



3 April 2017

Danielle May-Cuconato
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: Call for comments on proposed amendments to the *Broadcasting Distribution Regulations* and the *Television Broadcasting Regulations, 1987*, Broadcasting Notice of Consultation CRTC 2017-50, (Ottawa, 24 February 2017), http://crtc.gc.ca/eng/archive/2017/2017-50.htm?_ga=1.188576168.1852701653.1490628182

The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established to undertake research and policy analysis about communications, including broadcasting telecommunications. The Forum supports a strong Canadian communications system that serves the public interest.

The Forum's comments in the above-noted proceeding are attached. We look forward to the opportunity to review other parties' comments.

Should you have any questions, please contact the undersigned.

Sincerely yours,

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The Devil is in the Details

Submission of the
Forum for Research and Policy in Communications (FRPC)

Call for comments on proposed amendments to the Broadcasting Distribution Regulations and the Television Broadcasting Regulations, 1987, Broadcasting Notice of Consultation CRTC 2017-50, (Ottawa, 24 February 2017)

Ottawa, 3 April 2017

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Executive Summary

Introduction

ES 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization that undertakes research and policy analysis about broadcasting and telecommunications. We participated in the proceeding that led to the CRTC's new local and community TV policy (Broadcasting Regulatory Policy CRTC 2016-224).

ES 2 BNoC 2017-50 sets out regulations to implement the CRTC's 2016 policy for local and community television.

ES 3 The Forum opposes a number of the changes being proposed because they do not implement, but thwart, Parliament's broadcasting policy for Canada, and because the lack of clarity in certain cases will make it impossible for broadcasters to comply with the requirement, and for the public to understand their effects.

II The proposed regulations thwart Parliament's broadcasting policy

A Proposed TV regulations reduce content created by Canadians on private TV stations from 55% to 17%

ES 4 Content created by Canadians is at the core of Parliament's broadcasting policy for Canada.

ES 5 Rather than maintaining or increasing Canadians' access to television content created by Canadians, the proposed regulations permit private television broadcasters to reduce the level of content created by Canadians that they schedule from the current 55% to 17%.

ES 6 Approving this change to the regulations will permit foreign programming to predominate in the schedules of private television stations – an improper purpose that offends the spirit of the *Broadcasting Act*, and one whose implementation is outside the jurisdiction of the CRTC. The Forum fundamentally opposes this change.

B Proposed TV logging codes eliminate identification of local TV stations

ES 7 Parliament specifically recognizes the significance of local programming in the *Broadcasting Act*, requiring that Canadian programming be drawn from "local, regional, national and international sources".

ES 8 Rather than enabling the CRTC to evaluate local television stations' performance, the regulations proposed by the CRTC erase local television stations from the CRTC's TV logging system, by replacing the 'local' TV station code with a code for 'inhouse (licensee)' in the case of the concept of 'production source', and by eliminating the concept of 'broadcast origination point' altogether.

ES 9 Approving these changes makes it impossible for the CRTC or anyone to know to know the true sources of a television program, or the location from which it originated; and makes it impossible to know the extent to which television programming in Canada includes programming from local sources; and therefore makes it impossible for the CRTC to assure Parliament that the Commission is meeting its mandate of implementing Parliament's broadcasting policy for Canada.

ES 10 The Forum opposes this change, and recommends instead that the CRTC distinguish between local stations, other stations owned by the same licensee, networks and other stations (not owned by the same licensee) as points of origin for a broadcast program, and that it retain the identification of a 'local station' as a program's production source.

III The proposed regulations are unclear

A Absence of definitions of locally 'relevant' or 'reflective' programming

ES 11 According to Broadcasting Regulatory Policy CRTC 2016-224 the CRTC values local news and local information.

ES 12 BNoC 2017-50 therefore proposes to require broadcasters to code programming to show whether it is "locally relevant" or that is "locally reflective" – but does not define these critical terms. The absence of definitions will make it impossible for broadcasters to comply with the CRTC's requirements, for the CRTC's staff to enforce these requirements, and for Canadians to know whether the CRTC's new local television policy is strengthening their access to high or higher-quality local television programming.

ES 13 The Forum recommends that the CRTC exercise its legal authority by defining these terms, preferably in another public proceeding so that Canadians may review and comment on the Commission's definitions.

B Television stations serve people and communities – not markets

ES 14 The CRTC's proposed BDU regulations define 'locally reflective news programming' in terms of the "markets" they are licensed to serve.

