



26 August 2024

Filed online

Marc Morin
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

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

- 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. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in the 1991 *Broadcasting Act*.
- 2 The Forum is submitting brief initial comments in the above-noted proceeding, and may take the opportunity afforded by BNoC 2024-138 to reply to other parties.
- 3 BNoC 2024-138 does not state that the Commission will hold an appearing public hearing in this matter. Should it decide to do so, the Forum respectfully asks to participate in that process.

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Call for comments –
Development of a regulatory policy for
the distribution of described video and audio description

Broadcasting Notice of Consultation CRTC 2024-138
(Ottawa, 25 June 2024)

In 2024 regulation by guesswork is just not good enough

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

26 August 2024

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I. Introduction

- 1 In 2013 the Forum for Research and Policy in Communications (FRPC) was established as a non-profit and non-partisan organization to undertake research and policy analysis about communications, including broadcasting.
- 2 Now in its 11th year of operation, the Forum supports a strong Canadian communications system that serves the public interest. FRPC considers that the public interest includes matters addressed by Parliament in the 1991 *Broadcasting Act* as amended in April 2023¹ by the *Online Streaming Act* and as clarified by Cabinet's November 2023 [Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#) [*Directions*].²
- 3 Even though the 1991 *Broadcasting Act* addressed the accessibility of programming in Canada's broadcasting system 33 years ago, relatively little progress has been made in ensuring that programming in Canada's broadcasting system is fully accessible to Deaf and Hard-of-Hearing people. While this is in part due to the fact that previous versions of Canada's broadcasting legislation did not address accessibility, lack of progress was also caused by unfortunate language added to the 1991 *Broadcasting Act*.
- 4 Parliament decided to facilitate the provision of accessible programming in line with the equality rights established by the 1982 *Charter of Rights and Freedoms* which are available to all "without discrimination and, in particular, without discrimination based on ... physical disability".³ Unfortunately Parliament added qualifying language that paralyzed progress in ensuring the accessibility of programming in Canada's broadcasting system. It declared at section 3(1)(p) that it was the broadcasting policy of Canada that accessible programming be provided in Canada's by system, "as resources became available for the purpose."⁴
- 5 The phrase, "as resources became available for the purpose", evaded ready understanding. Who was to provide the resources and who was to decide when these resources were available to make programming accessible?

¹ [An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts](#), S.C. 2023, c. 8, Royal Assent granted 27 April 2023.

² [Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#), P.C. 2023-1125 (9 November 2023), SOR/2023-239.

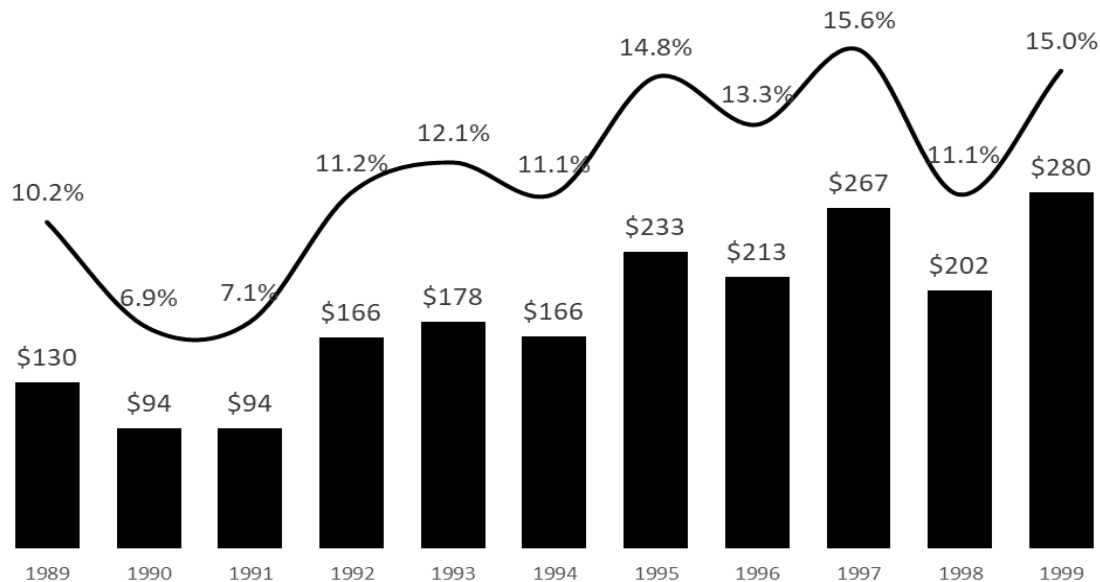
³ *Constitution Act, 1982*, Part 1, [Canadian Charter of Rights and Freedoms](#), s. 15(1).

⁴ 1991 *Broadcasting Act*, s. 3(1)(p): "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose;"

6 In the end the main result of Parliament’s attempt to secure more accessible programming was continuing delay. The result was that the CRTC decided almost a decade later in 1999 that it was then “premature to impose specific requirements on licensees”.⁵ It merely ‘encouraged’ its licensees – “and the National Broadcast Reading Service to continue to cooperate ... to effect the gradual implementation” of descriptive video services.⁶ By way of perspective, private conventional television stations earned profits before interest and taxes (PBIT) of \$279 million in 1999, along with a PBIT margin of 14.98%: Figure 1.

Figure 1 Profit margins of conventional television broadcasting, 1989-1999

Private conventional television: profits before interest and taxes (\$M current) and PBIT % margin, 1989-1999



Source: CRTC statistical and financial summaries, private television (various years)

7 Since then, however, Parliament has changed the *Broadcasting Act* and dropped the ambiguous wording about resources. The legislative summary of the *Online Streaming Act* presented to the House of Commons and the Senate as Bill C-11 states that its amendments

⁵ *Building on Success - A policy framework for Canadian television*, Public Notice CRTC 1999-97 (Ottawa, 11 June 1999), at ¶134.

⁶ *Building on Success - A policy framework for Canadian television*, Public Notice CRTC 1999-97 (Ottawa, 11 June 1999), at ¶134.

(e) specify that the Canadian Radio-television and Telecommunications Commission (the “Commission”) must regulate and supervise the Canadian broadcasting system in a manner that

...

(vi) facilitates the provision of programs that are accessible without barriers to persons with disabilities⁷

- 8 Based on the current state of Canadian law FRPC submits that the Commission’s duty in this proceeding is to eliminate barriers that continue to confront Blind and Partially-Sighted people whose vision is impaired and to ensure that programming in Canada’s broadcasting system *is* accessible.
- 9 Even BNoC 2024-138, unfortunately, imposes barriers for Blind and Partially-Sighted people: its instructions are contradictory, it does not summarize the information provided by 18 companies in January and it does not provide data about the level of descriptive video now available in Canada’s broadcasting system.
- 10 Since BNoC 2024-138 states, for example, that it “is critical” to the quality and reliability of descriptive video and audio description to address and respond to complaints about this programming content⁸ and also confirms that the CRTC “currently accepts complaints” on these issues,⁹ it is very regrettable that BNoC 2024-138 does not set out any information about the numbers of complaints that the Commission has received in the past 5 or 10 years about descriptive video and audio description.
- 11 The Forum sets out its concerns about missing information and procedural fairness in Part II of this submission. Part III sets out the Forum’s responses to several of the CRTC’s questions; FRPC may reply to other parties’ answers to the remaining questions. The remainder of this section briefly reviews the legislative and regulatory background of accessibility in Canada’s broadcasting system.

⁷ An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, S.C. 2023, c. 8, “[Summary](#)”, s. (e)(vi).

⁸ BNoC 2024-138, ¶23.

⁹ BNoC 2024-138, ¶24.

- 12 While early broadcasting legislation in Canada did not address accessibility measures, this is due to the fact that these statutes focussed on radio,¹⁰ an audio-only medium that sought to be understood by all listeners. (Appendix 1 sets out events related to descriptive video, primarily with respect to Canada.)
- 13 Once television broadcasting began legislatures were surprisingly slow to adapt to the new medium. Parliament did not recognize the existence of television in its broadcasting statutes until 1968, when it established the Canadian Radio-Television Commission (CRTC) to supervise and regulate broadcasting.¹¹
- 14 Requests for legislative updates emerged in the 1980s as satellites opened the door to a far wider range of television programming than over-the-air television services provided. Following the *Report of a Task Force on Broadcasting Policy* in 1986, Parliament revamped its 1968 broadcasting legislation in 1991, setting out a requirement that some level of programming be accessible. New section 3(1)(p) used the terminology of that era (“disabled persons”) and as mentioned earlier, suffered from paralyzing ambiguity due to its linkage of accessible programming with the availability from unknown parties of unspecified resources for an unidentified purpose:
3. (1) It is hereby declared as the broadcasting policy for Canada that
...
(p) programming accessible by disabled persons should be provided within the Canadian broadcasting system **as resources become available for the purpose.**
[bold font added]
- 15 Due, likely, to the 1991 *Act’s* lack of clarity regarding resources and availability, progress in ensuring the availability of programming for Blind and Partially-Sighted people was slow. While the Public Broadcasting System in the US had begun to provide descriptive video in 1985¹² the CRTC decision renewing CBC/RC’s television licences in

¹⁰ *Radiotelegraph Act*, 1913, 3-4 Geo. V, c. 43; *Canadian Radio Broadcasting Act*, SC 1932, c. 51; *Canadian Broadcasting Act*, 1936, 1 Edw. 8, c. 24; *An Act to amend the Canadian Broadcasting Act, 1936*, 15&Geo. 6, c. 6.; *Broadcasting Act*, 7 Eliz. 2, c. 22.

