



19 August 2024

Filed online

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

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

The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including telecommunications. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in the 1991 *Broadcasting Act*.

The Forum's comments on the above-noted notice of consultation are attached.

We look forward to reviewing other parties' interventions and may reply to these at the appropriate time. Should the CRTC decide to hold a public hearing in this matter the Forum respectfully asks to participate in this process in person.

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Accessible broadcasting in the 21st century

**The path to full access is not good will,
but enforcement of Canadian law**

*Call for comments – Development of a regulatory policy for closed
captioning provided by online streaming undertakings*

[Broadcasting Notice of Consultation CRTC 2024-137](#)

(Ottawa, 25 June 2024)

Comments by the
Forum for Research and Policy in Communications (FRPC)

19 August 2024

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I. Introduction

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including broadcasting and telecommunications.
- 2 FRPC is participating in this proceeding because of its strong belief that all residents of Canada are entitled to use and benefit from Canada's broadcasting system – by ensuring, among other things, that all broadcast programming is fully accessible to people who are hard of hearing or deaf.
- 3 Before addressing the CRTC's questions, FRPC wishes to express its serious disappointment that BNoC 2024-137 provided no information whatsoever about the current state of closed captioning in Canada's broadcasting system.
- 4 While it is true that the Commission requested information about online broadcasters captioning practices, the CRTC left the collection and aggregation of this information to each individual intervener. Unless one is to assume that the CRTC has not undertaken this task itself, why could the CRTC not have provided its own summary of this information? Data alone do not establish any predetermination by the Commission (placing its neutrality into question) – while requiring each intervener to review the several dozen answers of different online broadcasters to the CRTC's questions has created significant inefficiency and wasted time better spent analyzing results. Further, the absence of a core of objective information that the CRTC could have presented in BNoC 2024-137 is effectively divisive, in that it prevents the parties in this proceeding from sharing a common understanding of the state of accessibility in Canada's online broadcasting system.
- 5 It is also unclear, moreover, why the CRTC apparently decided to place the burden of ascertaining the interests of hard-of-hearing and deaf people on these individuals themselves, or on the small number of accessibility organizations formed to represent the needs of their communities. What, one wonders, prevented the Commission from undertaking a survey of hard-of-hearing and deaf people, perhaps in conjunction with accessibility organizations early in 2024, after it had received the majority of online broadcasters' responses to its requests for information?
- 6 After all, while one might expect every professional broadcaster to pay extremely close attention to each CRTC announcement, given that their existence is so inextricably linked to the Commission's activity, it cannot so readily be assumed that people living in Canada are generally even aware of the Commission or its daily releases.
- 7 The CRTC effectively places a heavy burden on the very community whose interests it is expected to protect and serve when it assumes that, out of the 36 million people living in Canada, several hundred thousand will be paying such close attention to the federal

broadcast regulator that they will participate in proceedings such as this. Has the Commission, by any chance, paid for any advertising on Canada's conventional or its online broadcasting services to ensure that people who are hard of hearing or deaf are aware that they can help influence decisions that will affect their access to online broadcasters' programming?

- 8 Finally, FRPC wishes to express its disquiet with the CRTC's apparent decision to develop its approach to online broadcasters' closed-captioning requirements through a written proceeding. The absence of a public hearing in this matter could be misinterpreted as an indication that the Commission considers this matter to be of lesser consequence than the determination of a quantum for supporting Canadian programming, or as an indication that the Commission is unwilling to allocate its resources towards a hearing that would be more expensive than usual – assuming it bore the costs of simultaneous interpretation for deaf or hard-of-hearing appearing interveners.
- 9 The CRTC being master of its own procedures, FRPC asks that the Commission reconsider its paper-suffices approach to the issue of a major new policy on captioning by online broadcasters and hold a public hearing about this important policy. (In fact, it should preferably hold several proceedings to enable it to meet in person with people who are Deaf or Hard of Hearing on the West Coast, in central Canada and on the East Coast to enable it to literally communicate face to face with the people its accessibility policies are supposed to be serving.)

II. Whose interests do unenforceable expectations serve?

- 10 The CRTC's current approach to accessibility in broadcasting has evolved over time. To put the passage of time in more concrete terms, a Deaf person who was 19 years of age in 1968 when the CRTC was established would have had to have waited until they were 58 years old for the CRTC to require that all broadcast audiovisual programming be fully captioned.¹
- 11 A significant problem is that the CRTC has interpreted Parliament's requirements regarding accessibility as being optional rather than mandatory. For instance, the CRTC two years ago addressed the accessibility of Canada's national public broadcaster's

¹ *A new policy with respect to closed captioning*, [Broadcasting Public Notice CRTC 2007-54](#) (Ottawa, 17 May 2007):

18. Although the television policy review process focused on the obligations of OTA broadcasters and contemplated a 100% captioning requirement only for them, the Commission is of the view that the underlying rationale for this new policy applies equally to all broadcasters, including educational broadcasters and specialty, pay, pay-per-view (PPV) and video-on-demand (VOD) services. The Commission, therefore, intends to discuss the application of the policy to such undertakings as part of their licence renewals or at the time of initial licensing.



programming: it decided to require the CBC/RC to file reports about the closed captioning it makes available on its audiovisual streaming services.² To be specific, however, the CRTC issued a series of “expectations” to the CBC/Radio-Canada. In 2022 it did not require its online stream services to be captioned – it said only that it expects the CBC/RC to “to caption 100% of the English- and French-language programs made available” on its online streaming services.³