ES 15 The Forum opposes the use of this term: its meaning is limited to economic activities, where Parliament's broadcasting policy is focussed on communities.

ES 16 The Forum therefore recommends that the CRTC define 'locally reflective news' in terms of the communities that television stations are licensed to serve.

C Parties that obtained access to the community channel

ES 17 BNoC 2017-50 proposes to require BDUs to identify the people who requested community access programs, by asking BDUs to provide those individuals' "name".

ES 18 The CRTC should instead ask BDUs to provide individuals' "full legal name", to minimize confusion among people with similar names, and to ensure that future analysis – say – of the numbers of people seeking access programming is neither over- nor underestimated.

D Coding the accessibility of programming

ES 19 BNoC 2017-50 proposes that the BDU regulations require BDUs to describe the accessibility of the programming they broadcast, by including "a statement that indicates whether the program was broadcast with closed captioning, audio description or described video".

ES 20 The Forum recommends that this wording be changed to permit BDUs to identify programming with different types of accessibility: programs could be broadcast with closed captioning, audio description and/or described video.

I. Introduction

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established to undertake research and policy analysis about communications, including broadcasting and telecommunications. The Forum participated in the proceeding that led the CRTC last year to issue Broadcasting Regulatory Policy CRTC 2016-224¹ (BRP 2016-224).²
- 2 Broadcasting Notice of Consultation 2017-50 (BNoC 2017-50) describes the CRTC's implementation of its policy for local and community television, set out in Broadcasting BRP 2016-224. Specifically, the Appendix to BNoC 2017-50 sets out changes that the CRTC proposes to make to the *Broadcasting Distribution Regulations* (BDU regulations) and the *Television Broadcasting Regulations, 1987* (TV regulations).
- 3 The changes proposed by BNoC 2017-50 raise serious concerns. As currently drafted the proposed regulations do not implement but thwart Parliament's broadcasting policy for Canada; they are also unclear, making it impossible for Canadians to understand them, for broadcasters to comply with their requirements, and for the CRTC's policy to succeed.

II. The proposed regulations thwart Parliament's broadcasting policy

- 4 Several of the changes proposed in the Appendix of BNoC 2017-50 either limit or negate implementation of Parliament's broadcasting policy for Canada.
- 5 The Forum is especially concerned by the CRTC's proposal to effectively permit foreign television programming to dominate private television broadcasters' schedules: simply put, adopting this proposal will gut the concept of content created by Canadians.

A. Proposed TV regulations reduce content created by Canadians broadcast on private TV stations from 55% to 17%

- 6 The *Broadcasting Act* sets out Parliament's broadcasting policy for Canada in section 3. Parliament established that

¹ This in turn built on the CRTC's policy determinations from the 2016 'Let's Talk TV' proceeding initiated by Broadcasting Notice of Consultation CRTC 2015-421 (Ottawa, 14 September 2015), <http://crtc.gc.ca/eng/archive/2015/2015-421.pdf>.

² See FRPC, *Putting the Local Back into Local TV*, (Ottawa, 6 November 2015), <http://frpc.net/wp-content/uploads/2015/11/FRPC-2015-421-6-Nov-2015-comments.pdf>; *Remarks*, (Ottawa, 1 February 2016), <http://frpc.net/wp-content/uploads/2016/02/FRPC-1-Feb-2016-remarks1.pdf>; *Final reply*, (Ottawa, 16 February 2016), <http://frpc.net/wp-content/uploads/2016/02/FRPC-2015-421-Final-reply.pdf>.

- Canadian broadcasting is a public service that is essential to the maintenance and enhancement of national identity and cultural sovereignty³
 - The broadcasting system should “safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada”⁴
 - The broadcasting system should “encourage the development of Canadian expression”⁵
 - Each element of the broadcasting is to contribute appropriately “to the creation and presentation of Canadian programming”,⁶ and
 - Each broadcasting undertaking is to “make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming”⁷
- 7 Parliament considered and rejected the idea that the CRTC should exercise its discretion to sacrifice Parliament’s broadcasting policy objectives to achieve other purposes. For example, it requires the CRTC to “give primary consideration to the objectives” of its broadcasting policy for Canada⁸ “if, in any particular matter before the Commission,” a conflict arises between the policy and
- The different characteristics of English-language and French-language broadcasting
 - Regional needs and concerns
 - Scientific and technological change
 - The provision of broadcasting to Canadians
 - The development or delivery of information technologies, and
 - The administrative burden imposed by regulation and supervision.⁹
- 8 The CRTC’s current TV regulations implement Parliament’s broadcasting policy by requiring private television broadcasters to devote 55% of their broadcast schedule for

³ S. 3(1)(b).