¹¹ *Broadcasting Act*, 16 & 17 Eliz. 2, c. 25. Section 5 established the Commission.

¹² Industry Canada, “Assistive Technology Links: Described Video”, online: Industry Canada “2. History” <<http://www.at-links.gc.ca/guide/zx33005e.asp#two>> (accessed 22 November 2010).

1987 did not refer to programming for Blind and Partially-Sighted people (referring only to accessibility in the context of Deaf and Hard of Hearing people).¹³

- 16 Facing calls for descriptive video in the late 1990s the CRTC – now a decade after descriptive video was being made available in the US – continued to decline to take action to ensure the accessibility of television programming in Canada’s broadcasting system. While it ‘strongly encouraged’ television licensees “to include audio description wherever appropriate’, the CRTC said it was “premature” to set specific requirements in this area:

133. Licensees are strongly encouraged to adapt their programming to include audio description wherever it is appropriate and to take the necessary steps to ensure that their customer service responds to the needs of the visually impaired.

134. With respect to descriptive video services (DVS), the Commission concludes that it is premature to impose specific requirements on licensees at this time. The Commission encourages licensees and the National Broadcast Reading Service to continue to cooperate in order to effect the gradual implementation of DVS.

135. The Commission, at licence renewal, will explore with licensees the progress that has been made in meeting the needs of the visually impaired.

Building on Success - A policy framework for Canadian television, [Public Notice CRTC 1999-97](#) (Ottawa, 11 June 1999)

- 17 On the heels of the CRTC’s 1999 determination that descriptive video was premature, the Commission considered the licence renewals of several large private broadcasters two years later. It first began to require descriptive video by condition of licence: in the case of English-language television broadcasters, 2 hours per week beginning 1 September 2001, rising to 3 hours per week as of 1 September 2003, and increasing again to 4 hours per week by 1 September 2006.¹⁴

RECOMMENDATION 15.1:

The Committee recommends that section 3(p) of the Broadcasting Act be amended to read “programming accessible by disabled persons should be

¹³ *Canadian Broadcasting Corporation/Société Radio-Canada Applications for the Renewal of the English and French Television Network Licences*, Decision CRTC 87-140 (Ottawa, 23 February 1987), <https://crtc.gc.ca/eng/archive/1987/db87-140.htm>

¹⁴ See e.g. *Licence renewals for the television stations controlled by Global*, Broadcasting Decision CRTC 2001-458 (Ottawa, 2 August 2001), <https://crtc.gc.ca/eng/archive/2001/db2001-458.htm>. The CRTC set different levels for French-language broadcasters, and did not impose requirements for the CBC/RC at the same time.

provided within the Canadian broadcasting system;” This amendment would remove the qualifying phrase “as resources become available for the purpose.”

RECOMMENDATION 15.2:

The Committee recommends that a training program for closed captioning and descriptive video services be developed and funded by the federal government.

RECOMMENDATION 15.3:

The Committee recommends that the federal government develop a program to assist broadcasters in providing closed-captioning and descriptive video services.

Accessibility

To the best of our understanding the CRTC has not increased the 4 hours/week requirement since then.

- 18 Realistically speaking, reviews by the CRTC over the past decade and a half have not led to major changes in its approach to descriptive video; the Commission even disbanded its Described Video Working Group in 2013.¹⁵ Perhaps decisions of Canada’s courts have contributed to the Commission’s status-quo approach since that time. In 2014, for instance, the Federal Court held that section 3(1)(p) required the CRTC “to wait for ... resources to become available before it can adopt policies” requiring television devices to be fully accessible.
- 19 That said, Parliament’s passage of the *Online Streaming Act* in early 2023 may now require action. The amendments enacted by the online-streaming legislation dropped the reference to resource availability (as the House of Commons Standing Committee on Canadian Heritage had recommended 20 years earlier¹⁶). Today’s *Broadcasting Act* stipulates in subsections 3(1)(p) and (p.1) that accessible programming be “provided within the Canadian broadcasting system, including without limitation, closed

¹⁵ *Eadie v. MTS Inc.*, [2015 FCA 173 \(CanLII\)](#), at ¶149.

¹⁶ Standing Committee on Canadian Heritage, *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*, (Ottawa, June 2003), at p. 494:

The Committee strongly believes that the present wording of section 3(p) of the Broadcasting Act, stating “programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose”, is discriminatory. The qualifying phrase “as resources become available for the purpose” detracts from the statement of accessibility and leaves the impression that broadcasting that is accessible to disabled persons is of marginal importance. This erodes Canada’s commitment to equality.

captioning services and described video services available to assist persons living with a visual or auditory impairment”.¹⁷

<i>Broadcasting Act</i>	<i>Loi sur la radiodiffusion</i>
3 (1) It is hereby declared as the broadcasting policy for Canada that	3 (1) Il est déclaré que, dans le cadre de la politique canadienne de radiodiffusion :
(p) programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including through community broadcasting, as well as the opportunity for them to develop their own content and voices;	p) le système devrait offrir une programmation accessible et exempte d’obstacles aux personnes handicapées, et la possibilité, pour celles-ci, de développer leur propre contenu et de s’exprimer, notamment par la radiodiffusion communautaire;
(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;	p.1) le système devrait offrir une programmation accessible aux personnes handicapées et exempte d’obstacles, y inclus des services de sous-titrage codé et des services de vidéodescription afin d’aider les personnes ayant une déficience visuelle ou auditive;

- 20 Heavier emphasis was placed by Cabinet on accessible programming later in November 2023. Its direction to the Commission on implementing the new Broadcasting Act specifically refers to accessible programming at section 7:

[t]he Commission is directed to regulate and supervise the Canadian broadcasting system with a view to supporting the provision of programming that is accessible without barriers to persons with disabilities.

[Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#), P.C. 2023-1125 (9 November 2023), SOR/2023-239.

- 21 It is therefore regrettable that the Commission has provided so little information in BNoC 2024-138 to explain the current state of descriptive video in Canada’s broadcasting system.

¹⁷ S. 3(1)(p.1).

II. Procedural-fairness issues

- 22 Since Canadian law emphasizes the importance of procedural fairness FRPC is concerned about the several aspects of BNoC 2024-138.
- 23 Considering that it has been years since the CRTC last held a public hearing focussed on accessibility questions, it is unfortunate that the CRTC decided to undertake a written process to address descriptive video (and also closed captioning, in BNoC 2024-137).
- 24 Organizations and associations representing Blind and Partially-Sighted people in Canada, and Blind and Partially-Sighted people themselves have very few opportunities to address CRTC Commissioners in person, making it unclear why the Commission chose a written-only approach in this matter.
- 25 Nor is it clear why the only parties that appear to have learned of the Commission's interest in accessibility were the broadcasters to whom the CRTC sent requests for information (RFIs) in mid-December 2023. After all, the CRTC in 2022 said it would by 31 December 2023 develop "... outreach strategies geared at engaging groups reflecting various disabilities on upcoming or current major CRTC proceedings, Moreover, section 17 of the November 2023 *Directions* to the CRTC requires that it give consideration to maximizing the participation of equity-seeking groups: "The Commission is directed to consider how to make the participation in the engagements referred to in sections 14 to 16 as accessible as possible."¹⁸ FRPC's notes that one way of making the BNoC 2024-138 proceeding more accessible would have been to have summarized the RFI information received by the Commission in late January, so that this work need not be duplicated by each participant in this proceeding.
- 26 Since BNoC 2024-138 stated that, of all the perspectives and opinions expressed in this proceeding, those of blind and partially sighted people are crucial,¹⁹ it is striking that the Commission did not pre-test its RFIs with equity-seeking groups. FRPC found many of the RFIs lacking in precision, making it unclear whether responses from different broadcasters can readily be compared: Appendix 3. It also striking that the Commission did not itself commission a survey of Blind and Partially-Sighted people in Canada to seek their perspectives and opinions. After half a century of holding public

¹⁸ *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*, P.C. 2023-1125 (9 November 2023), SOR/2023-239

¹⁹ BNoC 2024-138, ¶ 26: "The perspectives and views of individuals and groups in blind and partially sighted communities are crucial to this proceeding."

proceedings, the Commission might have foreseen that relatively few parties would participate in this proceeding, scheduled as it was to conclude at the end of August. A survey of Blind and Partially-Sighted people would have strengthened the evidentiary record of BNoC 2024-138 (assuming that the questions it posed met contemporary survey-research standards).

- 27 Unfortunately, the CRTC apparently did not undertake a survey. To these concerns must be added the absence of information about progress regarding descriptive video in the conventional television broadcasting system. This information would have provided useful context for any proposals to establish new requirements for online streaming services (some of which are operated by licensed Canadian television broadcasters).
- 28 Lastly FRPC's notes that the CRTC decided in 2015 to publish summaries of information about descriptive video programming broadcast by licensed television programming services every two years,²⁰ it is unfortunate that the Commission did not provide any of this information for the BNoC 2024-138 public record particularly since Canada is a signatory to the [Canada-United States-Mexico Agreement](#) on trade (CUSMA), which includes a chapter on regulatory practices.
- 29 The Agreement states at Article 28 that its three parties “should”
- (a) seek the best, reasonably obtainable information, including scientific, technical, economic, or other information relevant to the regulation it is developing;
 - (b) rely on information that is appropriate for the context in which it is used; and
 - (c) identify sources of information in a transparent manner, as well as any significant assumptions and limitations.
- (Article 28.5: Information Quality)
- 30 The same article of CUSMA says that when they make regulations, the parties to the Agreement “shall also make publicly available data, other information, and scientific and technical analyses it relied upon in support of the regulation, including any risk assessment” (Article 28.9: Transparent Development of Regulations). Without data a legitimate concern arises as to whether policies are being established arbitrarily.
- 31 In BNoC 2024-138 the CRTC states in the preface that it wishes

²⁰ *Navigating the Road Ahead - Making informed choices about television providers and improving accessibility to television programming*, [Broadcasting Regulatory Policy CRTC 2015-104](#) (Ottawa, 25 March 2015), at ¶46.

