

Broadcasting - Secretary General Letter addressed to Various parties

Ottawa, 9 July 2024

BY E-MAIL

Reference: [1011-NOC2024-0137](#), [1011-NOC2024-0138](#)

Distribution List

Joanne Pitkin
Senior Manager, Digital Policy
Amazon.com.ca Inc
joabpitk@amazon.com

**NOTE: Original document posted on CRTC's website at:
<https://crtc.gc.ca/eng/archive/2024/lb240709.htm>
Yellow highlighting added**

Frédérique Couette
Director, Regulatory Affairs, Broadcasting
Quebecor Media Inc.
frederique.couette@quebecor.com

RE: Requirement to disclose information designated as confidential – Described Video and Closed Captioning Requests for Information

To Joanne Pitkin and Frédérique Couette,

This letter is in response to confidential filings submitted by Prime Video (Prime) and Quebecor Media Inc. (Quebecor) in response to requests for information (RFIs) related to described video (DV) and closed captioning (CC).

The information in question is significant to these proceedings and its disclosure would be in the public interest. Disclosure of this information would ensure: (i) that stakeholders can more effectively and meaningfully comment on the records of the two consultations; and (ii) that information filed by online undertakings and traditional television providers is treated equitably.

The CRTC requires the disclosure of all information designated as confidential by Prime and Quebecor filed in response to the RFIs. Specifically, the CRTC requires the disclosure of all of the following information related to DV:

- Prime's responses to questions 1 and 4d) (these questions related to the amount of content available with DV); and
- Quebecor's responses to question 1 (this question related to the amount of content available with DV).

Further, the CRTC requires the disclosure of all of the following information related to CC:

- Prime's responses to questions 1, 2, 5, 13 and 14 (these questions related to the amount of content available with CC, quality assessment measures, and **complaint data related to CC**); and
- Quebecor's responses to questions 1, 3, 4, 5, 6, 8, 9, 10, 13, 14, 17, 18, and 19 (these questions related to the amount of content available with CC, quality assessment measures, and **complaint data related to CC**).

To fulfill this requirement, Prime and Quebecor must file with the CRTC, by GCKey, non-abridged versions of the above noted information within three days of the date of this letter.

The Appendix to this letter sets out the rationale for this CRTC decision, including an analysis of the submissions of Prime and Quebecor against section 25.3 of the *Broadcasting Act*.

The non-abridged versions of the responses will be added to the relevant public records of:

- [Call for comments – Development of a regulatory policy for closed captioning provided by online streaming undertakings](#); and
- [Call for comments – Development of a regulatory policy for the distribution of described video and audio description](#).

Yours sincerely,

Marc Morin
Secretary General

APPENDIX

Requests for Information

To prepare for the CC Consultation^{Footnote1} and DV Consultation^{Footnote2}, CRTC staff sent out two RFI Letters^{Footnote3} to online undertakings and traditional television providers to get information on their practices related to DV and CC on their online and on-demand services. The responses to the RFI Letters have been posted on the public records of the relevant consultations.

In response to the RFI Letters, Quebecor and Prime designated some information they filed, related to the amount of DV and CC they offer, quality assessment measures, and the number of closed captioning complaints they have received, as confidential. They were provided the opportunity to justify their designations, as well as the chance to reply when staff requested that they disclose the information.

The information in question is significant to these proceedings. Requiring its disclosure would be in the public interest. Disclosure of this information would ensure: (i) that stakeholders can more effectively and meaningfully comment on the records of the two consultations; and (ii) that information filed by online undertakings and traditional television providers is treated equitably.

Subsection 25.3(1) of the *Broadcasting Act* sets out the following categories of information that can be designated as confidential:

1. information that is a trade secret;
2. 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
3. information the disclosure of which could reasonably be expected
 1. to result in material financial loss or gain to any person;
 2. to prejudice the competitive position of any person; or
 3. to affect contractual or other negotiations of any person.

Under subsection 25.3(5) of the Act, the CRTC can disclose or require the disclosure of information designated as confidential if:

- it has considered representations from interested persons;
- the information is relevant to the exercise of the CRTC's mandate; and
- disclosure is in the public interest.

Responses from Quebecor and Prime

Prime and Quebecor both argued that the amount of programming available with DV and CC was competitively and contractually sensitive and requested that any disclosure be in aggregate format. They argued disclosure would give their competitors insight into their business strategies and make negotiations with content providers more difficult.

For information on complaints, Quebecor did not explain why CC complaints data should remain confidential. Prime stated that for CC, the number of complaints could only be retrieved when mixed with complaints about subtitles, so it argued this should remain confidential because it does not represent true customer sentiment about its CC services.

Quebecor did not provide a specific rationale for the remainder of its confidentiality designations in its CC responses. Rather, it stated generally that it is strategic information of a commercial and technical nature, which could be used by competing companies to their benefit. It added that, in its view, the public interest would not be better served by the disclosure of this confidential information.

CRTC Analysis

Under [Broadcasting and Telecom Information Bulletin CRTC 2010-961](#), which sets out how the CRTC applies its confidentiality and disclosure rules, Prime and Quebecor must justify the need for confidentiality. They need to convince the CRTC that they would suffer specific and direct harm from disclosure that would outweigh the public interest in disclosure.

Based on the comments filed by Prime and Quebecor, the CRTC has determined that there is a greater public interest in disclosure in this case.

Even if the CRTC accepts that this is commercial or technical information the companies would not normally publicize, it does not consider that they have established specific and direct harm that would outweigh the public interest in disclosure.

This information is highly relevant to the CC and DV proceedings; the amounts of accessible programming and the number of complaints would provide evidence relevant to key issues in the proceeding, such as whether new rules are required and, if so, what they should be.

Disclosure would help facilitate meaningful comment by interested parties, increasing transparency and creating a fuller record for these consultations. Also, given that 15 of the 17 respondents to RFIs have already willingly disclosed the entirety of their responses, the CRTC considers that the disclosure would put Prime and Quebecor on an equitable footing with their competitors.

While Prime has argued that there is a possibility that some content providers may attempt to use the released percentages as leverage in contract negotiations, content providers are likely already aware that Prime's content does not always include DV and CC (since any customer can see which programming has these features and which does not).

With respect to the Prime CC complaints data, the CRTC acknowledges that the data are a mix of CC and subtitle complaints. However, disclosure of the complaints data is in the public interest and Prime already clearly made this caveat in its response, which all parties can take into account in their submissions in these proceedings.

Footnotes

Footnote 1

Broadcasting Notice of Consultation CRTC [2024-137](#), *Call for comments – Development of a regulatory policy for closed captioning provided by online streaming undertakings*, 25 June 2024

[Return to footnote 1 referrer](#)

Footnote 2

Broadcasting Notice of Consultation CRTC [2024-138](#), *Call for comments – Development of a regulatory policy for the distribution of described video and audio description*, 25 June 2024

[Return to footnote 2 referrer](#)

Footnote 3

[Staff Letter](#) addressed to the Distribution List - Subject: Request for information – Closed captioning of audio-visual programs; [Staff Letter](#) addressed to the Distribution List - Subject: Request for information – Described video and audio description

[Return to footnote 3 referrer](#)

Date modified:
2024-07-12