⁴ S. 3(1)(d)(i).

⁵ S. 3(1)(d)(ii).

⁶ S. 3(1)(e).

⁷ S. 3(1)(f).

⁸ *Broadcasting Act*, s. 5(3).

⁹ S. 5(2).

- the year,¹⁰ and 50% of their broadcast schedule for the evening broadcast period¹¹ from 6 pm to midnight,¹² to content created by Canadians.
- 9 BNoC 2017-50 proposes to reduce the level of content created by Canadians broadcast by private conventional television broadcasters to 17%, in direct contravention of Parliament's broadcasting policy for Canada. Specifically, section 18 of Appendix 1 eliminates the requirement in the CRTC's current TV regulations that private television licensees devote at least 55% of the broadcast year¹³ to content created by Canadians.
- 10 Eliminating section 4(6) of the TV regulations means that the only requirement for private television broadcasters to observe with respect to content created by Canadians, is to ensure that 50%, or three, of the six hours from 6 pm to midnight, meet the CRTC's criteria for Canadian content.
- 11 Approving section 18 of BNoC 2017-50 therefore reduces private television broadcasters' Canadian content requirements from 55%, to 17% (21 divided by the 126-hour long broadcast week),¹⁴ permitting them consequently to use predominantly (that is to say, 83%) foreign resources in their presentation of programming. The level of content created by Canadians and made available to people in Canada by a private television station over the course of a week could decrease by 70% - from 69.3 hours in the last week of August 2017, to 21 hours (3 hours day x seven days) in the first week of September 2017.
- 12 The federal government has made it clear that there will be revisions to current broadcasting and telecom legislation in Canada. Rather than implementing such a draconian reduction in the requirements of Canadian private broadcasters to fulfil their Canadian programming responsibilities it behooves the Commission to maintain the current levels and requirements for the broadcast of Canadian programming until Parliament has had the opportunity to review its broadcasting policy for Canada and make its will known. The CRTC cannot, of course, substitute itself for Parliament in that process.

¹⁰ TV regulations, s. 4(6).

¹¹ *Ibid.*, s. 4(7)(b).

¹² *Ibid.*, s. 4(2).

¹³ Being the aggregate of the broadcast months in the 12-month period beginning 1 September each year (TV regulations, s. 2).

¹⁴ The Forum notes that this decrease follows a decrease authorized by the CRTC in *Amendment to the Television Broadcasting Regulations, 1987 – Broadcast of Canadian programs*, Broadcasting Regulatory Policy CRTC 2011-288 (Ottawa, 3 May 2011), <http://www.crtc.gc.ca/eng/archive/2011/2011-288.htm>

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- 13 Even if the CRTC had the authority to ignore Parliament’s broadcasting policy for Canada – and it does not – BNoC 2017-50 does not explain how a private television schedule that is predominantly foreign
- Maintains and/or enhances Canada’s national identity and cultural sovereignty
 - Safeguards, enriches and strengthens Canada’s cultural, political, social and economic fabric
 - Encourages the development of Canadian expression
 - Is an appropriate contribution by the private element of the broadcasting system to the creation and presentation of Canadian programming or
 - Ensures that each broadcasting undertaking makes predominant use Canadian creative and other resources in the presentation of programming.
- 14 Approval this part of BNoC 2017-50 strikes at the heart of Parliament’s broadcasting policy for Canada – namely the predominance of content created by Canadians, in the broadcast schedules of Canadian programming undertakings.
- 15 The Forum therefore opposes approval of section 18 of Appendix 1 in BNoC 2017-50 on the grounds that the CRTC lacks jurisdiction to exercise its statutory discretion for an improper purpose that offends the spirit of its enabling legislation.