In this public proceeding, ... to identify, remove and prevent barriers to access to programming for persons who are blind or partially sighted by seeking comments on the establishment of a regulatory policy regarding described video and audio description of programs provided by traditional and online platforms.

32 The Commission then states at ¶19 that

... apart from the exception for programming from the United States, it does not seek to examine the current described video and audio description obligations for traditional television broadcasters (that is, the amount of described video provided) where those obligations already exist. Comments related to this will be considered out of scope of this proceeding.

33 FRPC considers that the information from the latest data published by the CRTC about hours of descriptive video programming could be useful in deciding whether to rely on voluntary commitments for online streaming services to remove barriers to the accessibility to audiovisual programming by Blind and Partially-Sighted people. We note that the CRTC published data describing the number of hours of descriptive video broadcast from September 2020 to August 2022 at:
<https://crtc.gc.ca/eng/television/acces/videodesc.htm>.

34 The CRTC's data are somewhat difficult to use because the HTML tables it provided cannot readily be downloaded into a spreadsheet due to formatting inconsistencies, because the data are presented in 24 separate monthly increments and because the analog format of the programming hours requires conversion into a more easily understood decimal format. They appear, however, to show a 16% decrease in category 2 (Analysis and interpretation) and in category 11(a) (General entertainment and human interest) programming over the full broadcast year, and a 15% decrease in prime time of Analysis and interpretation programming: Appendix 4. While the data also show that hours of with described news programming in the broadcast day increased by 130% between 2020/21 and 2021/22, the amount of described news was still somewhat low: 258.6 hours in 2021/22 (compared to 420,813.5 hours of described drama and comedy programming).

35 It is difficult to know what these data mean precisely, however, because apart from problems with the data's format, the CRTC's website page offers no information about the number of undertakings that the programming hours describe. FRPC recommends that the new descriptive video policy it adopts include a proceeding in which interested parties may comment on the data the Commission will collect to comply with section

18 of the [Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#):

Information and Implementation

Information — achievement of policy objectives

18 The Commission is directed to provide information to the public on a periodic basis regarding the progress made in achieving the objectives of the broadcasting policy set in subsection 3(1) of the Act, including progress on the inclusion and participation of Indigenous persons, members of official language minority communities and members of equity-seeking groups and ethnocultural groups in the Canadian broadcasting system.

III. Answers to CRTC questions

36 FRPC’s answers to questions Q7, Q12, Q15, Q16, Q17(c) and Q19 are set out below. FRPC may address all other questions in reply.

A. *On-demand services*

Q7. Are there any barriers to described video practices for on-demand programming? How can those barriers be addressed?

37 Access Communications Co-operative (Access) notes that “some content providers do not follow standardized methods for identifying audio tracks that contain described video” and recommends that “content providers ... deliver content to Broadcasting Distribution undertakings (BDUs) in a standardized format.”²¹

38 Access – whose linkedin page describes itself as “a market leader” and that it does its “part every day to make Saskatchewan a better place to live”²² – also said that it does not provide descriptive video for its community channel due to the expense of doing so, and requested an exemption to accommodate declining TV revenues and cutbacks.²³

39 The CRTC should not base exemptions from accessibility requirements based unsubstantiated claims that costs prevent implementation of Parliament’s broadcasting policy. For example, Access reported \$36.1 million in revenues from its television

²¹ 26 August 2024, at p. 1, response to question 7.

²² See <https://www.linkedin.com/company/access-communications-cooperative-limited/?originalSubdomain=ca> [accessed 26 August 2024].

²³ 26 August 2024, at p. 1, response to question 7.

(distribution) services in 2023: Appendix 5. Assuming²⁴ the company made expenditures in proportion to its revenues the company's television services might have obtained nearly \$17 million in operating profits.²⁵ (In other words, some financial flexibility may exist to support accessible programming.)

- 40 Nor should the Commission accept claims of financial precarity without considering the income-tax implications of companies' expenditures on descriptive video for the companies making these expenditures – the point being that Canadian tax policy facilitates certain business expenditures by providing for their deduction from income.
- 41 La Société Télé-Québec also noted the problem of descriptive video's costs, but also mentioned that, "concernant les émissions en direct, les contraintes techniques rendent quasiment impossible la fourniture de vidéodescription conforme aux exigences de qualité actuelles et offrant une expérience maximale aux téléspectatrices et aux téléspectateurs" (¶19).
- 42 ***FRPC recommends that the Commission convene an annual meeting each April of regulated broadcasters and accessibility organizations to provide a venue in which barriers to accessibility could be discussed.*** Matters such as technical constraints and lack of standard-delivery formats, as well as progress in reducing and eliminating these barriers could be assigned to formal working groups in which representatives of accessibility organizations would predominate.

Q8. Traditional television stations

Q12. What impact has the exception for described video for programming from the United States, as noted above, had on Canadians who rely on described video?

- 43 The purpose of this question is somewhat unclear. Is it intended to elicit from traditional television stations their perspective on the impact of the US exception on Canadians who rely on described video – and if so, on what basis would traditional television stations form this opinion? Or is the question designed to elicit from Deaf and Hard-of-Hearing people their views on the US exception, and on what basis would respondents form their view?: for instance, does the Commission know whether the

²⁴ Access' complete financial statements are only available upon request: Access Communications Co-operative, [2023 Annual Report](#), at 38 and time precluded FRPC's making the request.

²⁵ In 2023 Access' television services earned \$36.1 million in revenues, representing 39.5% of its total revenues. Adding the \$2.4 million Access expended on its community channel to 39.5% of the remaining expenses amounts to \$16.7 million. \$36.1 million in revenues less \$14.3 million in estimated expenditures amounts to \$16.73 million in operating profits (revenues less expenses).

source of programming is known to all users of descriptive video so that they can form an opinion of the US exception's impact?

44 FRPC may address this question in more detail in reply.

B. *Quality standards and reporting*

Q15. Should quality standards be developed for described video and audio description? If so, who should be responsible for developing those quality standards?

45 Apparently the CAB and AMI began developing “guidance to the producers of described programming in Canada” 12 years ago²⁶ and published their 3rd version of these practices in July 2015: [Post Production Described Video Best Practices, Version 3.0 \(June 2015\)](#).

46 *FRPC recommends that the matter of these practices be one of the topics for the first annual meeting convened by the CRTC between broadcasters and accessibility organizations to address concerns about fully accessible broadcast programming.*

Q16. Should broadcasting undertakings report to the Commission on the quantity and/or quality of described video programming that they offer? If so, how often and in what format?

47 Licensed broadcast undertakings must currently submit monthly reports on the quantity of descriptive video programming they broadcast, meaning that it may be possible to include new data about quality of descriptive video in the columns remaining available for use in the logs.

²⁶ Accessible Media Inc. (AMI) and the Canadian Association of Broadcasters (CAB), [Post Production Described Video Best Practices, Version 3.0 \(June 2015\)](#), at p. 2:

In July 2012, Accessible Media Inc. (AMI) and the Canadian Association of Broadcasters (CAB) embarked upon a process to begin to develop Described Video (Audio Description) Best Practices for the Canadian broadcasting industry with the support of the Canadian Radio-Television & Telecommunications Commission (CRTC). Producers of description along with broadcasting-industry and community-group representatives came forward to develop the Described Video Best Practices (DVBP) in an effort to standardize the delivery of description (DV) to bring context to a practice that is both a science and an art.

C. *Addressing complaints*

Q17. How should complaints about described video or audio description provided by online streaming undertakings be addressed?

48 FRPC may address this question in reply.

(a) Do online streaming undertakings have a method to file a complaint about described video or audio description?

49 It is unclear how parties other than online streaming undertakings can be expected to know the answer to this question.

(b) Should there be standards on addressing these types of complaints?

50 Yes.

(c) How can complaints processes be as transparent as possible?

51 FRPC notes first that the CRTC's *Departmental Plan* for the just-ended 2023-2024 fiscal year the Commission said it would

... the CRTC will convene a digital-by-design committee to integrate technology and business processes, including the integration of any changes required to support the potential implementation of the *Online Streaming Act* (Bill C-11) and the *Online News Act* (Bill C-18). The committee will rethink and reengineer how the CRTC should be doing business in a digital age to ensure accessibility, leverage technology and user design, and address privacy and security risks.

The CRTC will also establish tools, mechanisms, and processes to solicit and manage feedback and complaints from employees and citizens, as required under the *Accessible Canada Act*, and will develop an evergreen work plan to increase the accessibility of existing systems.

52 A commitment to full transparency suggests that the CRTC should report when it convened the “digital-by-design committee”, when the committee met and what it determined.