- 12 ‘Expectations’ are a regulatory sleight-of-hand device invented by the Commission in the 1980s. Neither the 1968 *Broadcasting Act* then in force nor its 1991 and 2023 successor statutes sets any penalty for a broadcaster’s breach of an ‘expectation’. This device is well past its best-before date: when first used half a century ago the CRTC still vigorously enforced its regulations as well as its policies, leading broadcasters to respect the CRTC’s slightest *obiter dicta* (words used in passing and not necessarily imbued with force of law).
- 13 The days when broadcasters rushed to meet the CRTC’s slightest admonishment are long gone, yet the Commission continues to rely on the appearance that it enforces its requirements, when it is instead declining to operationalize aspects of Parliament’s broadcasting policy for Canada into enforceable requirements. Less than a decade ago, having engaged with Canadians for over a year to discuss the future of Canadian television in the *Let’s Talk TV* process, the CRTC still emphasized expectations about closed captioning rather than concrete and enforceable requirements – and its website today continues to cite its expectations for closed captioning as it set these out nine years ago: **Error! Reference source not found..**

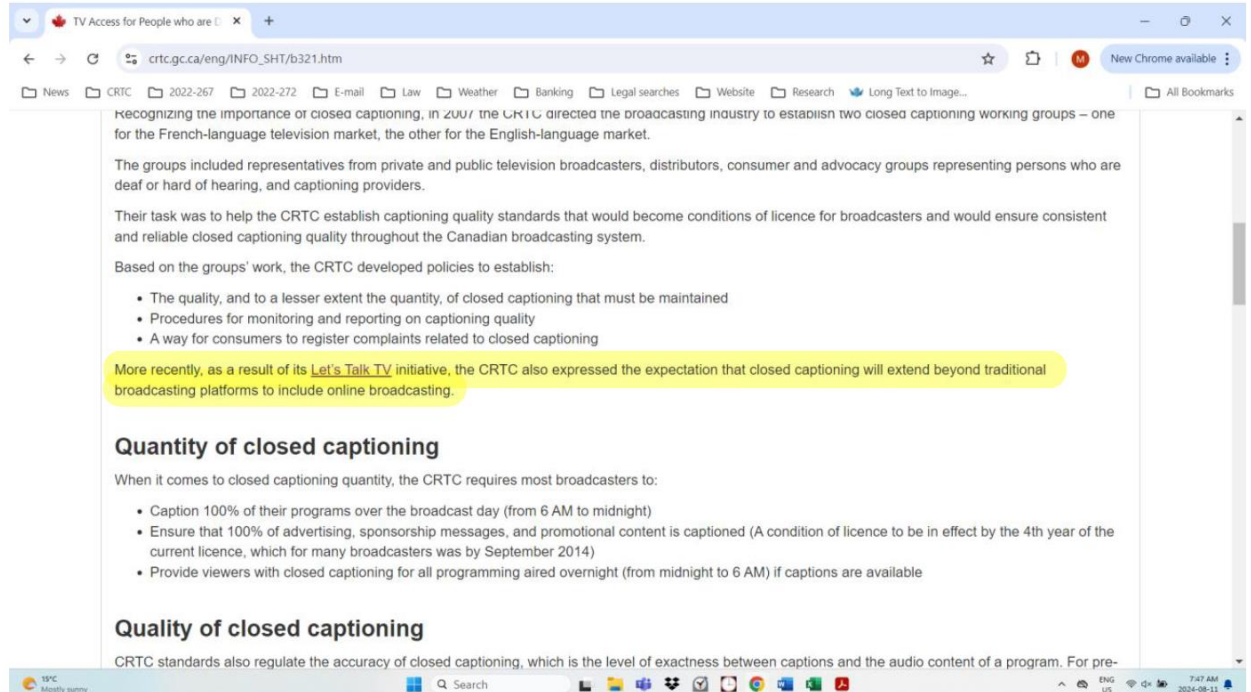
[Remainder of page left intentionally blank]

² [Canadian Broadcasting Corporation – Various audio and audiovisual services – Licence renewals, Broadcasting Decision CRTC 2022-165 and Broadcasting Orders CRTC 2022-166 and 2022-167](#) (Ottawa, 22 June 2022):

731. ... as set out in Appendix 4 to this decision, the Commission will require the CBC, pursuant to section 4 of the DMEQ, to file a report relating to the provision of closed captioning and described video for programming made available on audiovisual DMBUs operated by the CBC, in a format deemed acceptable by the Commission, by no later than 30 November of each year for the broadcast year ending the previous 31 August, consistent with other reporting requirements.

³ *Ibid.*, Appendix 4, 12(b).

Figure 1 CRTC today cites its closed captioning expectations from 2015 *Let's Talk TV* expectations
 CRTC, “TV Access for People who are Deaf or Hard of Hearing: Closed Captioning”
https://crtc.gc.ca/eng/info_sht/b321.htm



“Date modified: 2020-06-09”
 Accessed 11 August 2024

- 14 The CRTC’s evident unwillingness to do more than encourage broadcasters to make their programming accessible makes its unsurprising that in 2024 – roughly half a century since closed captioning was invented and a quarter of a century since ‘new media’ entered the Commission’s lexicon⁴ – even Canada’s national public broadcaster “does not have internal reports assessing the accuracy of closed captioning for pre-recorded programs” offered by its nine online undertakings.⁵
- 15 A second mechanism on which the CRTC appears to rely is the submission of complaints. Again, given the CRTC’s long-standing ‘expectational’ approach to accessibility, it is unsurprising that CBC/Radio-Canada simply declined to answer the CRTC’s questions about the number of complaints it has received about closed captioning on its online

⁴ Exemption order for new media broadcasting undertakings, [Public Notice CRTC 1999-197](#) (Ottawa, 17 December 1999).