B. Proposed TV logging codes eliminate identification of local television stations

- 16 Parliament specifically recognized the significance of local programming in its broadcasting legislation. Section 3(1)(i)(ii) of the *Broadcasting Act* requires that the programming provided by Canada’s broadcasting system “be drawn from local, regional, national and international sources”. Broadcasting distribution undertakings (BDUs) must under section 3(1)(t)(i) of the *Act* also give priority, “in particular, to the carriage of local Canadian stations”, implying that in the context of programming services made available by BDUs, Parliament valued Canadians’ access to of local Canadian stations, over the carriage of non-local stations.
- 17 The CRTC is enabled to evaluate the performance of local television stations through section 10 of the current TV regulations, which requires television licensees to submit logs to the CRTC which describe their programming and to describe that programming using codes set out in Schedule I of the TV regulations.

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- 18 The codes in Schedule I permit the CRTC to assess the role played by individual local television stations to the programming they broadcast. Schedule I requires all TV¹⁵ broadcasters to inform the CRTC about the “Broadcast Origination point” of each of their programs, distinguishing between programs that originate from a “Local” point, or other points TV broadcasters must also identify the “Production Source” of their programs, differentiating between nine possible sources, including ‘local station’.
- 19 BNoC 2017-50 proposes to eliminate the CRTC’s ability to evaluate the role and contributions of private and public local TV stations. If approved, section 19 will replace Schedule I of the current TV regulations with a new schedule I that eliminates the concept of “broadcast origination point” and replaces the concept of “Local station” with “In-house (licensee)”.
- 20 Eliminating the CRTC’s ability to know the place from which a broadcast was initiated – originated – means that the CRTC will be unable to determine or report the extent to which programming in Canada’s television system is obtained from local sources (as required by section 3(i)(ii), discussed above).
- 21 While the CRTC proposes to add a new code to identify locally reflective and locally relevant news, this code would – logically – not apply to locally reflective or relevant non-news programming.
- 22 In the Forum’s view, approving section 19 in its current form will leave the CRTC unable to meet its mandate under section 3 to ensure that programming is drawn not just from international, national or regional sources, but from local sources as well. Approval of this section offends the spirit of the *Act*.
- 23 In the Forum’s view, approving section 19 in its current form will leave the CRTC unable to meet its mandate under section 3 to ensure that programming is drawn not just from international, national or regional sources, but from local sources as well. Approval of this section offends the spirit of the *Act*.
- 24 Moreover, in today’s environment, where accurate and detailed data play critical roles in almost every government’s work, any decision by the CRTC to reduce or even eliminate the collection of vital data – such as the actual source of television programming – abrogates its responsibilities as the regulatory tribunal Parliament to implement its broadcasting policy in a rational and reasonable manner.
- 25 Confusingly, while BNoC 2017-50 proposes to eliminate the TV regulations’ reference to local origination, it proposes to introduce that concept to the BDU regulations. As

¹⁵ Note that in the previous section (Part A1) of this comment, the changes proposed by BNoC 2017-50 applied to private television broadcasters, and not to public television broadcasters such as the Canadian Broadcasting Corporation.

shown in Table 1, below, section 19(3)¹⁶ would replace section 33(1)(b) of the BDU regulations – which deals solely with access and the party that has been granted access – with a new provision that includes the concept of origination.

Table 1: Current and proposed BDU regulations related to ‘origination’

Current BDU regulations	BNoC 2017-50, Appendix, s. 19(3)
33(1) Except as otherwise provided under a condition of its licence, a licensee shall ... (b) enter into the program log or machine-readable record of programs each day the following information for each program: ... (v) a statement as to whether the program constitutes community access television programming and identifying the party that has been provided with access,	33(1) Except as otherwise provided under a condition of its licence, a licensee shall ... (b) enter into the program log or machine-readable record of programs each day the following information for each program: ... (v) a statement that indicates whether the program constitutes community access television programming and, if so, ... (B) the name of the individual requesting access, their role in the origination and production of the program and their relationship, if any, with the licensee [bold font added]

26 The Forum recommends that the Commission gain more information about the source of programming in Canada, while retaining the concept of ‘broadcast origination point’. Specifically, the CRTC should enable itself to determine the level of programming that originates from a local station, from another station owned by the same licensee, from a network (by definition an entity controlled by a different licensee), and any other station. The CRTC should also retain the ability to determine the level of programming produced by local stations.

27 The changes we propose are set out in yellow highlighting in Table 2, below.

Table 2: CRTC logging codes

Current TV regulations	Proposed by BNoC 2017-50, Appendix 1	The Forum’s proposal
“Broadcast Origination point”		“Broadcast Origination point”
(1) Local		(1) Local station
(2) Other		(2) Other station controlled by same licensee

¹⁶ A provision that the Forum supports, as it will provide the CRTC with more information to permit the evaluation of its new policy for community television.