53 Second, FRPC notes that it is unclear at this time whether the CRTC's data system work well enough to enable the Commission to track the complaints it receives about descriptive video. For example, when FRPC asked the CRTC on 26 June 2024 – the day after the CRTC published a notice inviting comment about a closed captioning policy for

online streaming²⁷ – for the numbers of complaints it has received by year from 2014 to the present, , the CRTC answered that it does not really know because its “data system is outdated, and the reporting has proven to be unreliable”:

54 Figure 2.

Figure 2 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.

55 It is therefore unclear whether the CRTC itself knows how many complaints it has received about descriptive video.

56 ***FRPC recommends that the Commission begin to publish statistics about the complaints it receives about descriptive video each year in its report to the Minister of Canadian Heritage, to provide Deaf and Hard-of-Hearing people and their organizations, the public and members of Parliament with annual information about this issue.*** Its first report should include statistics about the annual numbers of complaints it received in each of the past 10 years. Subsequent reports should update this information while providing an ongoing time series of data.

(d) When should the Commission intervene, if at all?

57 FRPC may address this question in reply.

²⁷ 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)..



D. Consultation with blind and partially sighted communities

Q19. Should online streaming undertakings consult individuals and groups in blind or partially sighted communities about described video policies and practices regularly?

58 Yes. Separate from the annual meeting that FRPC recommends the CRTC convene each April between accessibility organizations and broadcasters, the Forum believes that large (\$10 million in annual broadcasting revenues) online streaming undertakings should either continue or begin to consult Deaf and Hard-of-Hearing individuals, groups – and organizations – each autumn to discuss problems (and solutions) with respect to accessible programming.

[a] If so, how, and how often should these consultations take place?

59 FRPC recommends the consultations take place each October. As FRPC is recommending that the CRTC convene a meeting each April between accessibility organizations and broadcasters, consultations in October could enable broadcasters and accessibility organizations the opportunity to evaluate progress and to propose improvements to be achieved by the April meeting convened by the CRTC.

IV. Conclusion

60 FRPC's main concern with the BNoC 2024-138 proceeding is that it has forced the majority of public participants to comment in the absence of relevant evidence from the Commission. Our recommendations focus on addressing this concern.



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Appendix 1 Events related to descriptive video in Canadian broadcasting

Year	Event
1913	Canada's <i>Radiotelegraph Act</i> , 1913, 3-4 Geo. V, c. 43, s. 1; s. 2(b) states that "Radiotelegraph includes any wireless system for conveying electric signals or messages including radio-telephones" ²⁸
1929	BBC undertakes its first experiments in television ²⁹
1932	Parliament enacts the <i>Canadian Radio Broadcasting Act</i> , SC 1932, c. 51 on 26 May 1932); section 3(1) establishes the Canadian Radio Broadcasting Commission
1936	Parliament enacts the <i>Canadian Broadcasting Act, 1936</i> , 1 Edw. 8, c. 24 on 23 June 1936 and establishes at section 3(1) the Canadian Broadcasting Corporation; section 22(1)(c) empowers the Corporation "to control the character of any and all programmes broadcast by the Corporation or private stations; ..."
1941	In the United States of America (US) the Federal Communications Commission licenses 10 commercial television stations ³⁰
1951	<i>An Act to amend the Canadian Broadcasting Act, 1936</i> 15&Geo. 6, c. 6 (21 December 1951) amends section 22(1) to enable the Corporation to require private stations to provide it with information about their programming
1952	CBC television stations go on air in Canada (CBFT-TV, Montreal and CBLT-TV Toronto) ³¹
1958	In September Parliament replaces the Canadian Broadcasting Corporation with the Board of Broadcast Governors (BBG) as the regulatory authority responsible for broadcasting in Canada, in the <i>Broadcasting Act</i> , 7 Eliz. 2, c. 22.
1960	On 8 December 1960 the BBG approves an application to form the network that comes to be known as CTV; ³² the BBG created a committee to consider the effects of 'wired systems' – cable television – on broadcasting in Canada ³³

²⁸ <<http://cri.histart.umontreal.ca/phonotheque/Hist-radio-anglo/CFCF-Early-Years.html>>, citing Vipond 1992 at 9-10.

²⁹ Wade Rowland, *Spirit of the Web: The Age of Information from Telegraph to Internet*, (Toronto: Key Porter Books, 1999), "Some Milestones in Communications Technology" (np.)

³⁰ "Network TV" online: Network TV <<http://history.acusd.edu/gen/recording/television5.html>>

³¹ CBC, Annual Report 1952-1953, at p. 29.

³² BBG, Annual Report 1960, p. 12.

³³ *Ibid.*, at p. 15.



Year	Event
1964	“The world’s first telephone conversation directly between two deaf people took place on January 27, 1964 during a ‘Leadership Training Program in the Area of the Deaf,’ held at San Fernando Valley State College in Northridge, Calif.” ³⁴
1968	Parliament enacts the 1968 <i>Broadcasting Act</i> , states its first broadcasting policy for Canada and establishes the Canadian Radio-Television Commission (CRTC) as the single, independent public authority responsible for regulating and supervising the Canadian broadcasting system ³⁵
1969	“Minnesota Radio Talking Book (RTB), the world's first radio reading service for the blind and visually impaired, begins broadcasting. While not technically the same as description, RTB and the many radio reading services like it are important players in the early days of accessible media. Through the use of such services, people who are blind or visually impaired are able to receive the same up-to-the-minute news, opinion, and entertainment information as are their sighted peers.” ³⁶
1972	“Gregory Frazier, a professor at San Francisco State University, begins working on the concept of described theater performances to benefit people who are blind or visually impaired. He establishes his nonprofit company, AudioVision, in 1972 to explore the concept of making media and live performances more accessible to people who are blind or visually impaired.” ³⁷
1973	First public cellphone call made ³⁸
1974	“While working on his broadcasting master's thesis in "television for the blind," Gregory Frazier develops the concepts underlying audio description” ³⁹

³⁴ Clifton F. Carbin, *Deaf Heritage in Canada: A distinctive, diverse and enduring culture*, ed. Dorothy L. Smith, (McGraw-Hill Ryerson Limited, Toronto: 1996) at 429.

³⁵ *Broadcasting Act*, 1968-68, c. 25. S. 2 set out the *Broadcasting Policy for Canada*, stating at s. 2(c) that “the right of persons to receive programs, subject only to generally applicable statutes and regulations, is unquestioned;”; Sections 5(1) and 16(1), respectively, established the CRTC and its powers.

³⁶ Described and Captioned Media Program (DCMP), “[Description Timeline Highlights](#)”.

³⁷ Described and Captioned Media Program (DCMP), “[Description Timeline Highlights](#)”.

³⁸ CBC news, “5 major moments in cellphone history: Motorola engineer Martin Cooper made first public cellphone call on April 3, 1973”, (3 April 2013) <http://www.cbc.ca/news/technology/5-major-moments-in-cellphone-history-1.1407352>: “Cooper made the call on a New York City street in front of reporters from a device weighing about 1½ kilograms. Motorola spent almost \$1 million producing the phone, Cooper later told the BBC. Cost of the phone for a consumer — when it became available 10 years later — would have been equal to almost \$9,970 in today’s currency.”



Year	Event
1976	<i>Canadian Radio-television and Telecommunications Commission Act, 1974-75-76, c. 49, grants the CRTC jurisdiction over telecommunications</i>
1983	“The Japanese Nippon Television Network Corporation (NTV) becomes the first commercial broadcast network to air description simultaneously with its own programming. The description was presented primarily during off-hour programming, and was mixed into the standard program audio, making it a form of "open" description.” ⁴⁰
1984	In the US, the “The National Television Systems Committee (NTSC) adopts Multichannel Television Sound (MTS) as a standard, introducing the American television market to the Secondary Audio Program (SAP) feature. SAP would eventually become the primary means for transmitting description to analog television customers. Prior to SAP, description was limited to live theater events (typically employing special FM or infrared receivers and transmitters), closed-circuit signals of radio reading services, or "open" description programs.” ⁴¹
1985	“Described video began in 1985 by the Public Broadcasting System in the U.S. to make television accessible to people who are blind or have seeing disabilities. Canada's major TV networks are increasingly required to include described programming in their prime-time schedules.” ⁴²
1988	“WGBH, in conjunction with the Metropolitan Washington Ear Audio Description Service, launches the first test of its DVS system on ten PBS stations during presentations of American Playhouse. “Narrative Television Network (NTN), founded by blind and visually impaired people, begins providing "open" described films on its cable network. By the end of the year, described programming represents about four hours per week on NTN.” ⁴³

³⁹ Audio Description Coalition, “A Brief History of Audio Description in the U.S.”
<<http://www.audiodescriptioncoalition.org/briefhistory.htm>>.

⁴⁰ Described and Captioned Media Program (DCMP), “[Description Timeline Highlights](#)”.

⁴¹ Described and Captioned Media Program (DCMP), “[Description Timeline Highlights](#)”.

⁴² Industry Canada, “Assistive Technology Links: Described Video”, online: Industry Canada “2. History”
<<http://www.at-links.gc.ca/guide/zx33005e.asp#two>> (accessed 22 November 2010).

⁴³ Described and Captioned Media Program (DCMP), “[Description Timeline Highlights](#)”.