⁵ CBC/RC, Response to RFI 4a, DM#4631910. Its online services are: CBC Comedy (FAST channel), CBC Gem, CBC Listen, CBC News BC (FAST channel), CBC News Explore (FAST channel), CBC News Toronto (FAST Channel), ICI TOU.TV, Radio-Canada INFO (chaîne FAST), Radio-Canada OHdio: see CRTC, *List of registered online streaming services* at: <https://applications.crtc.gc.ca/portail-portal/eng/listes-lists/Digital-Media/12>.

programming services in the past three years by reframing the question as if it asked how many complaints the Corporation had received from the Commission:

The public can send complaints related to closed captioning directly to the Commission, which are then forwarded to CBC/Radio-Canada for response, rather than going through the complaints resolution body for private broadcasters.

Over the last three years (January 1, 2021 to December 31, 2023), CBC/Radio-Canada did not receive any complaints *from the Commission* related to closed captioning on our online undertakings.⁶

[underlining and italics added]

- 16 Since the 1990s, moreover, the CRTC has relied ever more heavily on industry-established organizations such as the Canadian Broadcast Standards Council (CBSC) and the Commission for Complaints for Telecom-television Services (CCTS) to interface with members of the public who are dissatisfied with Canada’s licensed broadcast programming services, broadcast programming distributors or telecommunications services. The actual impact of these non-government organizations in ensuring better programming, better distribution service or better telecommunications service – the purpose, writ large, of the CRTC – is unknown partly because these organizations do not evaluate their work in this way and also because complaints *per se* have largely disappeared from the CRTC’s broadcasting and its telecommunications files.
- 17 The CRTC tends to reserve its use of mandatory requirements – orders, regulations and condition of service – to address matters tied to broadcasters’ financial performance. This includes requirements that certain programming services be made available by distributors in exchange for subscribers’ payment of the ‘basic monthly rate’, that certain broadcasters’ programming services be carried or that distributors remit specified per-subscriber rates to particular programming services.
- 18 FRPC’s position is that Deaf and Hard-of-Hearing people deserve more, they deserve better and they deserve the complete closed captioning of online broadcasting services with the same urgency and timeliness set out for the CRTC’s contributions proceeding (2023-138 and 2024-121) and its *Online News Act* proceeding ([Implementing the Online News Act](#)). Accessibility measures cannot be left to the vagaries of the marketplace for the simple reason that if Parliament had intended marketplace economics to make decisions about its broadcasting policy, it would not have established its first broadcasting policy in 1968, and would not have updated that policy in either 1991 or 2023.

⁶ CBC/RC, Response to RFI 4a, DM#4631910.



III. CRTC must regulate availability and quality of online services’ closed captioning

19 The CRTC’s questions in BNoC 2024-137 raise concerns about the manner in which the CRTC may implement any requirements for captioned programming broadcast by online streaming services.

A. Availability of high-quality captioning on online broadcasting services

20 The CRTC invited a number of online broadcasters to state whether their live programs were captioned. With some qualifications⁷ FRPC notes that a number of broadcasters with English- and French-language programming confirmed they already provide significant levels of captioning: Table 1. That said, in FRPC’s view, neither Netflix nor Apple TV+ provided responsive answers to the CRTC’s questions.

Table 1 Summary of answers to CRTC’s RFIs concerning existing captioning levels

Broadcaster	DM#	1a Pre-recorded English - % captioned - English	1b Pre-recorded French - % captioned	6 Live programs - % captioned
Prime Video	#4665991	88%	75%	Unresponsive
STQ			56%	
Tele Inter-Rives			100%	No live programs
SonyLIV	4630999	0%	0%	N/A
SonyKal	4631001	0%	0%	N/A
Crunchyroll & Funimation	4631002	15%	N/A	N/A
Game Show Network	4631003	100%	N/A	Not answered
Roku - VOD	4631873	71% to 88%	Unresponsive	N/A
Roku - linear/FAST	4631873	90%	Unresponsive	N/A
Rogers excl'g Sportsnet	4631877	100%		100%
Rogers Sportsnet	4631877	80%		80%
RNC Media	4631879		100%	100%
Quebecor online	4663011		99%	100%
Paramount - Paramount+ Canada	4631891	99%	Not offered	No live content
Paramount - Pluto TV Canada	4631891	97%	0%	No live content
Netflix	4631894	Unresponsive	Unresponsive	Unresponsive
Corus - online	4631897	full-length: 100%	full-length: 100%	100%
CBC - Gem	4631910	100%		Unresponsive
CBC - ICI TOU.TV	4631910		87%	Unresponsive
Corus - online	4631896	100%		100%
Disney + - online	4631913	100%	100%	100%
Bell - online	4631915	100%	100%	100%
APTN - online	4631918	90%	90%	100%
Apple TV +	4631923	Unresponsive	Unresponsive	

⁷ For instance, Corus mentioned that the percentage of its online English-language pre-recorded programming was 100%, but qualified that this referred to full-length programs (DM #4631896 and DM#4631897)



Accessible Media Inc.	4631931	100%	100%	
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21 Three conclusions might be drawn from these answers. First: Canadian broadcasters have a head start on captioning online programming. Second: the CRTC must begin to ensure that large foreign broadcasters operating in Canada through online services meet Canadian requirements for accessibility. Third: unlike the first 40 years of the CRTC’s regulation of closed captioning, the Commission must set clear requirements for all online programming to be captioned, beginning in the 2025/26 broadcast year. If such requirements are not set and enforced (through administrative monetary penalties) closed captioning may come to represent a 21st version of *Waiting for Godot* – something Parliament cannot have desired.