Current TV regulations	Proposed by BNoC 2017-50, Appendix 1	The Forum's proposal
(3) Network		(3) Network
		(4) Other station
"Production Source"	Production Source	
(1) Local Station	In-house (licensee)	Local station
(2) Local Program produced by Affiliated Production Company		In-house (licensee)
	Related production company	Related or affiliated production company
(3) Other Canadian Program produced by Affiliated Production Company		
	TV station (include call sign)	TV station (include call sign)
(4) Other Station (include call sign)		
(5) Network (include identification if different from primary network to which the station is affiliated)	Television network (include network identifier)	Television network (include network identifier)
(6) Canadian Independent Producer ...	Canadian independent producer ...	Canadian independent producer ...
	Co-venture (include Commission "S.R." number)	Co-venture (include Commission "S.R." number)
(7) Special Recognition ...		
(8) Canadian programs from a government and productions of the National Film Board ...	Canadian programs from any government and productions of the National Film Board (include the source)	Canadian programs from any government and productions of the National Film Board (include the source)
(9) Programs from any source that are not accredited as Canadian programs	Programs from any source that are not accredited as Canadian programs (include the pertinent dubbing credit and Commission "D" or "C" number if applicable)	Programs from any source that are not accredited as Canadian programs (include the pertinent dubbing credit and Commission "D" or "C" number if applicable)
	Treaty co-production	Treaty co-production

28 The Forum notes that the CRTC has retained its current codes for TV program categories and in particular, the current distinction between News (code = 010) and Analysis (code = 02a).

29 We strongly support the retention of this distinction; the alternative – collapsing news and analysis into a single new category – would make it impossible to evaluate the

manner in which television broadcasters are meeting Parliament's requirement in section 3(1)(d)(ii) that they offer both "information *and* analysis" (italics added).

- 30 To be very clear – changing these codes as currently presented would also make it impossible for the CRTC or anyone else to analyze the effects of the CRTC's new local television policy.

III. The proposed regulations are unclear

A. Absence of definitions of locally 'relevant' or 'reflective' programming

- 31 Part 5 of Schedule II of the Appendix to BNoC 2017-50 sets out two categories for "Code Indicating Local Programming":

- 1 (Code – RL) Programming that is locally relevant
- 2 (Code – RF) Programming that is locally reflective.

- 32 BNoC 2017-50 does not, however, propose that the TV regulations include definitions of these terms.

- 33 At the same time, section 5 of its Appendix provides with respect to its draft BDU regulations a definition of "locally reflective news programming" as news or analysis

- (a) the subject matter of which relates specifically to the market that a television station is licensed to serve;
- (b) that portrays an onscreen image of that market; and
- (c) that is produced by the station's staff or by an independent producer specifically for the station.

- 34 The absence of any definitions – and of any clear definitions – in the TV regulations of the important concepts of "locally reflective programming" and "locally relevant programming" will make it difficult, if not impossible, for broadcasters – and the public – to understand the nature of these programs. It is rather like telling a novice driver not to drive "too fast" – without providing clear, needed guidance based on the speed limit.

- 35 Yet the interpretation of "locally reflective" and "locally relevant" will be key to the implementation of the CRTC's local television policy.

- 36 The Forum is aware that the CRTC's staff has developed coding manuals that interpret and provide examples of the codes broadcasters use to describe their programming in the logs they submit to the Commission. In our view, however, the legal authority to define key broadcasting terms lies with the CRTC's appointed Commissioners – not its staff.

- 37 Rather than leaving the interpretation, application and enforcement of key regulatory terms to unknown individuals now or in the future, through the mechanism of a coding manual (or other tools) that is not subject to public comment or review, the Commission

- being the members of the CRTC appointed by the Governor in Council – ought to set out its definitions of “locally reflective” and “locally relevant” news, within its regulations.
- 38 The Forum recommends that the CRTC to issue these important definitions in a separate proceeding, to permit the public to review and comment on the definitions.

