comes into force — only by reason of the *Exemption order for digital media broadcasting undertakings*, issued by the Canadian Radiotelevision and Telecommunications Commission as the Appendix to Broadcasting Order CRTC 2012-409, as it read immediately before that day; (*retransmetteur de nouveaux médias*) | | | | | | |  |
| [31(2)] retransmitter means a person who performs a function comparable to that of a cable retransmission system, but does not include a new media retransmitter; (retransmetteur) | [Bill C-10, s. 47: Subsections 34(2) to (4) come into force on a day to be fixed by order of the Governor in Council. ]  [Bill c-10, s. 34(3)]: ***retransmitter*** has the meaning assigned by the regulations; (*retransmetteur*) | | | | | | |  |
| 31(3) The Governor in Council may make regulations |  | | | | | | |  |
| ~~(a) defining “local signal” and “distant signal” for the purposes of subsection (2); and~~ | Bill C-10, s. 47: Subsections 34(2) to (4) come into force on a day to be fixed by order of the Governor in Council.  (a) defining “retransmitter” for the purposes of this section; | | | | | | |  |
| (a.1) defining “local signal” and “distant signal” for the purposes of subsection (2); and | | | | | | |  |
| Referendum Act |  | | | | | | |  |
| \* Section 21 – Free broadcast time |  | | | | | | |  |
| Referendum Broadcasts |  | | | | | | |  |
| **Provision of free broadcasting time** |  | | | | | | |  |
| 21 (1) In the period beginning on Thursday, the eighteenth day before polling day, and ending on the second day before polling day, every network operator |  | | | | | | |  |
| (a) that reaches the majority of those Canadians whose mother tongue is the same as that in which the network broadcasts, |  | | | | | | |  |
| (b) that is licensed with respect to more than a particular series of programs or type of programming, and |  | | | | | | |  |
| (c) that does not involve any distribution undertaking within the meaning of the Broadcasting Act, |  | | | | | | |  |
| shall, subject to the regulations made pursuant to that Act and to the conditions of its licence, make available, at no cost, to registered referendum committees for the transmission of referendum announcements and other programming produced by or on behalf of those committees an aggregate of three hours of broadcasting time during prime time. | shall, subject to the regulations made pursuant to that Act and to the conditions imposed on it under section 9.1 of that Act, make available, at no cost, to registered referendum committees for the transmission of referendum announcements and other programming produced by or on behalf of those committees an aggregate of three hours of broadcasting time during prime time. | | | | | | |  |
| \* Section 24 – free broadcast time not election expense |  | | | | | | |  |
| **Free time not referendum expense** |  | | | | | | |  |
| **24** **(1)** The commercial value of any free broadcasting time made available to a registered referendum committee under section 21 shall be deemed not to be a referendum expense. |  | | | | | | |  |
| **Free time not commercial time** |  | | | | | | |  |
| **(2)** Notwithstanding subsection 21(1), the [*Broadcasting Act*](https://laws.justice.gc.ca/eng/acts/B-9.01), any regulations made under that Act and any conditions of a licence of a network operator, free broadcasting time shall not be considered to be commercial time. | (2) Despite subsection 21(1), the *Broadcasting Act*, any regulations made under that Act and any conditions imposed on a network operator under section 9.1 of that Act, free broadcasting time shall not be considered to be commercial time. | | | | | | |  |
| Canada Elections Act |  | | | | | | |  |
| \* Section 335 – broadcast time to registered parties |  | | | | | | |  |
| Broadcasting time ~~to be~~ provided to registered parties | **Broadcasting time provided to registered parties** | | | | | | |  |
| ~~335 (1) In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day, every broadcaster shall, subject to the regulations made under the Broadcasting Act and the conditions of its licence, make available, for purchase by all registered parties for the transmission of political announcements and other programming produced by or on behalf of the registered parties, six and one-half hours of broadcasting time during prime time on its facilities.~~ | 335 (1) In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day, every broadcaster shall, subject to the regulations made under the *Broadcasting Act* and the conditions imposed on it under section 9.1 of that Act, make available, for purchase by all registered parties for the transmission of political announcements and other programming produced by or on behalf of the registered parties, six and one-half hours of broadcasting time during prime time on its facilities. | | | | | | |  |