Year	Event
	In Canada, “Two FM licensees reported using their SCMO capability to provide more conventional broadcasting services to the public: one providing a talking book service for the blind; the other, a service in the Greek language.” ⁴⁴
1997	<p><i>Eaton v. Brant County Board of Education</i>, 1997 CanLII 366 (SCC), [1997] 1 SCR 241, <http://canlii.ca/t/1fr3z>, retrieved on 2020-05-11, at ¶167:</p> <p>The principal object of certain of the prohibited grounds is the elimination of discrimination by the attribution of untrue characteristics based on stereotypical attitudes relating to immutable conditions such as race or sex. In the case of disability, this is one of the objectives. The other equally important objective seeks to take into account the true characteristics of this group which act as headwinds to the enjoyment of society’s benefits and to accommodate them. Exclusion from the mainstream of society results from the construction of a society based solely on “mainstream” attributes to which disabled persons will never be able to gain access. Whether it is the impossibility of success at a written test for a blind person, or the need for ramp access to a library, the discrimination does not lie in the attribution of untrue characteristics to the disabled individual. The blind person cannot see and the person in a wheelchair needs a ramp. Rather, it is the failure to make reasonable accommodation, to fine-tune society so that its structures and assumptions do not result in the relegation and banishment of disabled persons from participation, which results in discrimination against them. The discrimination inquiry which uses “the attribution of stereotypical characteristics” reasoning as commonly understood is simply inappropriate here. It may be seen rather as a case of reverse stereotyping which, by not allowing for the condition of a disabled individual, ignores his or her disability and forces the individual to sink or swim within the mainstream environment. It is recognition of the actual characteristics, and reasonable accommodation of these characteristics which is the central purpose of s. 15(1) in relation to disability....</p> <p><i>Eldridge v. British Columbia (Attorney General)</i>, 1997 CanLII 327 (SCC), [1997] 3 SCR 624, <http://canlii.ca/t/1fqx5>, retrieved on 2020-05-11:</p> <p>...</p>

⁴⁴ 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).



Year	Event
	<p>56. It is an unfortunate truth that the history of disabled persons in Canada is largely one of exclusion and marginalization. Persons with disabilities have too often been excluded from the labour force, denied access to opportunities for social interaction and advancement, subjected to invidious stereotyping and relegated to institutions; see generally M. David Lepofsky, “A Report Card on the Charter’s Guarantee of Equality to Persons with Disabilities after 10 Years -- What Progress? What Prospects?” (1997), 7 N.J.C.L. 263. This historical disadvantage has to a great extent been shaped and perpetuated by the notion that disability is an abnormality or flaw. As a result, disabled persons have not generally been afforded the “equal concern, respect and consideration” that s. 15(1) of the Charter demands. Instead, they have been subjected to paternalistic attitudes of pity and charity, and their entrance into the social mainstream has been conditional upon their emulation of able-bodied norms; see Sandra A. Goundry and Yvonne Peters, <i>Litigating for Disability Equality Rights: The Promises and the Pitfalls</i> (1994), at pp. 5-6. One consequence of these attitudes is the persistent social and economic disadvantage faced by the disabled. Statistics indicate that persons with disabilities, in comparison to non-disabled persons, have less education, are more likely to be outside the labour force, face much higher unemployment rates, and are concentrated at the lower end of the pay scale when employed; see Minister of Human Resources Development, <i>Persons with Disabilities: A Supplementary Paper</i> (1994), at pp. 3-4, and Statistics Canada, <i>A Portrait of Persons with Disabilities</i> (1995), at pp. 46-49.</p> <p>...</p> <p>61 This Court has consistently held that s. 15(1) of the Charter protects against this type of discrimination. In <i>Andrews, supra</i>, McIntyre J. found that facially neutral laws may be discriminatory. “It must be recognized at once”, he commented, at p. 164, “. . . that every difference in treatment between individuals under the law will not necessarily result in inequality and, as well, that identical treatment may frequently produce serious inequality”; see also <i>Big M Drug Mart Ltd., supra</i>, at p. 347. Section 15(1), the Court held, was intended to ensure a measure of substantive, and not merely formal equality.</p> <p>62 As a corollary to this principle, this Court has also concluded that a discriminatory purpose or intention is not a necessary condition of a s. 15(1) violation; see <i>Andrews</i>, at pp. 173-74, and <i>Rodriguez v. British Columbia (Attorney General)</i>, 1993 CanLII 75 (SCC), [1993] 3 S.C.R. 519, at pp. 544-49 (per</p>



Year	Event
	<p>Lamer C.J.); see also Ontario Human Rights Commission v. Simpsons-Sears Ltd., 1985 CanLII 18 (SCC), [1985] 2 S.C.R. 536, at p. 547. A legal distinction need not be motivated by a desire to disadvantage an individual or group in order to violate s. 15(1). It is sufficient if the effect of the legislation is to deny someone the equal protection or benefit of the law. As McIntyre J. stated in Andrews, at p. 165, “[t]o approach the ideal of full equality before and under the law . . . the main consideration must be the impact of the law on the individual or the group concerned”. In this the Court has staked out a different path than the United States Supreme Court, which requires a discriminatory intent in order to ground an equal protection claim under the Fourteenth Amendment of the Constitution; see [citations omitted].</p> <p>“The World Wide Web Consortium recommends the use of SMIL 1.0 (Synchronized Multimedia Integration Language) as a standard for producing streaming video and other visual media. This technology provides a framework for closed captioning and description of internet media. As of 2007, most of the widely used streaming video programs (RealPlayer, QuickTime, Ambulant, and even Windows Media Player) support SMIL (as of 2007, version 2.1) features.”⁴⁵</p>
1999	<p>Building on Success - A policy framework for Canadian television, Public Notice CRTC 1999-97 (Ottawa, 11 June 1999)</p> <p>...</p> <p>Service to the visually impaired</p> <p>133. Licensees are strongly encouraged to adapt their programming to include audio description wherever it is appropriate and to take the necessary steps to ensure that their customer service responds to the needs of the visually impaired.</p> <p>134. With respect to descriptive video services (DVS), the Commission concludes that it is premature to impose specific requirements on licensees at this time. The Commission encourages licensees and the National Broadcast Reading Service to continue to cooperate in order to effect the gradual implementation of DVS.</p> <p>135. The Commission, at licence renewal, will explore with licensees the</p>

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Described and Captioned Media Program (DCMP), “[Description Timeline Highlights](#)”.



Year	Event
	<p>progress that has been made in meeting the needs of the visually impaired.</p> <p>136. The Commission considered issues related to DVS during a proceeding concerning to the addition of a third national television network (PN 1998-8). The Commission's approach has been to support in principle, the gradual implementation of DVS.</p> <p>....</p>
2001	<p>Licence renewals for the television stations controlled by Global, Broadcasting Decision CRTC 2001-458 (2 August 2001)</p> <p>...</p> <p>Service to the visually impaired</p> <p>66. "Audio description" and "video description" or "described video" are methods of improving the service that television broadcasters provide to the visually impaired. Audio description involves the provision of basic voice-overs of textual or graphic information displayed on the screen. A broadcaster providing audio description will, for example, not simply display sports scores on the screen, but also read them aloud so that the visually impaired can receive the information.</p> <p>67. Video description, or described video as it is also known, consists of narrative descriptions of a program's key visual elements so that the people who are visually impaired are able to form a mental picture of what is occurring on the screen. These descriptions can be provided on the Secondary Audio Programming (SAP) channel. Not all broadcasters are currently equipped to deliver an SAP signal. Thus, the introduction of described video via the SAP channel requires significant capital expenditures to upgrade a licensee's transmission facilities.</p> <p>Audio description</p> <p>68. Global confirmed that its policy is to reinforce a program's textual and graphic elements, such as the presentation of regular weather forecasts, sports scores, addresses, and telephone numbers, with an oral description. The Commission notes this commitment, and expects Global to ensure that it provides audio description where appropriate. It further expects the licensee to take the necessary steps to ensure that its service responds to the needs of</p>



Year	Event
	<p>visually impaired audiences.</p> <p>Described video</p> <p>69. At the hearing, Global made a significant commitment to roll out descriptive video programming. Global originally proposed a seven-year plan for upgrading the technical facilities of all of its stations so that they could transmit described video. Roll out would begin in the largest markets, and other markets would be upgraded over the licence term. The licensee indicated, however, that the seven-year roll out plan was a minimum commitment and that it would make its best effort to complete the process within the first two years of the licence term.</p> <p>70. Global also committed to a ramp up of the amount of described programming. As they are upgraded, stations will provide two hours a week of described Canadian priority programming within the first two years of the licence term. This minimum level will increase to three hours per week in the third year, and to four hours per week in year five. At least 50% of the described video programming aired each week will be original, with the remainder consisting of program repeats. The Commission commends Global on this significant commitment.</p> <p>71. The National Broadcast Reading Service (NBRS) recommended that obligations with respect to described video relate to all categories of priority programming. The Commission notes, however, that some types of programming lend themselves more readily to video description. These types of programming are drama, long-form documentaries and children's programming. The Commission considers that requirements related to described video should apply, first and foremost, to these types of programs aired during peak viewing periods.</p> <p>72. In light of the above, the Commission is imposing a condition of licence on each Global station relating to the provision of described video. The condition requires Global's largest stations (in Ontario, Vancouver and Quebec) to broadcast, between 7:00 p.m. and 11 p.m., an average of two hours per week of described video programming during the first two years of the licence term. All of Global's stations are required to provide three hours per week in year three, and four hours per week in year five. This programming must be Canadian and be from categories 2 (b) and 7. A minimum of 50% of the hours must be original broadcasts. The licensee may, however, count toward fulfilment of this condition</p>