B. Television stations serve people and communities – not markets

- 39 The definition of “locally reflective news programming” that BDUs may be required to support financially, is set out in section 5 of the Appendix to BNoC 2017-50. This programming definition refers to the ‘markets’ that television stations are licensed to serve:

locally reflective news programming means programming from category 1 or 2(a) set out in item 6, column 1, of Schedule I to the *Television Broadcasting Regulations, 1987*

- (a) the subject matter of which relates specifically to the **market** that a television station is licensed to serve;
- (b) that portrays an onscreen image of that **market**; and
- (c) that is produced by the station’s staff or by an independent producer specifically for the station.

(original bold font; highlighting added)

- 40 The Forum opposes the use of “market” in the context of a definition of programming, on the grounds that the term is vague and that its use runs contrary to Parliament’s intentions in establishing a broadcasting policy for Canada.
- 41 When used as a noun, ‘market’ has a relatively narrow, economic meaning: a ‘market’ describes a place where things are bought and sold, or those engaged in buying or selling.¹⁷ The *Broadcasting Act* draws on this economic meaning when it explains that licensing fees may be calculated using criteria that include the revenues of and “market served by the licensees”.¹⁸
- 42 Parliament does not use ‘market’ in the context of its broadcasting policy for Canada, however. Instead it uses terms focussed on the people presumably expected to benefit

¹⁷ See e.g. the Cambridge dictionary (<http://dictionary.cambridge.org/dictionary/english/market>); the Oxford dictionary (http://www.oxfordlearnersdictionaries.com/definition/english/market_1); the Merriam-Webster dictionary (<https://www.merriam-webster.com/dictionary/market>); and/or the Collins dictionary (<https://www.collinsdictionary.com/dictionary/english/market>).

¹⁸ S. 11(2).

from licensees' exploitation of their licences: "community",¹⁹ "communities",²⁰ "society",²¹ and "audiences".²²

- 43 Considering that the CRTC is attempting to define the level of contribution that BDUs must make to support local news, the Forum recommends that it replace "market" with "communities". "Communities" encompasses all those living in the areas served by a licensed Canadian television station, and for whose benefit the station produces and broadcasts local newscasts.

C. Parties that obtained access to the community channel

- 44 As noted in Table 1, above, BNoC 2017-50's Appendix proposes that BDUs submit greater detail about the parties seeking access to community channels. Section 19(3) proposes that section 33(1)(b) be amended to include, as part of the information for a community access program, "the name of the individual requesting access".
- 45 The Forum's concern is that use of the phrase, "the name" is vague, and may lead to results in which the same person may be misidentified as being different people, due to variations in his or her name (Jane Barbara Smith, Jane Smith, J. Barbara Smith, J.B. Smith etc.); similarly, different people might have very similar names (John Smith [junior] vs John Smith [senior], for example).
- 46 To minimize confusion, undercounting and overcounting, the Forum recommends that section 19(3) be modified to require parties' full name, as they are known legally in Canada:

33(1) Except as otherwise provided under a condition of its licence, a licensee shall ...

(b) enter into the program log or machine-readable record of programs each day the following information for each program:

...

(v) a statement that indicates whether the program constitutes community access television programming and, if so,

...

(A) the party that has been provided with access and whether that party is a community television corporation, and

(B) the **FULL LEGAL** name of the individual requesting access, their role in the origination and production of the program and their relationship, if any, with the licensee

¹⁹ S. 3(1)(m)(iv).

²⁰ S. 3(1)(t)(iv).

²¹ S. 3(1)(d)(ii).

²² S. 3(1)(m)(ii).

[yellow highlighting shows proposed change]

- 47 We also note with respect to the wording in section 33(1)(b)(v)(B) that while it is common to talk about individuals' relationships with one another, it may be more appropriate in this regulatory context to address individuals' relationships to licensees.

D. Coding the accessibility of programming

- 48 Section 9(1) proposes to add to section 33(1)(b) of the BDU regulations, a requirement that logged programming describe its accessibility to those who are deaf, hard of hearing, blind or have difficulty seeing:

(vii) a statement that indicates whether the program was broadcast with closed captioning, audio description or described video,

- 49 The Forum's concern with this wording is that it implies that the three accessibility mechanisms – closed captioning, audio description and described video – are separate and cannot overlap. Yet as shown by Part 2 of BNoC 2017-50's proposed TV regulations, programs can contain closed captioning and described video, or closed captioning and audio description.

- 50 The Forum recommends that section 9(1) be amended to replace "or described video", with "and/or described video" :

(vii) a statement that indicates whether the program was broadcast with closed captioning, audio description and/or described video,

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