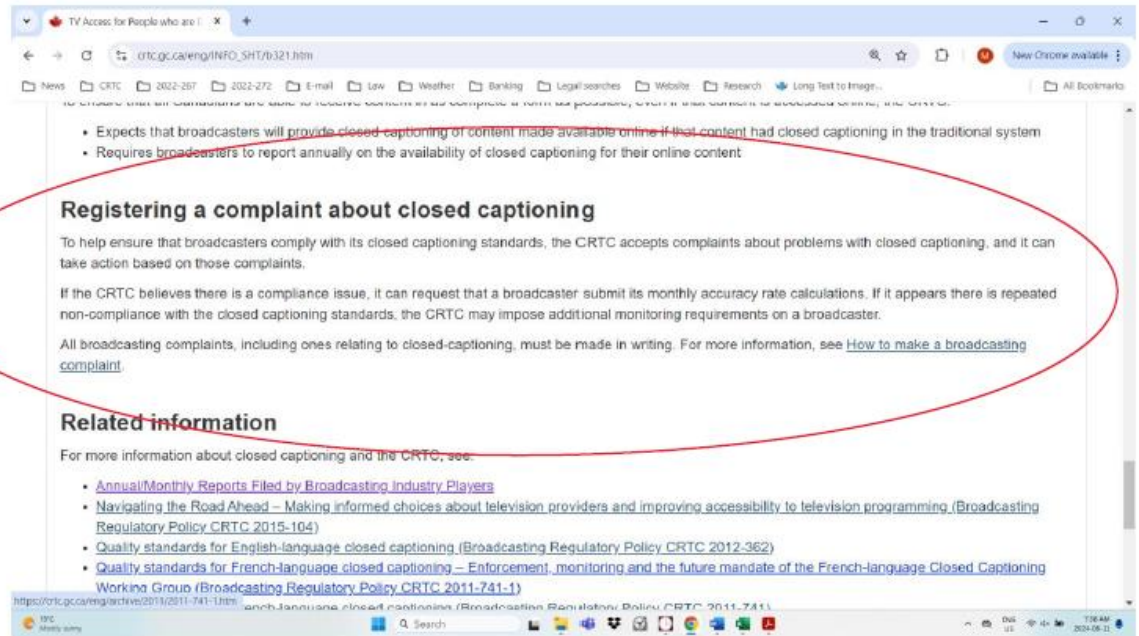
22 FRPC recommends that the CRTC require full closed captioning of the programming of registered online broadcasting services by the beginning of the 2025/2026 broadcast year.

B. Ensuring the quality of captioning by online broadcasting services

23 One way to ensure that online broadcasting services provide high-quality closed captioning as part of their broadcast programming is to require them to reply to complaints and to provide the CRTC with copies of both the complaints and the broadcasters’ answers.

24 The CRTC has relied on complaints about closed captioning for many years, inviting parties to register complaints about closed captioning: Figure 2.

Figure 2 CRTC and complaints about closed captioning (11 August 2024)



When FRPC asked the CRTC on 26 June 2024 – the day after the CRTC published BNoC 2024-137 – for the numbers of complaints it has received by year from 2014 to the present, however, the CRTC answered that it does not really know because its “data system is outdated, and the reporting has proven to be unreliable”:

25 Figure 3.

Figure 3 CRTC’s 23 July 2024 response to Access-to-information request A-2024-00021

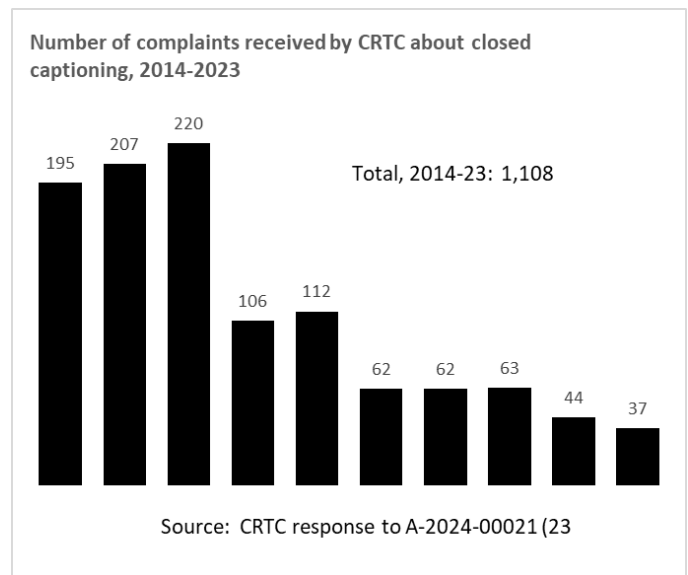
Year	Number of complaints*
2014	195
2015	207
2016	220
2017	106
2018	112
2019	62
2020	62
2021	63
2022	44
2023	37

*The CRTC’s data system is outdated, and the reporting has proven to be unreliable. We cannot be reasonably assured of the accuracy of this data.