Year	Event
	<p>a maximum of one hour per week of described video programming that is directed to children and broadcast at an appropriate children's viewing time.</p> <p>73. The Commission further expects Global, wherever possible, to acquire and exhibit described versions of the Canadian and non-Canadian programming that its stations broadcast. It notes that some American programs already include descriptions in order to fulfil requirements in this area that are in effect in the United States. Finally, the Commission commends the licensee for making concrete proposals with respect to the broadcast of programming that includes described video. The Commission considers that the presence of such programming in the Canadian broadcasting system is an important contribution.</p>
2004	<p>In remarks at the opening of the Abilities Art Festival's Projections Film Festival, the CRTC's then-Chair Charles Dalfen said</p> <p>The Commission shares the goals of this festival We want the outstanding achievement of Canadian artists – including those with disabilities – to be showcased for the world to see. We also want to help eliminate the barriers that prevent Canadians from benefitting from the full spectrum of our creative talent, whether in film or broadcasting. Broadcasters can play a vital role in helping create and reinforce positive attitudes towards persons with disabilities.⁴⁶</p>
2007	<p><i>Council of Canadians with Disabilities v. VIA Rail Canada Inc.</i>, 2007 SCC 15 (CanLII), [2007] 1 SCR 650, <https://canlii.ca/t/1qx83>, retrieved on 2024-08-25</p>
	<p>24 July 2007 New digital specialty described video programming undertaking; Licence amendments; Issuance of various mandatory distribution orders, Broadcasting Decision CRTC 2007-246, 24 July 2007</p> <p>12 September 2007 Distribution of video description by Class 1 cable broadcasting distribution undertakings (BDU), direct-to-home BDUS and satellite relay distribution undertakings, Broadcasting Public Notice CRTC 2007-101, 12 September 2007</p>
2008	<p>08 Unresolved issues related to the accessibility of telecommunications and broadcasting services to persons with disabilities - Notice of consultation, Broadcasting Notice of Public Hearing CRTC 2008-8/Telecom Public Notice CRTC</p>

⁴⁶ Quoted in Abilities Arts Festival, *Re: Application Number: 2007-0700-5*, Intervention re Canwest's purchase of Alliance Atlantis (Toronto, 8 July 2007) at 1.



Year	Event
	2008-8, 10 June 2008
	15 May 2009 Renewal of the broadcasting licences for private conventional television stations considered at the 27 April 2009 Gatineau public hearing - Initial decisions and scope of subsequent policy proceeding, Broadcasting Decision CRTC 2009-279, 15 May 2009
2009	<p><i>Accessibility of telecommunications and broadcasting services</i>, Broadcasting and Telecom Regulatory Policy CRTC 2009-430 (Ottawa, 21 July 2009)</p> <p>...</p> <p>5. Thus, in assessing the reasonableness of the accommodations proposed in this proceeding, the Commission has considered the extent to which resources are available in the context of paragraph 3(1)(p) of the <i>Broadcasting Act</i> and whether or not discrimination in the provision of or the charging of a rate for a telecommunications service is "unjust" within the meaning of subsection 27(2) of the <i>Telecommunications Act</i>.</p> <p>Awareness of described programming</p> <p>121. During this proceeding, some parties submitted that subscribers need to know what programs include described video, and when those programs will be aired. The Commission considers that this information should be provided, and that this could be accomplished through various means such as audio announcements and logos to identify described programming, and promotion of described programs in program listings.</p> <p>122. Accordingly, the Commission expects:</p> <ul style="list-style-type: none">• broadcasters to display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program. The Commission encourages broadcasters to repeat the announcement and logo following each commercial break;• broadcasters to make information available regarding the described programs that they will broadcast; and• licensees of BDUs to develop one or more means of identifying programming with described video in their electronic program guides. This could include an audio tone, a visual indicator, or the offer of an audio electronic



Year	Event
	<p>program guide.</p> <p>123. The Commission considers that it would be useful to create a working group to develop solutions to issues related to subscriber access to described video and facilitate the development and rollout of initiatives to increase the awareness of described video.</p> <p>124. Accordingly, the Commission will form a working group with representatives from the distribution and broadcasting sectors. The group will have a 12-month mandate to develop recommendations for improving the accessibility and promotion of described programming.</p> <p>125. The working group will be tasked to develop common practices and other solutions that will improve the accessibility of described programming including:</p> <ul style="list-style-type: none">• facilitating the pass-through of described programming in embedded format;• providing one or more simple means for viewers to access embedded described video;• resolving any instances of audio loss associated with embedded described video; and• ensuring that information regarding described programming is made available in print and online programming listings and electronic programming guides. <p>Audio description</p> <p>126. Television broadcasters are currently expected to provide audio description. However, the record of the proceeding indicates that audio description is not being provided in all cases, or in many instances is inadequate. The Commission considers that this is particularly unacceptable in the case of news broadcasts and is of the view that this must be rectified immediately. The Commission considers that some of the problems could be addressed by replacing the music background with a voiceover for weather reports, stock market updates, and sports scores. Measures to improve and increase the amount of audio description could include the training of staff to increase awareness, updating production manuals and policies and assigning responsibility for audio description to appropriate staff.</p> <p>127. The Commission considers that solutions to the problems of the provision</p>



Year	Event
	<p>and quality of audio description do not require significant resources and intends to require television licensees to implement audio description by conditions of licence at the time of their next licence renewal. The Commission notes that, as indicated in Broadcasting Decision 2009-279, the next licence term for the television stations operated by CTV Television Inc., Canwest Television Limited Partnership and Sun TV Company, as well the Citytv stations operated by Rogers Broadcasting Limited will expire in 2010, and the licences for the stations operated by TVA Group Inc. will expire in 2011. For the OMNI television stations operated by Rogers Broadcasting Limited, as well as those operated by RNC MEDIA Inc. and Télé Inter-Rives Itée, which will be renewed for six and seven year terms, the Commission intends to impose conditions of licence related to audio description in five years pursuant to section 9(1)(c) of the Broadcasting Act.</p> <p>128. The Commission requires licensees to identify, at the time of licence renewal, the measures they will put in place to effectively implement audio description.</p> <p>Pass-through of closed captioning and described video broadcast in new media</p> <p>129. The Commission encourages broadcasters to pass through closed captioning and described video when their programming is broadcast in new media.</p>
2013	CRTC disbands its Described Video Working Group ⁴⁷
2105	<p>Navigating the Road Ahead - Making informed choices about television providers and improving accessibility to television programming, Broadcasting Regulatory Policy CRTC 2015-104 (Ottawa, 25 March 2015)</p> <p>...</p> <p>In this policy, the Commission addresses the following issues:</p> <ul style="list-style-type: none">○ improving customer service and the handling of complaints by creating a new Television Service Provider Code of Conduct and identifying an appropriate independent ombudsman;○ increasing the availability of described video for Canadians who are blind or have a visual impairment;

⁴⁷ *Eadie v. MTS Inc.*, [2015 FCA 173 \(CanLII\)](#), at ¶49.



Year	Event
	<ul style="list-style-type: none">○ increasing the quality and online availability of closed captioning; and○ increasing access to programming for Canadians with disabilities by making set-top boxes and remote controls more accessible. <p>...</p> <p>37. There is consensus within the industry that ramping up to the proposed levels of described video is feasible. In addition, several large, English- and French-language broadcasters are currently exceeding the minimum requirements for described video.</p> <p>38. In recognition of the variation across broadcasters in regard to types of service and availability of resources, the Commission is of the view that smaller, independent broadcasters should be subject to new described video requirements that are not as extensive as those for broadcasters who are part of vertically integrated groups, or who are currently subject to described video requirements. This will ensure that the amount of described video available on different services in the broadcasting system appropriately reflects the resources of broadcasters.</p> <p>...</p> <p>40. The introduction and ramping up of closed captioning requirements led to an increase of closed captioning providers to meet increased market demand, and an ensuing decrease in the cost of producing closed captioning. In parallel to this experience, the Commission considers it likely that the cost of described video will decrease over time as the market for described video services grows. In addition, it is the Commission's view that if described video is incorporated early into the development and production cycle, the incremental cost to have a program available with described video is low when compared to the overall production budget of a program. The Commission would encourage Canadian broadcasters to work with their production partners to include described video as an early consideration in the development and production cycle.</p> <p>41. Also, once a program is described, there are no additional costs relating to rebroadcasting that program with described video since the described video remains as programs get recycled and rebroadcast on other channels.</p> <p>42. In the Commission's view, the current focus should be on increasing the number of programs containing described video in the system while providing</p>



Year	Event
	<p>broadcasters with an appropriate amount of time to do so. For this reason, the Commission will not consider expanding the number of program categories that would be subject to a described video requirement at the present time.</p> <p>43. In light of the above, the Commission will implement a tiered approach to ramp up the amount of described video being provided by television broadcasters, with the tiered requirements reflecting the size and resources of broadcasters. Specifically:</p> <ul style="list-style-type: none">○ By September 2019, broadcasters currently subject to described video requirements as well as those that belong to vertically integrated entities will be required to provide described video for programming broadcast between 7 p.m. and 11 p.m. (prime time), seven days a week. This requirement will apply to programs that fall into existing program categories that have been identified for described video.○ By the fourth year of their respective next licence terms, all other non-exempt broadcasters will be required to provide four hours of programming with described video per week, consistent with existing requirements.○ The current requirement to provide two hours of programming with described video that are original to the service will be discontinued, as the increased described video requirements, in the Commission’s view, will ensure that a greater diversity of content featuring described video is continually available.○ Exempt broadcasters will not have to adhere to a new described video requirement, although they are encouraged to provide programming with described video. <p>44. In addition, the Commission expects broadcasters subject to described video requirements to display a standard described video logo and air an announcement indicating the presence of described video before the broadcast of each described program, and to make information available regarding the described programs that they will broadcast. It also encourages these broadcasters to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.</p> <p>45. Further, the Commission expects all content that was offered with described</p>