| Broadcasting time to be provided to new eligible parties | **Broadcasting time provided to new eligible parties** | | | | | | |  |
| ~~(3) In addition to the broadcasting time to be made available under section 335, and within the period referred to in that section, every broadcaster shall, subject to the regulations made under the Broadcasting Act and to the conditions of its licence, make available, for purchase by every eligible party entitled to broadcasting time under this section, broadcasting time in the amount determined under this section for the eligible party for the transmission of political announcements and other programming produced by or on behalf of the eligible party during prime time on that broadcaster’s facilities.~~ | 339(3) In addition to the broadcasting time to be made available under section 335, and within the period referred to in that section, every broadcaster shall, subject to the regulations made under the *Broadcasting Act* and to the conditions imposed on it under section 9.1 of that Act, make available, for purchase by every eligible party entitled to broadcasting time under this section, broadcasting time in the amount determined under this section for the eligible party for the transmission of political announcements and other programming produced by or on behalf of the eligible party during prime time on that broadcaster’s facilities. | | | | | | |  |
| Free broadcasting time | **Free broadcasting time** | | | | | | |  |
| ~~345 (1) In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day at that election, every network operator shall, subject to the regulations made under the Broadcasting Act and to the conditions of its licence, make available, at no cost, to the registered parties and eligible parties referred to in subsection (2), for the transmission of political announcements and other programming produced by or on behalf of those parties, broadcasting time as determined under that subsection if the network formed and operated by the network operator~~  … | **345 (1)** In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day at that election, every network operator shall, subject to the regulations made under the *Broadcasting Act* and to the conditions imposed on it under section 9.1 of that Act, make available, at no cost, to the registered parties and eligible parties referred to in subsection (2), for the transmission of political announcements and other programming produced by or on behalf of those parties, broadcasting time as determined under that subsection if the network formed and operated by the network operator  … | | | | | | |  |
| Accessible Canada Act |  | | | | | | |  |
| \* Section 42 – first accessibility plan |  | | | | | | |  |
| Initial accessibility plan |  | | | | | | |  |
| 42 (1) A regulated entity that carries on a broadcasting undertaking must, before the expiry of one year after the day fixed or determined by regulations made under subsection 45(1) that apply to that regulated entity, prepare and publish, in accordance with this Act and regulations made under that subsection, an accessibility plan respecting |  | | | | | | |  |
| (a) its policies, programs, practices and services in relation to the identification and removal of barriers, and the prevention of new barriers, in the areas referred to in paragraphs 5(c), (d) and (e), the area referred to in paragraph 5(c.1) as it relates to the areas referred to in paragraphs (d) and (e) and, if it is not subject to the Employment Equity Act, employment equity; |  | | | | | | |  |
| (b) the conditions of the regulated entity’s licence issued under Part II of the Broadcasting Act that relate to the identification and removal of barriers and the prevention of new barriers; | 42(1)(b) the conditions imposed on the regulated entity under section 9.1 of the *Broadcasting Act* that relate to the identification and removal of barriers and the prevention of new barriers; | | | | | | |  |
| \* Section 118 – non-application |  | | | | | | |  |
| Non-application — areas specified in regulations |  | | | | | | |  |
| 118(3) Regulations made under subsection 117(1) that are in relation to the identification, prevention and removal of barriers in an area referred to in paragraph 5(g) do not apply in respect of a regulated entity that carries on a broadcasting undertaking if requirements in relation to the identification, prevention and removal of barriers in that area apply to the regulated entity under  ~~(a) a condition of a licence issued under Part II of the Broadcasting Act;~~  (b) an order under subsection 9(4) of that Act; or  (c) a regulation made under subsection 10(1) of that Act. | 118(3) (a) a condition imposed under section 9.1 of the Broadcasting Act; | | | | | | |  |