Figure 4 Captioning complaints received by CRTC, 2014-2023

26 In fact, the CRTC’s data system is so outdated that the Commission’s staff can only provide a breakdown of the number of closed captioning complaints by broadcaster and (if specified) program title if they manually search each complaint – the volume of which they estimated at “over 10,000 pages”.⁸

27 (The 10,000-page estimate appears high in hindsight, given that it seems that from 2014 to 2023 the CRTC received a total of 1,108 complaints about captioning; if the 10,000-page estimate is accurate, it would mean the complaints would on average be 9 pages long).



28 Moreover, the complaints reported by online broadcasters bear little relationship to the complaints the CRTC said it had received. Summarizing the information provided by the 8 broadcasters that provided complaint figures shows that in the last 2 to 3 years they received 965 complaints – where the CRTC received just 144 complaints: Table 2

⁸ CRTC AIPRP-ATIP@crtc.gc.ca, 28 June 2024 (11:54 AM), regarding A-2024-00021.



Table 2 Number of complaints reported in January 2024 RFI answers

Broadcaster	Issue addressed		Total
	Availability	Quality	
Netflix	337	56	393
Corus	10	118	129
Disney +	50	67	117
Amazon Prime	71	62	133
Bell	51	42	93
STQ	58	10	68
Rogers	13	16	29
APTN	3	1	4
Total	593	372	965
Avg/year *	253	176	

* The average per year was calculated by divided the total complaints reported by the number of years for which the broadcaster was reporting the complaints (which varied)

29 It is unclear where the discrepancy between the numbers of complaints the CRTC says it has received and the numbers of complaints that online broadcasters say they have received arises. To some extent, the explanation for the discrepancy is less important than correcting it. The Forum’s recommendations are set out below:

30 FRPC recommends that the Commission begin by revising its outdated page inviting people to submit complaints.

31 FRPC recommends that the CRTC require all broadcasters to provide copies of complaints they receive about closed captioning (whether for their online or offline programming services) to the CRTC.

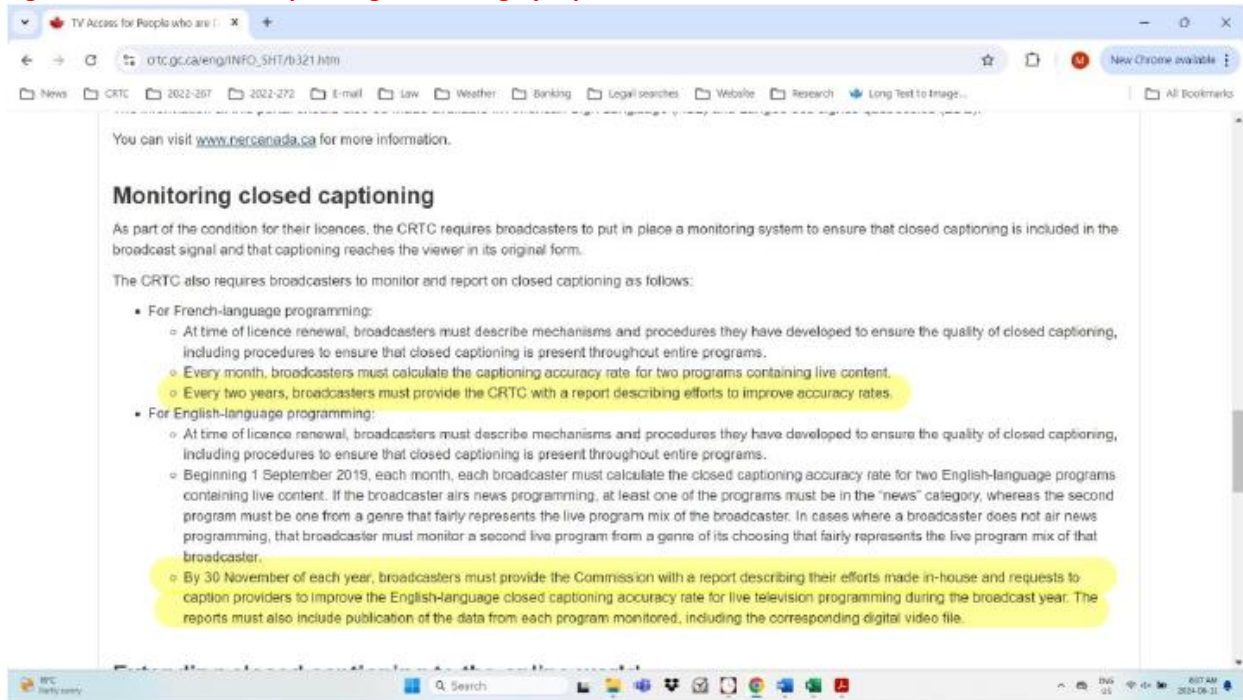
32 FRPC recommends that the CRTC publish monthly summaries of the complaints it has received about closed captioning, and that it provide the Minister of Canadian Heritage with this information in an annual report that it also publishes on its website.

33 FRPC recommends that the CRTC follow up on the complaints received about specific broadcasters to determine whether problems have been corrected.