Year	Event
	<p>video at some point in the broadcasting system to be offered with described video when it is rebroadcast.</p> <p>46. As part of the implementation framework, the Commission will publish biannual summaries from the television logs to inform Canadians on (i) the number of hours of programming with described video available and (ii) the type of content containing described video.</p> <p>[footnotes omitted]</p>
2016	<p>Standard requirements for television stations, discretionary services, and on-demand services, Broadcasting Regulatory Policy CRTC 2016-436 (Ottawa, 2 November 2016)</p> <p>...</p> <p>Commission's decision</p> <p>48. In the definition proposed by the Commission, "vertically integrated entity" refers to an entity that owns or controls both programming and distribution undertakings, or both programming undertakings and production companies. However, the Commission's intention in regard to the provision of described video is for the larger vertically integrated entities to be subject to the requirement to provide described video on all primetime programming over their services' next licence terms. Smaller entities that were not subject to described video requirements prior to their last licence renewals would be subject to the more limited requirement of four hours of described video during each broadcast week. The Commission would nevertheless expect these smaller entities to ramp up to the higher levels for their subsequent licence terms, at which time appropriate, revised levels could be discussed.</p> <p>49. To avoid an unintended impact on programming undertakings, the Commission has amended the relevant standard conditions of licence such that all entities are now required, by standard condition of licence, to provide the initial levels of described video (i.e., four hours per broadcast week). However, in Broadcasting Regulatory Policy 2015-104, the Commission determined that broadcasters who were already subject to described video requirements will, by 1 September 2019, be required to provide described video for programming broadcast between 7 p.m. and 11 p.m. (primetime), seven days a week. In order to implement this</p>



Year	Event
	<p>policy, requirements relating to the provision of described video for undertakings for which the Commission considers that more substantial levels are appropriate will be discussed with those undertakings at licence renewal and imposed on a case-by-case basis.</p> <p>50. In regard to Rogers’ concern, the Commission also considers it appropriate to amend the conditions of licence such that the described video requirements apply only to English- and French-language programming.</p>
2018	Major TV channels such as ABC, CBS, NBC, Fox, USA, the Disney Channel, and The History Channel are required by law to provide 50 hours of audio descriptions, and that will increase to 87.5 hours by July 2018. ⁴⁸
2019	<p><i>Accessible Canada Act</i>, S.C. 2019, c. 10 (Royal Assent: 21 June 2019)</p> <p>Preamble</p> <p>Whereas the <i>Canadian Charter of Rights and Freedoms</i> guarantees the right to the equal protection and equal benefit of the law without discrimination and, in particular, discrimination on the basis of disability;</p> <p>Whereas the Canadian Human Rights Act recognizes that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated without discrimination and, in particular, discrimination on the basis of disability;</p> <p>Whereas a proactive and systemic approach for identifying, removing and preventing barriers to accessibility without delay complements the rights of persons with disabilities under the Canadian Human Rights Act;</p> <p>Whereas Canada is a State Party to the United Nations Convention on the Rights of Persons with Disabilities and Canada has agreed to take appropriate measures respecting accessibility and to develop and monitor minimum accessibility standards;</p> <p>Whereas barriers to accessibility can impact all persons in Canada, in particular those with disabilities and their families, and can prevent persons with disabilities from achieving their full and equal participation in society;</p> <p>And whereas Parliament considers that it is essential to ensure the economic, social and civic participation of all persons in Canada, regardless of their</p>

⁴⁸ Audio Description Coalition, “How to receive audio description” by Zachary Oliver (18 October 2017).



Year	Event
	<p>disabilities, and to allow them to fully exercise their rights and responsibilities in a barrier-free Canada;</p> <p>Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:</p> <p>...</p> <p>5.1(2) American Sign Language, Quebec Sign Language and Indigenous sign languages are recognized as the primary languages for communication by deaf persons in Canada.</p> <p>...</p> <p>Principles</p> <p>6 This Act is to be carried out in recognition of, and in accordance with, the following principles:</p> <ul style="list-style-type: none">(a) all persons must be treated with dignity regardless of their disabilities;(b) all persons must have the same opportunity to make for themselves the lives that they are able and wish to have regardless of their disabilities;(c) all persons must have barrier-free access to full and equal participation in society, regardless of their disabilities;(d) all persons must have meaningful options and be free to make their own choices, with support if they desire, regardless of their disabilities;(e) laws, policies, programs, services and structures must take into account the disabilities of persons, the different ways that persons interact with their environments and the multiple and intersecting forms of marginalization and discrimination faced by persons;(f) persons with disabilities must be involved in the development and design of laws, policies, programs, services and structures; and(g) the development and revision of accessibility standards and the making of regulations must be done with the objective of achieving the highest level of accessibility for persons with disabilities. <p>...</p> <p>122 (1) The Accessibility Commissioner, the Canadian Transportation Agency, the Canadian Radio-television and Telecommunications Commission, the Canadian</p>



Year	Event
	<p>Human Rights Commission and the Federal Public Sector Labour Relations and Employment Board must work together to put in place mechanisms for the efficient and expeditious referral to the appropriate authority of accessibility-related complaints, applications and grievances.</p> <p>Amendment proposed by Bell Media Inc., Corus Entertainment Inc. and Rogers Media Inc. to their condition of licence that requires prime time programming to be broadcast with described video, Broadcasting Regulatory Policy CRTC 2019-392 (Ottawa, 3 December 2019)</p>
2020	<p>Minister of Canadian Heritage presents Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts , to the House of Commons in November 2020⁴⁹</p> <p>S. 2(6) of the bill proposes to amend section 3(1)(p) of the <i>Broadcasting Act</i> by removing the reference to resources: “programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system; ...”</p> <p>S. 3(2) of the bill proposes to add the following after section 5(2)(e) of the <i>Broadcasting Act</i>: “(e.1) facilitates the provision of programs that are accessible without barriers to persons with disabilities;...”</p> <p>C-10 also provides for the enforcement and sanctioning (for non-compliance) of certain aspects of the <i>Accessible Canada Act</i>.</p> <p>C-10 does not pass 3rd reading in the Senate.</p>
2022	Bill C-11
2023	Bill C-11, the <i>Online Streaming Act</i> , receives Royal Assent and enters into force on 27 April 2023 (SC 2023, c. 8), amending the <i>Broadcasting Act</i> and the <i>Canadian Radio-television and Telecommunications Commission Act</i>
2022	<p>CRTC, Accessibility Plan: 2023-2025</p> <p>p. 23:</p> <p>...</p> <p>Barriers and opportunities</p>



Year	Event
	<p>Participation of people with disabilities in CRTC proceedings</p> <p>The CRTC promotes the participation of persons with disabilities in hearings and other proceedings. However, there is room for improvement. Broader outreach, in terms of communicating what the CRTC does and how its proceedings work, could increase the participation of persons with disabilities. This could bring more diverse perspectives to the CRTC’s attention and would help CRTC decisions be more reflective of Canadian society</p> <p>...</p> <p>p. 24:</p> <p>...</p> <p>The CRTC will develop a plan for a discussion group of stakeholders connected to communities of persons with various disabilities. As part of this project, the CRTC will identify a list of potential stakeholders and review how it can promote the participation of these participants by 31 March 2024.</p> <p>The CRTC will also develop outreach strategies to promote greater awareness of what the CRTC does and how its proceedings work by 31 December 2023. These outreach strategies will be geared at engaging groups reflecting various disabilities on upcoming or current major CRTC proceedings.</p> <p>...</p> <p>p. 29:</p> <p>Conclusion</p> <p>This accessibility plan identifies successes, barriers, and next steps to remove those barriers and prevent new ones based on the feedback received through the internal and external consultation phases.</p> <p>The CRTC is committed to the implementation of this plan for the first three-year cycle which will provide a solid foundation toward a fully accessible Canada by 2040.</p>
2024	<p><i>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)</i></p>



Appendix 2 Problems with 2020/21 to 2021/22 descriptive video data published by CRTC

CRTC encoding data limits ready access and use

A brief word about problems with the data

Figure 3 Problems with the CRTC's data

The screenshot shows an Excel spreadsheet with two tables of video programming hours data. The first table, 'Table 1: Overall number of hours of described video programming hours', lists categories and their hours. The second table, 'Table 2: Number of described video programming hours by month', lists categories and their hours for the month of March. A 'Convert Text to Columns Wizard' dialog box is open over the data, highlighting a cell with the value '2295:41:15'.