C. The CRTC must monitor closed captioning

34 The CRTC currently requires broadcasters to report every two years about their conventional audiovisual services’ closed captioning: Figure 5.

Figure 5 CRTC’s closed-captioning monitoring by reports



35 At the beginning of 2024, however, Québecor’s required reports were missing (shown by the grey shading) from 2015 on: Table 1:

Table 3 CRTC-posted reports about closed captioning by conventional Canadian broadcasters

Language & broadcaster	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
English-language broadcasters – Broadcasting Regulatory Policy CRTC 2019-308										
APTN	✓		✓	✓	✓			✓	✓	✓
AMI							✓	✓	✓	✓
Anthem							✓	✓	✓	✓
Bell Media	✓		✓				✓	✓	✓	✓
CPaC				✓		✓	✓	✓	✓	✓
CBC	✓		✓				✓	✓	✓	✓
Channel Zero							✓	✓	✓	✓
Corus	✓		✓				✓	✓	✓	✓
Pelmorex	✓		✓				✓	✓	✓	✓
Rogers	✓		✓				✓	✓	✓	✓
Salt and Light							✓	✓	✓	✓
Sasktel	✓		✓				✓	✓	✓	✓
Stingray							✓	✓		✓
Telelatino							✓	✓		
Thunder Bay	✓						✓	✓	✓	✓
French-language broadcasters – Broadcasting Regulatory Policy CRTC 2011-741-1										

Bold, italicized text in red font: FRPC recommendation



Language & broadcaster	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Québecor (TVA Group)	√									
RNC								√	√	√
Télé-Québec								√	√	√
Télé Inter-Rives	√						√	√	√	√

36 FRPC therefore asked the CRTC on 12 January 2024 to publish these reports in the context of its *Regulatory Plan to modernize Canada’s broadcasting system*. (While FRPC received no response to its request all of Québecor’s reports were available on the CRTC website as of 11 August 2024.)

37 It is unclear what the Commission expects the public to do with these reports and, of course, the Commission does not itself provide a summary of their results.

38 FRPC recommends that if the Commission requires regular reports to be submitted by registered online broadcasters, it should publish the reports, publish a summary of the results set out in the reports and invite public comment on the reports (and its summary) within two months (not one month, as is the Commission’s usual practice).

D. Annual meetings regarding closed captioning

39 Even if the CRTC mandates complete closed captioning of registered online services’ audiovisual broadcasting services, even if it requires the monitoring and track of complaints and their outcomes and even if it publishes annual (or, our preference, twice/year or quarterly) reports, concerns about the quality of online closed captioning are unlikely to be addressed.

40 This is in the Forum’s view primarily due to the fact that simply ‘pushing paper’ (even if electronically) is less effective than face-to-face meetings to raise and resolve problems.

41 We note that the CRTC included in its late 2023 requests for information a question about whether respondents regularly consulted with accessibility communities in Canada. Nineteen of the 21 respondents whose answers seemed clear to FRPC said they did not meet regularly⁹ with members of accessibility communities or organizations, provided unresponsive answers or said they did not meet as indicated: Table 4.

Table 4 Broadcasters’ meetings with representatives from the accessibility community

Broadcaster’s answers to RFI Q 16	DM#	Regular consultations with DDBHH?
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⁹ Although STQ mentioned it met once in 2021 and once in 2023, this did not seem to mean it met regularly (annually).



Broadcaster's answers to RFI Q 16	DM#	Regular consultations with DDBHH?
1. STQ		Jan/21, Feb/23
2. Tele Inter-Rives		No
3. SonyLIV	4630999	No
4. SonyKal	4631001	No
5. Crunchyroll & Funimation	4631002	No
6. Game Show Network	4631003	No
7. Roku - VOD	4631873	Unresponsive
8. Roku - linear/FAST	4631873	Unresponsive
9. Rogers excl'g Sportsnet	4631877	No
10. Rogers Sportsnet	4631877	No
11. RNC Media	4631879	No
12. Paramount - Paramount+ Canada	4631891	Is meeting
13. Paramount - Pluto TV Canada	4631891	Is meeting
14. Netflix	4631894	Unresponsive
15. Corus - online	4631897	Unresponsive
16. CBC - Gem	4631910	Unresponsive
17. CBC - ICI TOU.TV	4631910	Unresponsive
18. Corus - online	4631896	Unresponsive
19. Disney + - online	4631913	Yes
20. Bell - online	4631915	Annual
21. Apple TV +	4631923	Unresponsive

42 Rather than requiring each accessibility organization to contact each registered online broadcaster for a meeting, FRPC recommends that the CRTC announce and hold annual meetings at which members of Canada's accessibility organizations may raise concerns with Canada's registered online broadcasters as well as the CRTC.

43 FRPC also recommends that Commission staff prepare for the review of those attending the annual meetings a summary of issues raised and commitments made to address problems.

IV. CRTC questions

44 The Forum's answers to a certain number of the CRTC's questions are set out below. We may reply to other parties' comments about other questions in reply.

1. *Availability of closed captioning*

Q1. What should the Commission consider when deciding which online streaming undertakings should be subject to the regulatory policy on closed captioning? For example, should it be based on subscriber numbers, revenues, or some other criteria to determine applicability?

45 FRPC may comment in greater detail on this point in reply, but notes that the [Accessible Canada Act](#) applies to

Bold, italicized text in red font: FRPC recommendation



any person, partnership or unincorporated organization that operates a work or carries on an undertaking or business that is within the legislative authority of Parliament, other than a work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut; ...