Table 1: Overall number of hours of described video programming hours	Total	Total
2(b) Long-form documentary	62220:18:37	62220:18:37
7 Drama and comedy	228670:58:31	228670:58:31
9 Variety	2295:41:15	2295:41:15
11(a) General entertainment and human interest	20957:26:21	20957:26:21
11(b) Reality television	39410:31:59	39410:31:59
Other:		
1 News	94:03:06	94:03:06
2(a) Analysis and Interpretation	1517:03:53	1517:03:53
3 Reporting and Actualities	0:00:00	0:00:00
4 Religion	1431:19:12	1431:19:12
5(a) Formal education and pre-school	7105:19:01	7105:19:01
5(b) Informal education/Recreation & Leisure	14953:01:07	14953:01:07
6(a) Professional Sports	162:19:38	162:19:38
6(b) Amateur Sports	135:42:59	135:42:59
8(a) Music and dance	436:53:58	436:53:58
8(b) Music video clips	0:00:00	0:00:00
8(c) Music video programs	25:37:02	25:37:02
10 Game shows	6043:26:21	6043:26:21
11 General	876:31:13	876:31:13
12 Interstitials	1137:51:00	1137:51:00
13 to 15 Informercials, Public service announcements, filler	64:01:42	64:01:42
Grand total	387538:06:55	387538:06:55
Of the programming hours represented above, programming hours	54539:19:09	54539:19:09
Table 2: Number of described video programming hours by month		
Described video categories	Total	Total
2(b) Long-form documentary	15871:44:51	15871:44:51
7 Drama and comedy	72605:12:51	72605:12:51
9 Variety	1852:16:50	1852:16:50
11(a) General entertainment and human interest	9562:36:37	9562:36:37
11(b) Reality television	15625:42:36	15625:42:36
Other:		
1 News	4:48:39	4:48:39
2(a) Analysis and Interpretation	297:55:12	297:55:12
3 Reporting and Actualities	0:00:00	0:00:00
4 Religion	906:50:50	906:50:50
5(a) Formal education and pre-school	51:36:49	51:36:49

FRPC

Unknown which services are included in these data

- All television services? (Yet if exempted need not file logs)
- All licensed television services?
- All conventional television services
- All





Appendix 3 Deficiencies in CRTC questions resulted in uncertainties and gaps in public record

CRTC questions	Issues
Q1. What percentage of your content is available with described video? Please answer for each, English-language content and French-language content.	<p>“Your content” ‘Whose’ content?: respondent’s? Seller’s? Advertisers? (if advertisements broadcast)</p> <p>Clarity needed to understand basis of percentages: Was ‘content’ defined as ‘titles’, individual episodes of programs, hours? Did it refer to all programming broadcast, all programming originating from the broadcaster and/or all acquired programming?</p>
Q2. If a described program is available in multiple languages, do all versions of the program include described video? For example, if an English-language program that includes described video is available in French, does the French version of that program also include described video in French?	<p>“include described video” – assumption is that fully described?</p> <p>If available, choices set out?</p>
Q4. Describe:	
a) your approach to providing described video,	<p>Does ‘approach’ mean contract negotiations or the end result of programs’ being broadcast? Does ‘providing’ mean production, acquisition or broadcast?</p>
b) how your approach to providing described video has evolved over time,	<p>Does “evolved” mean any change, or does it contemplate a range of variation from no change, to some or complete change?</p> <p>To what does “over time” refer? Since a streaming service was first established? Since it began broadcasting? Since it fell under CRTC jurisdiction (April 2023) Since it registered with the CRTC?</p> <p>What period does “time” cover?</p>
c) how you see your approach to providing described video evolving in the	<p>Is “how you see” insensitive? By ‘evolving’ is the CRTC referring to a broadcaster’s</p>



future, and	plans for the future? What time frame does 'in the future' cover?
Q6. Do you have a policy related to audio description to ensure that text or graphic information on the screen is read out loud?	If the CRTC is asking whether an online broadcaster has a policy for audio description, why not ask that question?
Describing Programming	
Q8. When acquiring programming, is it standard practice to request a version including described video?	When is practice not standard? If the CRTC is trying to ascertain whether all program-acquisition contracts of a streaming services require 100% descriptive video, why not ask that question?
Complaints	
Q12. Where can users find information related to described video and accessibility features offered on your service?	
Q13. Do you have a feedback mechanism for complaints about the accessibility of programming? If so, how many complaints have you received about described video, and how do you address them?	For what period is the CRTC seeking information about numbers of complaints received? What does the CRTC mean by 'address'? Is it concerned with outcomes?
Q14. Do you consult with viewers who are Blind or partially sighted on the accessibility of your service? If so, what feedback have you received?	Meaning of consult? Should the question be directed at "viewers" or users?



Appendix 4 Hours of descriptive video programming broadcast in 2020/21 and 2021/22 broadcast years

Hours shown in decimal format	Broadcast years		% change
Table 1: Overall number of hours of described video programming	2020/21	2021/22	
Described video categories			
2(b) Long-form documentary	100,742.0	115,684.7	14.8%
7 Drama and comedy	384,532.3	420,813.5	9.4%
9 Variety	5,102.1	5,212.4	2.2%
11(a) General entertainment and human interest	45,694.0	38,340.2	-16.1%
11(b) Reality television	66,571.1	73,495.7	10.4%
Other	-	-	
1 News	112.5	258.6	129.9%
2(a) Analysis and Interpretation	3,475.4	2,918.5	-16.0%
3 Reporting and Actualities	5.0	94.0	1780.7%
4 Religion	1,947.8	2,992.4	53.6%
5(a) Formal education and pre-school	14,096.7	13,948.0	-1.1%
5(b) Informal education/Recreation & Leisure	22,282.7	28,197.9	26.5%
6(a) Professional Sports	534.7	416.4	-22.1%
6(b) Amateur Sports	723.6	689.8	-4.7%
8(a) Music and dance	501.1	798.9	59.4%
8c) Music video programs	2.0	49.9	2406.1%
10 Game shows	10,362.1	11,735.7	13.3%
11 General	1,327.6	1,452.8	9.4%
12 Interstitials	1,733.1	1,991.3	14.9%
13 to 15 Infomercials, Public service announcements, filler programming, etc.	233.0	248.9	6.8%
Total	659,978.8	719,339.8	9.0%
Of the programming hours represented above, programming targeting preschool children (0-5 years of age) and children (6-12 years of age) accounts for the following	92,847.4	102,426.4	10.3%



Table 2: Number of described video programming hours during prime time (7pm-11pm)	2020/21	2021/22	% change, 2020/21 to 2021/22
Described video categories			
2(b) Long-form documentary	29,560.1	29,266.9	-1.0%
7 Drama and comedy	143,351.2	143,079.6	-0.2%
9 Variety	4,251.8	4,318.8	1.6%
11(a) General entertainment and human interest	17,934.3	18,132.6	1.1%
11(b) Reality television	23,087.6	27,443.9	18.9%
Other			
1 News	10.8	32.9	203.8%
2(a) Analysis and Interpretation	713.4	607.6	-14.8%
3 Reporting and Actualities	-	85.0	
4 Religion	1,031.8	1,794.1	73.9%
5(a) Formal education and pre-school	110.9	139.2	25.5%
5(b) Informal education/Recreation & Leisure	2,715.6	3,854.4	41.9%
6(a) Professional Sports	240.6	169.3	-29.6%
6(b) Amateur Sports	132.1	84.2	-36.3%
8(a) Music and dance	215.9	391.6	81.4%
8c) Music video programs			
10 Game shows	4,788.8	5,590.8	16.7%
11 General	565.9	606.7	7.2%
12 Interstitials	117.2	110.4	-5.8%
13 to 15 Infomercials, Public service announcements, filler programming, etc.	18.4	18.3	-0.1%
Grand total	228,846.4	235,726.3	3.0%
Of the programming hours represented above, programming targeting preschool children (0-5 years of age) and children (6-12 years of age) accounts for the following	16,349.9	18,552.5	13.5%



Appendix 5 Resources available for descriptive video

Access Communications Co-operative Limited Summary Statement of Income and Retained Earnings.

Year ended August 31, 2023

	2023	2022
REVENUE		
Television services	\$ 36,116,267	\$ 38,697,827
Telecommunications services	54,993,064	50,800,025
Advertising	153,078	230,567
Investment income	123,133	108,479
	<u>91,385,542</u>	<u>89,836,898</u>
DIRECT DISTRIBUTION COSTS	<u>31,718,654</u>	<u>30,249,764</u>
INCOME BEFORE OPERATING EXPENSES	<u>59,666,888</u>	<u>59,587,134</u>
OPERATING EXPENSES		
Community programming	2,416,911	2,323,202
Technical	15,195,786	15,119,781
Sales and marketing	5,280,846	5,151,085
Administrative	15,732,523	14,754,833
	<u>38,626,066</u>	<u>37,348,901</u>
OPERATING INCOME BEFORE AMORTIZATION	<u>21,040,822</u>	<u>22,238,233</u>
AMORTIZATION		
Property, plant and equipment	14,016,557	13,668,971
Deferred charges	3,047,655	2,802,813
	<u>17,064,212</u>	<u>16,471,784</u>
OPERATING INCOME	<u>3,976,610</u>	<u>5,766,449</u>
INTEREST ON LONG-TERM DEBT	<u>2,783,881</u>	<u>1,454,240</u>
GAIN ON SALE OF EQUIPMENT	<u>(99,824)</u>	<u>(337,657)</u>
NET INCOME	<u>1,292,553</u>	<u>4,649,866</u>
RETAINED EARNINGS, BEGINNING OF YEAR	<u>73,088,045</u>	<u>68,438,179</u>
RETAINED EARNINGS, END OF YEAR	<u>\$ 74,380,598</u>	<u>\$ 73,088,045</u>

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