[section 7(1)(e)]

- 46 The *Accessible Canada Regulations* then establish an exception to the statute's application if the regulated entity "has an average of fewer than 10 employees".¹⁰
- 47 FRPC would not support a limitation based on staff numbers of regulated broadcasting services, however. Online streaming undertakings generally acquire a significant share of their programming and as a consequence should require that this acquired programming be fully accessible through provisions of their contractual arrangements. In its response to the CRTC's requests for information Bell stated that all of its program contracts required closed captioning.

4. We confirm that it is standard practice for all of our audio-visual undertakings (both traditional and online) to purchase the rights to or acquire programs with closed captioning included. The following is a sample clause used in our program contracts: "One (1) high definition (at the highest resolution available including 4K) ("HDTV"), closed captioned with descriptive video, seamless master of the Program, in the Language, to be delivered in accordance with Bell Media's technical specifications." In the rare case that closed captioning has not been made available for online pre-recorded programming, then we will create it ourselves before it goes to air, provided that there is time to do so.

Bell, DM#4631915

¹⁰ [Accessible Canada Regulations](#), s. 3(1):

Exemptions

Marginal note: Fewer than 10 employees — year

3 (1) A regulated entity described in paragraph 7(1)(e) or (f) of the Act is exempt from the application of sections 47 to 49, 56 to 58, 65 to 67 and 69 to 71 of the Act if that entity has an average of fewer than 10 employees during the later of

(a) the year before the year in which the entity's first planning and reporting cycle would have started but for this exemption, and

(b) the year in which the regulated entity is established.

Marginal note: Fewer than 10 employees — planning and reporting cycle

(2) A regulated entity described in paragraph 7(1)(e) or (f) of the Act that has an average of fewer than 10 employees during a planning and reporting cycle is exempt from the application of sections 47 to 49, 56 to 58, 65 to 67 and 69 to 71 of the Act, effective the last day of the planning and reporting cycle.

Marginal note: Cessation of exemption

(3) An exemption under subsection (1) or (2) ceases to have effect during any year in which the regulated entity has an average of 10 employees or more.



Q2. Should the Commission require online streaming undertakings to provide closed captioning for 100% of English- and French-language pre-recorded programs in their inventories?

- 48 Yes, the CRTC should require online streaming undertakings to provide closed captioning for all English-language and French-language pre-recorded programs in their inventories.
- 49 The CRTC should also consider the costs and benefits of requiring online streaming undertakings that operate in Canada (by accepting revenues from advertisers and/or subscribers) and whose programming is offered in languages other than English and French to provide closed captioning in the official language of a subscriber's choice. We note that small niche broadcasters such as Crunchyroll & Funimation license the content they provide on their platforms from Japanese anime producers, and that as a result, no closed captioning is provided (DM#4631002). The CRTC may decide to exercise its discretion by determining the number of subscribers and/or users requires the online broadcasters to require or provide captioning in both of Canada's official languages
- 50 In our view, this would enable the CRTC to determine how best to meet Parliament's objectives in the 2023 *Broadcasting Act*. The new *Act* urges the Commission to ensure that programming provided in Canada's broadcasting system include closed captioning:

3(1) It is hereby declared as the broadcasting policy for Canada that

...

(p.1) programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including without limitation, closed captioning services and described video services available to assist persons living with a visual or auditory impairment;

Q3. Is it feasible and appropriate for the Commission to require online streaming undertakings to provide closed captioning for 100% of English- and French-language live programs?

- 51 At each point in the history of accessible programming in Canada claims have been made that broadcasters would be unable to 'afford' accessible requirements. While closed captioning was first demonstrated in the United States in 1971,¹¹ the CRTC as a result has provided broadcasters with years in which to increase through small

¹¹ At the First National Conference on Television for the Hearing Impaired in Nashville, Tennessee – original source of this citation is: Mary Bellis, "Closed Captioning" online: about.com "Inventors" <<http://inventors.about.com/library/inventors/blclosedcaptioning.htm>> (accessed 22 November 2010).

increments the availability of closed captioning. Seventeen years later, for instance, the Commission agreed that it was reasonable for the CBC/RC's English-language television network to provide just 15 hours of captioned programming per week (averaged over the year).¹² In 1995 it required 90% of all programming to be captioned by the end of the century,¹³ and only required 100% of programming to be captioned since the early 2000s.¹⁴

52 Canada in 2024 is in an entirely different place than in the 1970s, 1980s, 1990s or even the early 2000s, thanks to innovation and improvements in technology.

53 These changes make it entirely feasible to require 100% captioning of live programming – the obviously challenge will be in ensuring the accuracy of these captions.

Q4. What factors should the Commission take into consideration that specifically relate to the online broadcasting environment (e.g., are there challenges or obstacles related to technology, resources, acquired content, etc.)?

54 FRPC may respond to this question in reply.

2. *Quality of closed captioning*

Q5. Keeping in mind the nature of pre-recorded content, why would 100% accuracy rate not be appropriate for English- and French-language pre-recorded programs?

Q6. How should captioning accuracy be measured for live programs?

(a) What should be the captioning accuracy rate for live programs?

(b) Does there need to be a different captioning accuracy rate for English- and French-language live programs?

Q7. Should there be standards related to quality measures other than accuracy, such as lag time, on-screen positioning, speed and captioning format for pre-recorded and live programs?

55 FRPC may reply to these questions in reply. As we have said earlier in this comment, however, we are highly concerned that the Commission cannot readily track complaints about the quality of accessible programming. To state the obvious, only the CRTC is

¹² *Services using the Vertical Blanking Interval (Television) or Subsidiary Communications Multiplex Operation (FM): Proposed Amendment to Television Broadcasting Regulations, 1987; Proposed Amendment to Radio Regulations, 1986, Public Notice CRTC 1988-33 (Ottawa, 2 March 1988).*

¹³ *A new policy with respect to closed captioning, [Broadcasting Public Notice CRTC 2007-54](#) (Ottawa, 17 May 2007), at ¶18.*

¹⁴ *Ibid.*

empowered by Parliament to set requirements of accessible programming, and only the CRTC is empowered to enforce these requirements through orders whose breach could result in administrative monetary penalties.

3. Reporting and compliance

- 56** A reporting framework for closed captioning provides transparency and allows the Commission to monitor compliance.

Q8. Should online streaming undertakings be required to calculate or assess the accuracy of their closed captioning on a regular basis?

- 57** Yes, the CRTC should be able to request this information from regulated undertakings – if the CRTC merely establishes expectations that undertakings assess the accuracy of their captioned programming regularly it is likely that several more years will pass before the Commission decides to enforce requirement through orders or regulations.

(a) Should these assessments only be conducted for live programs, or for pre-recorded programs as well?

- 58** These assessments should be undertaken annually for pre-recorded programs (as most acquired programming is purchased through contracts that mandate captioning), and twice a year for live programs. Annual evaluations will inevitably lead to annual progress – depriving the communities who rely on captioning from substantive increases in a shorter span of time.

(b) Should these assessments be for certain types of programs (e.g., for live news programming)?

- 59** News is often described as the cornerstone or foundation of democracy, leading to the proposition that live news should be evaluated frequently. In the Forum’s view, other live programming is as important to many communities – live sports programming attracts significant interest from audiences. Failing clear and incontrovertible evidence as to the complete incapacity of online broadcasters to provide live programming that is captioned, the CRTC should require assessments of all categories of live programming.

(c) How often should these assessments be completed?

- 60** Live captioning should be assessed each year in the spring and fall, to enable the public, the Commission and members of Parliament determine whether progress is sufficient.

Q9. Should online streaming undertakings be required to submit regular reports to the Commission describing their efforts to improve their closed captioning accuracy rates? If so, how often should these reports be submitted (e.g., on an annual or biennial basis)?



- 61 Reports on improving closed captioning accuracy rates should be submitted quarterly, to enable the CRTC to ascertain how accuracy levels are changing. A requirement for reports to be filed on an annual basis risk leaving improvements to be made from one year to the next. Quarterly reports would enable the CRTC and broadcasters to determine whether improvement is taking place and take the action required to ensure that accuracy rates continue to improve (to 100%).

Q10. What other approaches to monitoring and verifying compliance should be considered by the Commission?

- 62 The CRTC should undertake random and unannounced audits of closed captioning accuracy several times a year.

Q11. How should cases of non-compliance generally be addressed by the Commission? For example, should additional requirements be imposed as conditions of service following a public proceeding?

- 63 The CRTC's history of addressing non-compliance in broadcasting suggests that it typically allows broadcasters to err once or more times before it imposes any form of penalty. An unfortunate effect of this approach is that it creates the impression that the CRTC takes certain types of non-compliance lightly, and other types more seriously.
- 64 The CRTC should provide the public with an opportunity to evaluate each case of non-compliance, by posting its results within 30 days on a website page that it maintains going forward. This would enable the public to review the compliance levels of individual broadcasters over time, enabling the public to make representations to the Commission as to the steps it should take.

V. Summary of FRPC recommendations

- 65 FRPC has made a number of recommendations in relation to the issue raised in BNoC 2024-137. These are repeated below.
1. FRPC asks that the Commission reconsider its paper-suffices approach to the issue of a major new policy on captioning by online broadcasters and hold a public hearing about this important policy.
 2. FRPC recommends that the CRTC require full closed captioning of the programming of registered online broadcasting services by the beginning of the 2025/2026 broadcast year.
 3. FRPC recommends that the Commission begin by revising its website page inviting people to submit complaints (as provided by the 2015 Let's Talk TV proceeding).



4. FRPC recommends that the CRTC require all broadcasters to provide copies of complaints they receive about closed captioning (whether for their online or offline programming services) to the CRTC.
5. FRPC recommends that the CRTC publish monthly summaries of the complaints it has received about closed captioning, and that it provide the Minister of Canadian Heritage with this information in an annual report that it also publishes on its website.
6. FRPC recommends that the CRTC follow up on the complaints received about specific broadcasters to determine whether problems have been corrected.
7. FRPC recommends that if the Commission requires regular reports to be submitted by registered online broadcasters, it should publish the reports, publish a summary of the results set out in the reports and invite public comment on the reports (and its summary) within two months (not one month, as is the Commission's usual practice).
8. FRPC recommends that the CRTC announce and hold annual meetings at which members of Canada's accessibility organizations may raise concerns with Canada's registered online broadcasters as well as the CRTC.
9. FRPC also recommends that Commission staff prepare for the review of those attending the annual meetings a summary of issues raised and commitments made to address problems.

* * * End of document * * *